



Appeal Decision

Site visit made on 22 July 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2020

Appeal Ref: APP/Q4625/W/20/3252879

Fernhill Barns, Fernhill Lane, Balsall Common, Solihull CV7 7AN

- 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 Dorian Flemming (Flemming Construction Limited) against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2019/00900/PPFL, dated 29 March 2019, was refused by notice dated 26 November 2019.
 - The development proposed is change of use to residential curtilage and use of existing structure for additional residential accommodation to serve barns 1 and 3.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In its submissions, the Council claims the existing structure on the site (hereafter referred to as barn 2) is unauthorised. Barn 2 exists but it is not a matter for me to determine whether it is lawful in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. Also, neither the description of the development nor the submitted drawings indicate the construction of barn 2 is part of the appeal development. Accordingly, for clarity purposes, I confirm that my assessment is limited to whether planning permission should be granted for the proposed changes of use in the above description as well as the alterations to barn 2 and the erection of links to barns 1 and 3 as shown on the plans.
3. The appellant has submitted a site layout plan¹ that was not with the Council when it determined the planning application. This plan differentiates between the gardens serving the neighbouring properties and the land subject of the appeal proposal and shows a slightly smaller area subject to the proposed change of use. The revisions are minor and reduce the size of the area affected by the proposal and so I am satisfied that no injustice would be caused to any party by taking this drawing into account.
4. Balsall Parish Neighbourhood Development Plan 2018-2033 is well-advanced in its production. Accordingly, I have attached significant weight to its policies insofar that they are relevant to this appeal.

¹ Drawing numbered (ALL) 200

Main Issues

5. The appeal site is located within the Green Belt and so the main issues are:-
- whether the proposal would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy; and
 - if the development would be inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development in the Green Belt

6. The site includes a small complex of buildings surrounded by fields. The proposal relates specifically to barn 2 and the areas of land immediately to the front and rear. The development would provide additional residential curtilage or amenity/garden areas and extra accommodation to serve the adjacent dwellings at barns 1 and 3.
7. Policy P17 of the Solihull Local Plan 2013 (LP) states that inappropriate development will not be permitted in the Green Belt except in very special circumstances. The policy goes on to state the re-use of buildings or land should not conflict with or have a materially greater impact on the openness of the Green Belt and the purposes of including land within it. In this regard the policy is generally consistent with paragraph 146 of the Framework.
8. The change of use of land element of the proposal includes no new buildings and a condition could be imposed that removes permitted development rights. However, the change of use would introduce residential activity and associated domestic paraphernalia that would fall outside of planning control onto the proposed curtilage areas. Such features and activity would result in the loss of spatial openness of the site.
9. The proposed amenity/garden areas would not be seen from any public vantage points but they would be visible from the adjoining properties. The information before me fails to show how the proposal would reduce the need for fencing or how any such reduction would increase the openness of the site. As such, even when taking into account the site's location within a complex of buildings, I consider the proposed change of use of land and domestic paraphernalia would have a harmful, albeit a localised, visual impact on the site's openness. Also, as it would represent a minor encroachment into the countryside, this element of the proposal would conflict with the purposes of Green Belt policy. Therefore, I conclude that the change to residential curtilage would fail to comply with LP policy P17 and paragraph 146 e) of the Framework and so would represent inappropriate development in the Green Belt.
10. The change of use of barn 2 to provide residential accommodation in itself would have no effect on openness and would not prejudice the purposes of Green Belt. As such, this element of the proposal would not be inappropriate development as defined under LP policy P17 and paragraph 146 d) of the Framework. There is no indication that Barn 2 has been altered since it was recently constructed and so the proposed alterations and minor link extensions

would not be disproportionate additions above its original size. As such these building works would comply with paragraph 145 c) of the Framework and so would not be inappropriate development in the Green Belt. However, my findings in respect of these elements of the proposal have no effect on my conclusion on the change of use of the land to residential curtilage.

Other considerations

11. The proposal would not harm the overall character and appearance of the area given its limited visual impact. Also, the small amount of additional accommodation proposed would not lead to highway safety or capacity issues. Acceptability in these regards is a neutral factor in my assessment.
12. The appellant suggests that if the appeal is dismissed, the owners of barns 1 and 3 could apply for planning permission to construct extensions to their properties. It is also suggested that if permission is refused the site could return to agricultural use which would be incompatible with the neighbouring properties. However, there is limited evidence to show that these alternatives are likely and no details of any alternative schemes have been provided. As such, I attach limited weight to these suggestions in my assessment.
13. The proposal would make use of an existing building, would provide some minor benefit in terms of creating construction employment and would improve the living conditions of occupiers of barns 1 and 3. Such factors attract modest weight given the scale of the development.

Green Belt balance

14. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. These would only exist where the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In carrying out the balancing exercise, substantial weight is to be given to any harm caused to the Green Belt.
15. The change of use of land element of the proposal would be inappropriate development as it would cause a loss of openness and so it would adversely impact on one of the essential characteristics of the Green Belt. It would also not safeguard the countryside from encroachment and so prejudice one of the purposes of Green Belt policy.
16. On considering all the relevant matters, I conclude that the benefits of the proposal and all other considerations would not clearly outweigh the harm the development as a whole would cause to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would conflict with LP policy P17 and the Framework which, amongst other things, seek to resist inappropriate development in the Green Belt unless very special circumstances exist and to preserve its openness.

Conclusion

17. For the above reasons, I conclude the appeal should be dismissed.

Jonathan Edwards

INSPECTOR