



Appeal Decision

Site Visit made on 11 May 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2021

Appeal Ref: APP/Q4625/W/20/3251921

Land rear of Cleobury Barn, Cleobury Lane, Earlswood, Solihull B94 6AF

- 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 T Geraghty against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2019/01663/PPFL, dated 19 June 2019, was refused by notice dated 22 November 2019.
 - The development proposed is changes to dwelling design to include a single story rear projection and rear dormer, following planning approval PL/2016/02651/PPOL.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Despite the description of development set out above, I consider the description found on the Decision Notice and the Appeal Form better reflects the scheme that is before me and that which the Council considered, as the single storey rear projection was omitted prior to the planning application being determined. The development proposed is therefore for 'Changes to dwelling design to include a rear dormer (following planning approval PL/2016/02651/PPOL)'. Furthermore, for the purposes of clarity, the proposal has been submitted for full permission and concerns a new development, as shown on drawing references: A100i and 02 Revision C. I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are: -
 - whether the development would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - whether the proposed development would preserve or enhance the setting of a Grade II listed building, known as 'Barn and Attached Stables and Cart Shed Immediately North North West of Little Cleobury Farmhouse, Cleobury Lane'; and
 - if the development is inappropriate within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The National Planning Policy Framework 2019 (the Framework) sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The Council's Local Plan¹ reiterates this stance in Policy P17. While the overall aim of this policy to control development in the Green Belt remains consistent with the aims of the Framework, and it includes exceptions to the presumption against development in the Green Belt, these are not as extensive as those outlined in the Framework, so is not as positive as it. Furthermore, some of the requirements to meet those exceptions go further than the corresponding exceptions in the Framework. In particular, the replacement of buildings in the Green Belt is not permitted by the policy where it would harm the purposes of including land within the Green Belt. This is only required for the exceptions in paragraphs 145(b) and paragraph 146.
6. Moreover, paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions, which includes 'limited infilling or the partial or complete redevelopment of previously developed land'.
7. The Council granted a Certificate of Lawfulness of Existing Development in 2010 for the original building situated on the site of the proposed dwelling, as a commercial workshop. The appeal site would therefore qualify as previously developed land and the proposal would involve its redevelopment. However, the conclusion on whether the proposal would accord with this exception, and not be inappropriate development, would hinge on if the proposal would not have a greater impact on the openness of the Green Belt than the existing development. I shall come to this point in the next main issue.

Openness

8. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof being their openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.
9. At the time of my visit, development of the site was underway, which the appellant suggests is in relation to the planning permission granted by the Council for a dwelling at the site² (the approved scheme). The original commercial workshop building has been demolished and is no longer present within the site, so there is no longer any 'existing development' to be replaced. The approved scheme is not to be replaced and the exception in paragraph 145(g) does not relate to the extension of buildings.

¹ Solihull Local Plan December 2013

² Planning References: PL/2016/02651/PPOL and PL/2017/00451/PPRM.

10. The appeal scheme would therefore have a greater and more adverse impact on the openness of the Green Belt in both visual and spatial terms, which would be contrary to the main aims of Green Belt policy at local and national levels, as set out above. I will, however, refer to other implications of the approved scheme in the section relating to 'other considerations'.

Listed Building

11. The appeal site is situated to the rear of the 'Barn and Attached Stables and Cart Shed Immediately North North West of Little Cleobury Farmhouse, Cleobury Lane', which is a Grade II listed building. The barn probably originates from the late 17th or early 18th Century and incorporates several 19th Century add-ons to all sides, but principally to its northern and southern ends, where a 3-bay cart-shed and a brick stable with a hayloft were respectively added. The principal barn is five bays long and two storeys with gables to either end and a steeply pitched roof clad in plain clay tiles. Beneath this is an exposed timber frame with a brick nogging infill and plinth. It has more recently been converted to residential use, with rooflights added to its eastern roof slope serving accommodation on the later loft floor.
12. Despite its conversion to residential use, the significance of the listed barn lies in it surviving as a good representation of a late 17th or early 18th Century timber framed barn, with brick nogging, and later outbuildings.
13. In so far as it is relevant to this appeal, the setting of the listed building is principally focused on its grounds, its grouping with the other former farm buildings and house to the south and its relationship within Cleobury Lane. However, the paddock land to the north enables the listed barn to be appreciated through the mature tree and hedge planting to the northern boundary, particularly when this is not in leaf. The land within the appeal site is also visible from the north within the context of the barn and its grounds, and from the west through the planting along its eastern boundary.
14. The rear flat-roofed dormer would be set in slightly from the gable at either end of the proposed dwelling, up from its eaves and down from its ridge. The two gabled dormers to the front roof slope would also be set down from the ridge and aligned with the windows beneath.
15. While the views from the north, northwest and west would be interrupted by planting, the proposal would still be likely to be evident from those directions, including from the curtilage of the listed building. However, in combination with the sunken form of the proposed dwelling and its separation from the listed building, this natural screening would ensure that the proposal would not appear as a prominent addition beyond the large garden of the listed building.
16. I am also mindful that the roof form of the proposed dwelling was previously found acceptable by the Council as part of the approved scheme and the proposed palette of materials would be consistent with those previously approved at the site. In the views of the proposal from the north and northwest, the proposed dormers would therefore be likely to be viewed against the backdrop of its roof, the approved garage block immediately to its east³, and the mature tree planting further to the south and east.

