



Appeal Decision

Site visit made on 30 September 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2019

Appeal Ref: APP/Q4625/W/19/3233533

The Stables, Coral Green, Spencers Lane CV7 7BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Gerrard against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2019/01145/MINFOT, dated 24 April 2019, was refused by notice dated 3 July 2019.
 - The development proposed is proposed new single storey structure forming 10 kennels.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council suggested that access onto the site was necessary for me to make my assessment. However, I was able to view the site from the adjacent public footpath and the southern gate. This enabled me to make a full assessment of the pertinent issues.
3. The Council's Statement of Case was received after the required deadline. This was however accepted and the appellant was afforded a reasonable period of time to respond to the points made. As such, I am satisfied that parties were given a fair opportunity to take part in the process.

Main Issues

4. The main issues are:
 - whether the proposed building would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (The Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the living conditions of residential occupiers to the south of the site in regard to noise and disturbance; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

Reasons

Inappropriate development

5. The appeal site is within the West Midlands Green Belt. The Framework explains that the Government attaches great importance to Green Belts. Paragraph 133 identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open. Paragraph 145 explains that new buildings would be inappropriate unless they satisfied a listed exception. The proposal would fall outside of the listed exceptions and would therefore be inappropriate development.
6. The Development Plan for the district is the Solihull Local Plan (LP) 2017. Policy P17 of the LP, states that the Council will not permit inappropriate development in the Green Belt. The policy also states that in addition to national Green Belt policy, the reasonable expansion of established businesses in the Green Belt will be allowed, where the proposal would make a significant contribution to the local economy or employment providing the appropriate mitigation can be secured. The appellant has not illustrated that the business is established or would make a significant contribution. The proposal would not therefore satisfy this provision of the policy.
7. Accordingly, the proposal would not accord with policy P17 of the LP, which seeks to resist inappropriate development in the Green Belt.

Openness

8. The courts have ruled that the openness of the Green Belt has both spatial and visual dimensions. The field is largely enclosed by a comparatively substantial tree and hedge screen. The topography of the site, and its surrounding landform, is generally flat and slopes gradually uphill towards the north and east. The field is therefore relatively discrete but nevertheless contributes towards the openness of the Green Belt.
9. The proposed building would consist of 10 kennels. It would have blockwork walls and a metal sheet roof. The building would be located in the southwest corner of the field and close to several small storage buildings. The proposed kennels would add further built form to the field. Furthermore, a sizable concrete slab is also proposed. The cumulative impact of the building and hardstanding would have a moderate effect on the openness of the field. Additional landscaping, to screen the proposal, would not ameliorate the identified loss of openness. The proposal would also result in encroachment of built form into the countryside. Consequently, the proposal would not safeguard the countryside and would be contrary to a key purpose of Green Belt policy.
10. Accordingly, the proposal would result in moderate harm to the openness of the surrounding Green Belt. This harm is in addition to the harm already identified of it being inappropriate development within the Green Belt.

Living conditions

11. The site is in the open countryside. It is set some distance away from both the nearest highway and residential properties. It is connected to the highway by an access track. The track also incorporates a public footpath for much of its length.

12. The nearest dwellings are around 230m to the south of the site, being 'Byways', 'The Post House' and 'Canterbury House'. These are adjacent to the access track. The appellant contends that the kennels would not result in noise nuisance due to the distance between the noise and receptor. However, no evidence has been provided to illustrate this point. The Council received 17 letters of objection in regard to the planning application with noise impact raised as a significant concern. Furthermore, the Council's Public Protection Officer also objected to the proposal. Furthermore, the appellant's best intentions to not cause noise disturbance to adjacent residents, as potential future customers, is not compelling evidence that noise disturbance would not occur.
13. There is limited empirical evidence in regard to noise nuisance or disturbance from either main party. However, it would be expected for domesticated animals to bark repeatedly and noisily for attention; including in the night. The appellant has indicated that a member of staff would be on site in the daytime. However, there is no indication that there would be any night time presence of staff. The animals would therefore be left unsupervised for relatively long periods of time. This would exacerbate any noise issues.
14. Furthermore, the proposed building would have no identified acoustic properties to mitigate noise transference. Therefore, despite the intervening screening it is highly likely that noise levels would travel a substantial distance; especially in the night. This would therefore be significantly harmful and invasive to the living conditions of adjacent residential occupiers.
15. The appellant would provide a collection service. Therefore, he considers that the proposal would not attract customers to the site. However, there is no indication of the duration of stay for the dogs. The frequent use of the access track would cause some noise disturbance to the living conditions of neighbouring residents adjacent to the access track. It is also unlikely that more than one or two dogs would be collected together. As such, disturbance caused by vehicle movements would be similar whether the vehicle belongs to the appellant or to customers. Therefore, the use of the access track would cause significant noise disturbance to the living conditions of neighbouring occupiers.
16. In summary, the appellant has provided no substantive operational evidence or noise data to set aside the concerns of the Council. The application form indicates that the use would operate 7 days a week between 8:30 and 17:30. However, being for kennelling, the noise disturbance could occur at any time. As such, with no evidence to the contrary, it is probable that the proposal would create substantial and prolonged noise effects. The noise would be likely to be both audible and invasive resulting in substantial disturbance to the living conditions of occupiers of nearby dwellings.
17. Subsequently, the proposal would be contrary to policy P14 of the LP, which seeks new development to respect the amenity of existing occupiers and minimise the adverse impact of noise.

Other considerations

18. The proposal would not be hidden from views, being partly within sight from the adjacent footpath. In any event, harm to the Green Belt is not dependant on the intervisibility of a proposal. Furthermore, having the appearance of a

stable or agricultural building is of limited significance as agricultural buildings are not inappropriate in the Green Belt.

19. The appellant asserts that there is a shortage of kennels in the local area. However, there is no evidence provided to support this assertion. A list has been provided showing 10 kennelling facilities within 15 miles of the site. However, there is no indication as to whether these are oversubscribed or have capacity to meet local demand. Furthermore, local demand is not established or explained.
20. The proposal would create employment for one member of staff. This is a benefit of the proposal and carries some weight in support.

Whether there would be Very Special Circumstances

21. Paragraphs 143 and 144 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
22. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the proposal would result in moderate harm to the openness of the Green Belt. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt. The proposal would also affect living conditions of nearby residents, a point of significant weight.
23. On the other hand, the other considerations I have identified, such as the limited views of the proposal from the public realm and the suggested need for kennelling in the area, are of limited weight. Furthermore, the provision of employment for one member of staff is only of moderate weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.

Conclusion

24. For the above reasons the appeal is dismissed.

Ben Plenty

INSPECTOR