
Appeal Decision

Site visit made on 28 October 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/P4605/W/19/3234657

**Lindridge Pool, Lindridge Road, High Heath, Falcon Lodge,
Sutton Coldfield, West Midlands B75 7JB**

- 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 Graham Cadman against the decision of Birmingham City Council.
 - The application Ref 2018/08876/PA, dated 26 October 2018, was refused by notice dated 18 June 2019.
 - The development proposed is timber outdoor shelter outbuilding (12m length x 6m width).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my visit, a timber structure was present on the site, the appearance of which seemed consistent with that shown on the submitted drawing. Its location appeared consistent with that indicated on an aerial photograph submitted by the appellant. However, it appeared to differ from the proposed location shown on the 1:2500 Location Plan and the 1:1000 Block Plan on the drawing dated October 2018.
3. For the avoidance of doubt, and notwithstanding those works which have taken place to date, I have considered the appeal on the basis of the proposed building and location as shown on the submitted drawing, dated October 2018, which includes the Location Plan, Block Plan, Ground Floor Plan and Elevations.
4. The submitted drawing also indicates 28 proposed parking spaces. However, those spaces are not included in the description of the development on the application form, and the Council has confirmed that it did not consider that parking as part of the application. Therefore, notwithstanding the details on the submitted drawing, my consideration of the appeal is also limited solely to the proposed timber outbuilding and does not include the car park, consistent with the Council's consideration of the proposal.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- whether sufficient information has been provided to allow the effects of the proposed development on biodiversity to be fully considered; and
- whether the harm by reason of inappropriateness, and any other harm, would clearly be outweighed by other considerations and, if so, whether that would amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

6. The site is in the Green Belt, and is part of a wider area of land which includes a private dwelling, together with a number of fishing ponds which, I am advised, are used by the members of a fishing club. Policy TP10 of the Birmingham Development Plan (the BDP) states that there is a general presumption against inappropriate development within the Green Belt, that such development will not be permitted unless very special circumstances exist, and that development proposals in the Green Belt will be assessed in relation to the relevant national planning policy.
7. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate in the Green Belt, with exceptions which include the provision of appropriate facilities (in connection with the existing use of land) for outdoor sport or outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
8. The proposed structure is timber framed with open sides, but with large curtains described on the submitted drawing as having a weatherproof finish, to be drawn during windy and wet weather conditions. The appellant states that one use of the proposed building would be for fishermen in connection with the use of the fishing ponds, including to provide shelter and as an area to have refreshments, undertake preparation, or pack up.
9. Whilst fishing may be carried out in a range of weather conditions, and its participants are likely to be equipped and dressed accordingly, the provision of a covered space for them to prepare equipment or have refreshments in poor weather is not unreasonable in association with that aspect of the site's existing use. The appellant states that the building is well-used by fishermen, and on the basis of the evidence before me, I have no reason to doubt that, or that the building could provide a benefit to those fishing at the site. Therefore, I consider that the building would represent an appropriate facility insofar as its use would relate to that existing use of the site for fishing.
10. However, the details before me indicate that would not be its sole use, and that the building is also intended for personal use by the appellant and his family. The exceptions to inappropriate development set out in the Framework do not include new domestic outbuildings. The outbuilding is located in an otherwise

open and undeveloped part of the site, some distance from the dwelling itself. Its use as an outbuilding in association with that dwelling and by its occupants, even for outdoor recreation, would therefore result in the encroachment of domestic activity and residential development into the countryside, in conflict with one of the purposes of including land within the Green Belt.

11. The proposed outbuilding is a relatively large structure which, as a result of its solid roof and timber frame and balustrades, has a significant mass and presence, despite its open-sided design. It would therefore erode the spatial openness of the Green Belt. However, due to its distance from surrounding public vantage points, and the presence of dense, tall mature planting within and around the site boundaries, public views of the structure are limited. Its impact on visual openness, and on the openness of the Green Belt overall, would therefore be limited.
12. However, notwithstanding the outbuilding's intended use in association with the existing use of the site for fishing, its use in association with the existing dwelling, even for outdoor recreation, would conflict with the purposes of including land in the Green Belt. Therefore, overall, and having regard to the entirety of the building's intended use as described in the submissions before me, I conclude that the proposed development would not satisfy the relevant qualifying criteria in paragraph 145 of the Framework. It would therefore constitute inappropriate development which is, by definition, harmful to the Green Belt, and which should not be approved except in very special circumstances.