³ As referred to on Drawing Reference: 02 Revision C.

17. In light of the above, I conclude that the proposed development would not have a harmful effect on and so would preserve the setting of the listed building and thereby its significance as a designated heritage asset. Hence, the proposal would satisfy the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would not conflict with the heritage aims of Policy P16 of the Council's Local Plan and paragraphs 192, 193 and 196 of the Framework.

Other Considerations

18. I am aware of the support offered in the Framework to the Government's objective to significantly boost the supply of homes but the approved scheme already contributes a dwelling to the housing mix and supply in the Borough, so the weight afforded to this social benefit would be limited.
19. The economic benefits that would arise from, for example, employment and procurement of materials during the construction period and the contribution of future occupiers to local services and facilities through expenditure in the local economy, would also be likely to be similar in scale and kind to those that would be forthcoming by virtue of the approved scheme, and the site remains in an accessible location.
20. The environmental benefits associated with the removal of the original commercial building and stables have already been factored into the approved scheme and undertaken, so could not be for benefits in respect of the appeal scheme.
21. There is agreement between the main parties that there would not be harm emanating from the proposal to the living conditions of occupiers of neighbouring houses and the safety of users of the highway and there is no substantive evidence before me that would lead me to a different conclusion in respect of these matters. Nevertheless, the absence of such harms would have a neutral impact that would neither weigh in favour or against the proposal.
22. The main parties cannot agree that the permissions relevant to the approved scheme are extant, but the site has been cleared of the original building and development of the dwelling is under way. Given that the evidence before me as to whether a lawful start on the permissions has been made is not conclusive, I have taken a precautionary approach that it would have been and compared the approved scheme as a 'fallback position'.
23. The footprint of the proposed dwelling would be the same as the approved scheme, so it would result in no greater impact on the openness of the Green Belt in spatial terms. In general terms, due to the proposed dormers the scale of the proposal would be larger than the approved scheme, but for the reasons outlined above in the third main issue, the harm that would be caused to the openness of the Green Belt, in visual terms, would not be noticeably greater than the impact of the approved scheme.
24. I have also been referred to the potential for the dwelling to be extended under paragraph 145(c) of the Framework. However, the term 'original building', referred to in that exception, is defined in the Glossary to the Framework as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. Given that the construction of the dwelling in the approved scheme has not been substantially completed, it could not be regarded as an

'original building'. Furthermore, even if it had been completed, permitted development rights have been removed for the dwelling to be extended. There is therefore not a greater than theoretical possibility that an extension of the same dimensions as the additions to the roof of the dwelling might take place, as it would be subject to a new application for planning permission. As such, I give limited weight to this as a potential further fallback position.

25. I accept that the extent of useable space within the roof of the approved scheme is constrained by the roof slope and the appeal scheme would utilise the floor space within the roof of the dwelling in a more effective way. Moreover, it would maximise the extent of head room and incorporate balconies to the bedrooms, which would improve the living environment for future occupiers.

Planning Balance and Conclusion

26. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness which gives rise to additional harm. These harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
27. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is 'clearly outweighed by other considerations.'
28. The other considerations that have been advanced, including the unmet requirements of the appellant in respect of the living accommodation in the roof of the proposed dwelling and the comparable harm to openness of the proposal with the approved scheme, are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
29. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR