



Appeal Decision

Site visit made on 19 January 2021

by Julie Dale Clark BA (Hons) DipTP MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24/02/2021

Appeal Ref: APP/C4615/W/3260333

55 Blewitt Street. Pensnett, Brierley Hill, West Midlands DY5 4AN

- 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 Mrs Tina Watton against the decision of Dudley Metropolitan Borough Council
 - The application Ref P20/0780, dated 1 June 2020, was refused by notice dated 24 August 2020.
 - The development proposed is change of use from tarmac and wasteland and shrubbery driveway to garden use.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues are:-
 - whether the proposed change of use constitutes inappropriate development in the Green Belt and its effect on openness;
 - the effect of the proposal on nature conservation; and
 - 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 necessary to justify the development.

Reasons

Green Belt

3. The appeal site is located within the Green Belt and the National Planning Policy Framework¹ explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework indicates that material changes of use of land is not inappropriate provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
4. The Framework clarifies that the essential character of Green Belts are their openness and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The five purposes of Green Belt are

¹ Ministry of Housing, Communities and Local Government National Planning Policy Framework, February 2019 (the Framework).

set out in the Framework and include, to check the unrestricted sprawl of large built up areas and to assist in safeguarding the countryside from encroachment. The aims of Green Belt set out in the framework are reflected in Policy 23 of the Council's Development Strategy².

5. No 55 Blewitt Street is a semi-detached house in a linear row of houses within the urban area. The Green Belt boundary is drawn along the rear garden boundaries of a number of houses in Blewitt Street. The appeal site is a strip of land outside the defined urban area and extending into the Green Belt along the rear of Nos 51, 53 and 55 Blewitt Street.
6. The strip of land is fenced and is used for domestic purposes, the proposal therefore is retrospective. The fencing of this land and use of it for domestic purposes clearly intrudes into the openness of the Green Belt. The land behind these houses is heavily vegetated but also includes footpaths and a large water body. The proposal clearly affects the openness of the area and encroaches into the more rural area behind these houses. I therefore consider that the proposal is inappropriate development in the Green Belt. This carries substantial weight.

Nature Conservation

7. The land is within the Fens Pool Site of Importance for Nature Conservation (SINC) and adjoins the Fens Pool Local Nature Reserve to the south. It also is close, but outside, the Fens Pool Site of Special Scientific Interest (SSSI). A Special Area of Conservation lies to the east of the appeal site.
8. Amongst other things, the Framework seeks to protect habitats and biodiversity and Core Strategy Policy ENV1³ aims to protect and improve the Black Country's biodiversity and geodiversity and requires adequate information to be submitted with planning applications for proposals that may affect any designated site or important habitat, species or geological features to ensure that the likely impacts of the proposal can be fully assessed. Development Strategy Policy S19 defines Dudley Borough's Green Network and sets out the designations included in it. These include the Green Belt, and areas of designated nature conservation and geological value such as SSSI's, SINC's and Local Nature Reserves. The policy requires proposals falling within these areas to provide a Green Network Statement as part of the planning application.
9. Natural England has indicated that given the size of the plot, this individual proposal would not have a significant effect on the Fens Pools Special Area of Conservation but would be concerned if further encroachment into the wider reserve occurred⁴. The appellant refers to this in her appeal statement but no assessment was submitted with the planning application or with this appeal. I accept that the site is a relatively small one but other than this there is no evidence that assesses any actual or potential impact. The site is within or close to an area that is nationally and/or locally important for nature conservation.
10. The lack of any clear evidence that the site may or may not have implications for nature conservation adds weight against this proposal.

² Dudley Borough Development Strategy Adoption March 2017.

³ Black Country Core Strategy, Adopted February 2011.

⁴ Consultation response referred to in the Council's planning officer's report, dated 20 August 2020 ref: P20/0780.

Other Considerations

11. The appellant explains the history of the site and states that No 55 has had access gates to the land and it has been used for domestic purposes for 25 years. The appellant therefore argues that the domestic curtilage has been extended for many years. The longevity of the use of the site has also been referred to as justifying no harm to nature conservation.
12. I accept that the appellant may have used the site for domestic purposes for some time but it would appear from my site visit and submitted photographs that neighbouring properties have also had access into this area, for example there are doors and a garage. However, there is no indication that an application for a Certificate of Lawfulness⁵ has been applied for or any other conclusive evidence has been produced to establish this matter. I therefore give this only limited weight.

Conclusion

13. The Framework makes it clear that inappropriate development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm, caused by inappropriateness, and any other harm is clearly outweighed by other circumstances.
14. I have found that the proposal would be inappropriate development in the Green Belt that would be harmful to its openness. The lack of information about the potential impact on areas of acknowledged nature conservation adds weight against the proposal.
15. I have considered all other matters raised but none overcome my conclusion. I conclude that very special circumstances do not exist to clearly outweigh the harm caused by inappropriateness in the Green Belt and the other harm I have identified. The proposal would conflict with the policies referred to and therefore the appeal fails.

J D Clark

INSPECTOR

⁵ Town and Country Planning Act, 1990 – Sections 191/192.