Biodiversity

13. The appeal site is within the Lindridge Pool and Langley Mill Site of Importance for Nature Conservation (SINC). Policy TP8 of the BDP states that development which directly or indirectly causes harm to SINC or species which are legally protected will only be permitted if it has clearly demonstrated that, amongst other things, damage is minimised and measures can be put in place to mitigate remaining impacts. Policy TP8 also states that development proposals which are likely to affect any designated site or important species must be supported by adequate information to ensure that the likely impact of the proposal can be fully assessed.
14. The appellant has provided a Preliminary Ecological Appraisal Report (PEA). However, it was carried out some time ago, in June 2014, and there is the potential for vegetation, habitats and species within the site to have changed significantly within the intervening period. The PEA also relates to a proposal for a different building, to be used as a cattery and education centre and, on the basis of the limited evidence before me, I cannot be certain that the location of that proposed building was identical to that now proposed.
15. The reliability of that 2014 survey as an up-to-date indicator of the species and habitats present in the area affected by the appeal proposal, and of the effects that the particular development now proposed would have, or has had, on those areas and species is therefore very limited. Accordingly, the weight I attach to that PEA is also limited.
16. The location of the proposed outbuilding indicated on the submitted Location Plan and Site Plan drawings appeared, from my observations on site, to be in an area of dense vegetation including what appeared to be a pond, to the north

of the structure which was on site at the time of my visit. I therefore consider there to be a reasonable likelihood that the development of the proposed outbuilding in that location could have implications for biodiversity. In the absence of an up-to-date survey of that area, I cannot be certain as to the effects of the development if it were to be carried out in the location indicated on those submitted drawings.

17. However, even were the structure to remain in the location where it was positioned at the time of my visit, I have nothing before me by way of substantive evidence to indicate what the site conditions were like at the time it was installed, or whether any vegetation was removed to allow its construction, including any which may have grown up since the 2014 survey was carried out. A structure of the size proposed could have had significant implications for habitat within the site. Furthermore, whilst not indicated on the submitted drawings, the building which was on the site at the time of my visit appeared to have internal and external lighting. Given its proximity to trees, dense planting and nearby ponds, the possibility of bat activity in the area around the building could not be ruled out. Therefore, on the basis of my observations on site, and in the absence of an up-to-date survey of those areas, I cannot be certain that the development would not have adverse implications for that protected species.
18. Therefore, in the absence of an up-to-date survey covering the specific site area and proposal before me, I do not have sufficient information to allow me to fully assess the likely impact of the proposed development on the SINC or on protected species, including bats. I therefore cannot conclude with any certainty that the development would not have, or has not had, significant implications for the SINC or any protected species, or that the mitigation measures suggested by the appellant would be sufficient to offset any such effects. Whilst the Council may not have provided specific evidence to indicate that the development has caused harm to biodiversity, it is evident from Policy TP8 that the onus is on the appellant to provide evidence to support their proposals and demonstrate that harm would not occur, a requirement which has not been satisfied in this case.
19. For the reasons given, I therefore conclude that sufficient information has not been provided to allow the effects of the proposed development on biodiversity to be fully considered. The proposal would therefore conflict with the requirements of Policy TP8 as set out above, and with the Framework, which requires planning decisions to contribute to and enhance the natural environment by protecting and enhancing sites of biodiversity value.

Other considerations

20. I afford moderate weight to the potential benefits that the proposed outbuilding would provide to those fishing at the site. However, those benefits relate to only part of its intended use, and do not clearly outweigh the harm to the Green Belt arising from its other intended function, in association with the existing dwelling, which would conflict with the purposes of including land within the Green Belt, and to which I attach substantial weight in accordance with the Framework.
21. The Council has raised no objections with regard to the appearance of the proposed building or highway safety. However, even were I to agree that there

would be no harm in those respects, the absence of such harm would be neutral, rather than a factor weighing in favour of the proposal.

Green Belt Balance

22. The Government attaches great importance to Green Belts. Therefore, substantial weight should be given to any harm to the Green Belt when considering any proposal for development within it. In this case, I have found harm to the Green Belt by reason of the proposed development's inappropriateness, and I cannot be certain, on the basis of the evidence before me, that the development would not have adverse implications for biodiversity.
23. Balanced against that are the other considerations discussed above. However, for the reasons given, those do not clearly outweigh the harm to the Green Belt and other identified harm. The very special circumstances necessary to justify the development therefore do not exist. Consequently, the proposed development would conflict with the Green Belt protection aims of Policy TP10 of the BDP, and with those of the Framework.

Conclusion

24. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR