



Appeal Decision

Site visit made on 16 August 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Monday 12 September 2022

Appeal Ref: APP/Q4625/W/22/3297110

Newnham, Bickenhill Lane, Marston Green, Solihull B37 7EY

- 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 Jim Rogers against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2021/02742/PPFL, dated 11 October 2021, was refused by notice dated 8 March 2022.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt.
 - The effect of the proposal on the openness of the Green Belt.
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

3. The fundamental aim of Green Belt policy in the National Planning Policy Framework (Framework) is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
4. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development in the Green Belt. However, an identified exception under sub-paragraph d) of the Framework paragraph 149 is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. This is generally reflected in Policy P17 of the Solihull Local Plan (2013) (LP).

5. The appeal site is a plot of land with an existing two-storey detached dwelling located on the east side of Bickenhill Lane. I observed during my site visit that the detached garage on site had been demolished but its footprint remained.
6. The proposal is for a replacement dwelling. The proposed replacement dwelling would have a larger footprint than the original buildings. This would result in a significant increase in site coverage. The proposal's overall volume would also be markedly greater than the original buildings. As such, the proposed dwelling would be materially larger than the one it would replace. Consequently, the exception under sub-paragraph d) of the Framework paragraph 149 does not apply in this case.
7. Within the appellant's evidence, there is much discussion in relation to limited infilling. The appellant points to infill developments having been allowed outside of settlement limits and refers me to the *Julian Wood v SoSCLG and Gravesham* [2015] EWCA Civ 195, where it was necessary to consider what actually exists on the ground. The appellant also considers that the Council have not taken into consideration 'limited infilling' in their decision, and that they disregarded the exception under sub-paragraph e) of the Framework paragraph 149.
8. Paragraph 149 of the Framework states that limited infilling in villages is an identified exception. However, the Framework does not define or qualify 'village' for the purposes of applying Green Belt policy or guidance.
9. Policy P17 of the LP defines 'limited infilling' as 'the filling of a small gap within an otherwise built-up frontage with not more than two dwellings.' Paragraph 11.6.8 of the policy's supporting text states that acceptable villages for limited infilling are within the settlement boundaries of Chadwick End, Cheswick Green and Tidbury Green. In other Green Belt villages and hamlets in the Borough, new building, other than that required for agricultural and forestry, outdoor sport, outdoor recreation and cemeteries, or for extensions and alterations will be considered to be inappropriate development.
10. The appeal site is not located within the three specified settlements in Policy P17 and is not located within or on the edge of any defined settlement boundary. However, as established in *Julian Wood v SoSCLG and Gravesham*, for the purposes of ascertaining whether it is within a village in accordance with paragraph 149 of the Framework, it need not be. Regard must be had to the situation on the ground.
11. The appeal site does have buildings either side and the proposal would form part of a built-up frontage. Nevertheless, the appeal site is a plot of land within a ribbon of development within the Green Belt that is physically separated from the main settlement of Marston Green. Furthermore, the ribbon of development does not extend out from any other defined settlement. Although located in close proximity to the National Exhibition Centre, Birmingham Airport, Birmingham Business Park, Elmdon Trading Estate and other commercial development, the appeal site is not physically or functionally attached to them. As such, the proposal would not infill a gap in the built-up part of a village or a settlement as defined by Policy P17.
12. My attention has been drawn to two appeal decisions concerning dwellings granted permission in the Green Belt. The appeal decision APP/Q4625/W/17/3191758 involved a site in a ribbon of development that was visually and physically joined to other substantial areas of built form. There was no clear sense that the site was located in an area away from a settlement. The

appeal decision APP/Q4625/W/17/3188046 involved a parcel of land just beyond the settlement boundary. The Inspector found that the site was located within a ribbon of built development that extended out in a broadly continuous run from the settlement centre and concluded that it was physically and functionally related. Therefore, these appeal decisions differ to the proposal before me, which is not located within a defined settlement and is not physically or functionally joined to the existing built form of a settlement. Furthermore, these appeal decisions related to the erection of new dwellings, whereas the proposal before me is for a replacement dwelling. Consequently, I cannot draw any direct comparisons with the appeal scheme that would weigh in its favour. I therefore give these previous appeal decisions limited weight.

13. The appellant states that infill development has previously been permitted in the locality. Nonetheless, I have not been provided with the detailed circumstances of these other cases in order to enable me to draw a comparison with the current appeal before me. On this basis, I cannot conclude with any certainty that these other developments are directly comparable to the proposal before me. Therefore, I attach only limited weight.
14. Consequently, I conclude that the proposal would represent inappropriate development within the Green Belt. It would therefore fail to accord with the Green Belt protection aims of the Framework, with which Policy P17 of the Local Plan is consistent. I am required to attach substantial weight to the harm caused by virtue of the proposal's inappropriateness.

Openness

15. The proposal would result in a significant increase in spatial footprint at the appeal site, compared to the original buildings it would replace. Similarly, the height and overall size of the proposed dwelling would be greater than the original dwelling. This increased bulk would result in the proposed development being wider and deeper on the appeal site. Therefore, its overall bulk would be significantly increased from that of the original buildings. As a result of the increase in built form, the proposal would significantly reduce the openness of the Green Belt in spatial terms.
16. The proposal would be seen from public vantage points from Bickenhill Lane. The proposal would result in an increase in volume and bulk, which would be a notable change from what is there now. This would result in a marked reduction to the openness of the Green Belt in visual terms.
17. The appellant claims that the existing dwelling is small in proportion to the site and is awkwardly positioned directly on the northern boundary. Whilst the proposed dwelling would be positioned more centrally on the plot, its increased physical size would have a greater impact on the openness of the Green Belt than the existing dwelling and garage footprint.
18. Paragraph 137 of the Framework makes it clear that the essential characteristics of Green Belts are their openness and their permanence. For the reasons above, the proposal would diminish the contribution the appeal site makes to the openness of the Green Belt in spatial and visual terms. Consequently, there would be a moderate loss of openness of the Green Belt in this location.

19. The proposal would therefore conflict with the Framework and Policy P17 of the Local Plan, which seeks to protect the Green Belt. As above, I am required to attach substantial weight to this element of Green Belt harm.

Other Considerations

20. On the basis of the evidence, the proposal would be in keeping with the character and appearance of the area. It would not harm the living conditions of neighbouring residential occupiers or the safe operation of the highway. There are no significant concerns in relation to ecology or drainage. However, these are requirements of policy and they do not weigh in favour of the scheme.
21. The existing building line would be respected, and the proposed dwelling would be narrower than the width of the neighbouring terrace of four houses. Nevertheless, this does not overcome the harm that has been identified to the Green Belt for the reasons given above.
22. The appellant refers to a potential fallback option in relation to a house extension in the Green Belt and references the Council's House Extension Guidelines Supplementary Planning Document (2010). However, there is limited information within the evidence regarding the detail of such development; whether it would be likely and indeed whether it would be more or less harmful than the appeal scheme. Were I minded to dismiss the appeal, there is no substantive evidence to suggest that the appellant would proceed with erecting such development. Therefore, I am not satisfied that there is a real prospect of the fallback position being implemented. I therefore give limited weight to the potential fallback option.
23. The appellant states that the infill gap could be filled with either a pair of semi-detached houses or a further dwelling on the south side of the existing dwelling. Nevertheless, such development is unlikely to be more harmful than the proposal before me, as it would likely be of smaller buildings interspersed with spacing and gaps between buildings. In contrast, the proposal before me is for a replacement dwelling which is materially larger than the existing buildings on site. Additionally, there is no evidence that the fallback position is a greater than theoretical possibility or that if the appeal is dismissed the fallback would be pursued. This fallback position therefore attracts little weight as a consideration in favour of the proposal.

Conclusion

24. The proposal would be inappropriate development and would cause harm to the openness of the Green Belt. Paragraph 148 of the Framework states that substantial weight should be given to this identified harm.
25. As set out above, other considerations put forward in support of the proposal attract limited weight. Therefore, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
26. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Helen Smith

INSPECTOR