



Appeal Decision

Site visit made on 22 December 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/Q4625/W/22/3293430

Land to the south of Chadwick Lane, Chadwick End, Solihull

- 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 Michael Vining against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2021/02546/PPFL, dated 14 September 2021, was refused by notice dated 22 December 2021.
 - The development proposed is described as: 'the erection of a new single-detached dwelling on land to the south of Chadwick Lane near Temple Balsall in the Borough of Solihull. The proposed five bedroom dwelling has a GIFA of 7000ft² including integrated garage space.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of clarity and consistency, I have taken the address of the appeal site from the appellant's appeal form, which is consistent with the Council's decision notice.
3. On the 13 May 2021, the Local Plan Review ('LPR') was submitted (via the Planning Inspectorate) to the Secretary of State for independent examination. However, on the information before me, the issue of providing an adequate housing land supply still needs to be addressed. As such, at this time, only limited weight can be given to the LPR.

Main Issues

4. The main issues are:
 - a) 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;
 - b) The effect of the proposal on the openness and purposes of the Green Belt;
 - c) Whether the development site is in a suitable location for housing with regard to accessibility to services, facilities and public transport;
 - d) Whether safe and suitable vehicular access can be provided to the development site;
 - e) Whether the proposal would safeguard protected species and their habitats and deliver a biodiversity net gain ('BNG'); and,

- f) Whether any 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 required to justify the proposal.

Reasons

Inappropriate development

5. The appeal site is situated in the Green Belt. The Framework says (paragraph 149) that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. This is reflected in Policy P17 of the Solihull Local Plan "Shaping a Sustainable Future" 2013 ('LP'), which refers to national policy and states that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances.
6. There is no dispute between the main parties that the proposed development does not fall within any of the exceptions identified in the Framework or Policy P17 of the LP. Accordingly, the proposed development would comprise inappropriate development in the Green Belt.

Openness and purposes of the Green Belt

7. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to keep land permanently open. The extent to which a proposal may cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications. In any particular case these are matters of planning judgement.
8. The appeal site is adjacent to the highway in a prominent position and comprises arable and fallow farmland in a countryside landscape. The site is free of any significant development and positively contributes to the openness of the Green Belt.
9. With regard to spatial impact, whilst the extent of development represents about 1.8% of a wider appeal site, the proposed building footprint and other hardstanding such as driveways together total about 1410 sqm. This in itself would be substantial increase in footprint at a site which is free of any significant development. Therefore, the spatial impact of the proposed development would be substantial and significant.
10. The introduction of new landscaping would provide a setting for the proposed dwelling which is to become part of the local story of walking the Millennium Way footpath. To this end, the proposed scheme is designed to allow views of the new dwelling. As such, despite the new landscaping, in the context of an agricultural landscape, the proposed new sizeable dwelling would have a strong visual presence.
11. There would also be a degree of residential paraphernalia associated with a family dwelling of the scale proposed. In addition, the proposal includes a more significant and engineered access arrangement than that which serves the appeal site at present.
12. Moreover, the site would be used more intensively in association with a new dwelling compared with its existing use. The visible manifestations of the

building and its use would appreciably and significantly reduce the visual openness of the Green Belt in this location.

13. I acknowledge that over time, individual homesteads have been developed around this part of the countryside. However, at present the appeal site forms part of the Green Belt. In particular, one of the purposes of Green Belt is safeguarding the countryside from encroachment. Because of the spatial and visual impacts associated with the proposal, this would fail to safeguard the countryside from encroachment.
14. Consequently, the proposal would lead to a significant loss of Green Belt openness and would impact on one of the purposes of including land within the Green Belt. Therefore, it would be contrary to the relevant Green Belt provisions of the Framework.

Location for housing

15. Policy P7 of the LP requires that all new development should be focused in the most accessible locations and seeks to enhance existing accessibility levels and promote ease of access. Most notably, this Policy requires that development proposals meet certain accessibility criteria, unless justified by local circumstances.
16. Therefore, Policy P7 does provide some flexibility in taking into account local circumstances. As such, it is broadly consistent with the aims of the Framework in recognising that opportunities to maximise sustainable transport solutions will vary between areas.
17. The proposed development would result in the creation of a new dwelling in the countryside. In particular, the nearest settlement with a good range of local facilities and services to meet the day to day needs of occupiers are in the village of Knowle which is approximately 1.9 miles from the appeal site.
18. Even so, roads local to the appeal site are bereft of footways or lighting. In particular, the speed limit along Chadwick Lane near the appeal site is 40mph. Therefore, walking to any bus stop or cycling from the site to nearby facilities is unlikely to be an attractive proposition, particularly during the hours of darkness or in poor weather.
19. Whilst the appellant has identified the use Electric Vehicles ('EV') and the scheme would incorporate the provision of EV charging facilities, this would not overcome the lack of non-motorised and public transport options. Moreover, the location of the appeal site does not reduce the need to travel.
20. Consequently, and whilst I have had regard to paragraph 105 of the Framework, in this case, sustainable transport solutions are very limited. As such, occupants of the proposed dwelling would be heavily reliant on use of the private motor vehicle for most journeys.
21. In particular, the proposal does not meet with the accessibility criteria under Policy P7 of the LP and there are no local circumstances to justify this. Furthermore, based on the reasons set out below, the proposal for a new dwelling in this location is not supported by paragraph 80 e) of the Framework.

22. Consequently, the appeal site is not in a suitable location for housing with regard to accessibility to services, facilities and public transport and conflicts with the aims of LP Policy P7.

Vehicular access

23. The proposed access for the new dwelling would be from Chadwick Lane, broadly in the same position as the existing field access gate to the appeal site. This is intended to minimise hedgerow loss and is placed to facilitate views of the development from the Millennium Way footpath. Irrespective of such benefits, the proposed access also needs to be safe for all users.
24. The email exchange with the Council regarding visibility splays¹, confirms that the Local Highway Authority would accept visibility splays of 2.4m x 90m. However, there remained concern that the visibility splays cross through the boundary hedgerow which is proposed to measure 1.5m in height.
25. The appellant's Highway Assessment drawing shows the required visibility splay distances could be achieved but would be subject to the existing hedgerow being pruned back and maintained in line with the required sight lines. Nevertheless, the sight line to the west, crosses land which is not shown within the appeal site. Therefore, there is no certainty that this part of the hedgerow could be pruned back and maintained.
26. Therefore, on the basis of the information before me, I cannot be certain that a safe and suitable vehicular access can be provided to the appeal site. As such, the proposal fails to accord with the highway safety aims of policies P7 and P8 of the LP.

Protected species and biodiversity

27. Based on Fig 2 of the submitted Preliminary Ecological Appraisal ('PEA'), the appellant asserts that the potential locations of protected species' activity are all remote from the site of the proposed new building and so it is reasonable to defer consideration of any potential impacts on them to the discharge of condition(s) relating to landscaping.
28. I disagree, even though the area of the site to be built on, relates to part of a wider larger site, the PEA recommends that to inform any planning application a revised ecological appraisal is produced based on the detail of the proposed scheme and the results of any additional survey that may arise. Also, that the revised ecological appraisal is informed by a data search for local records of non-statutory wildlife sites and/or protected species held by the local biological records centre.
29. Furthermore, Paragraph 99 of Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within The Planning System' advises that it is essential that the presence or otherwise of protected species that may be affected by a proposed development is established before planning permission is granted. The reason for this is to ensure that all relevant material considerations are addressed in making the decision.
30. Despite the appellant's willingness to accept a condition in relation to protected species, the Circular refers to the use of planning condition in "exceptional

¹ Appendix A of 'Appellant response to LPA Statement of Case and Third Party Representations

circumstances” when surveys can be carried out after the grant of planning permission. No such exceptional circumstances have been demonstrated.

31. Other than stating that the associated landscaping would have a focus on the encouragement of biodiversity (e.g., wildlife pond/planting) there is limited information in the PEA to conclude whether or not the proposal would deliver a BNG. Given that the proposal is predicated on being of the highest quality which is based on a multi-disciplinary approach to landscape, planning and design, the fact that the proposal does not clearly demonstrate a BNG is unfortunate.
32. I have noted the extent of the proposed tree and hedgerow planting, including rewilding adjacent to established woodland, new ponds, and the management of the majority of the land for less intensive agriculture. Even so, in the absence of any baseline upon which the appeal scheme can be compared and because of the uncertainty about the impacts on habitats and any protected species, I cannot be certain, that the proposal would enhance biodiversity.
33. Whilst the appellant argues that the nationally applicable metric for BNG is still to be agreed, one of the drivers for the proposed scheme is the enhancement of biodiversity and this could be demonstrated using an ecological statement.
34. Although the above issues may be surmountable, on the basis of the information before me, the proposal has failed to clearly demonstrate that the development would safeguard protected species and their habitats and enhance the biodiversity of the site post development. Accordingly, I find conflict with Policy P10 of the LP which amongst other things seeks to conserve, enhance and restore biodiversity and geodiversity.

Other considerations

35. The proposal is predicated on paragraph 80 e) of the Framework. This supports isolated homes in the countryside, where the design is of exceptional quality, in that it: - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. Even so, paragraph 80 e) does not specifically refer to homes in the Green Belt. As such, the weight I attach to this in respect of support for development in the Green Belt is reduced.
36. Nevertheless, design of exceptional quality is capable of being an ‘other consideration.’ Indeed, paragraph 134 of the Framework states that significant weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
37. As to whether the design is truly outstanding or innovative, requires a degree of subjectivity in the consideration of such matters and I must form my own view based on my observations and the evidence put before me by the parties.
38. One of the drivers for the proposal is ‘Sustainable Design.’ Indeed, the appellant wishes to pursue low energy living at the appeal site having previously developed low energy buildings. However, given advances in renewable technology the sustainable measures that would or are likely to be incorporated into the building’s fabric would not be unduly innovative or

outstanding. Although commendable the use of solar gain, geothermal heat pumps, mechanical ventilation heat recovery, wood burning stoves (using locally sourced wood) electric vehicle charging facilities and use of triple-glazing are all based on well-established technology and principles. I find that there would be nothing particularly novel in that respect that would be said to drive up local standards. Furthermore, the extent to how effective these measures would be in improving the overall energy performance of the building is unsubstantiated.

39. With regard to the overall design concept and approach. This draws upon the history and character of Temple Balsall, a small hamlet named after the Knights Templar². The scheme incorporates a rugged brick / stone base with a refined polished stone first-floor structure, with a floor plan of a truncated crucifix, intended to create a simplistic Cistercian inspired architectural concept and form.
40. The proposed scheme references 'Templar' and 'Cistercian' Architecture re-imagined through contemporary styling. This includes a minimal palette of materials sympathetic to those used within Templar schemes. The chosen materials are on the basis that these are appropriate to the relevant history and technology but also used in manners similar to the architecture immediately surrounding the site or within Temple Balsall.
41. That said, the proposal is a bespoke design response taking account of the history of the area and the surrounding context and therefore not capable of reproduction elsewhere. Therefore, I am not convinced that the proposal would raise the standard of design more generally in the area. Although the design is contemporary and the design and detailing of the proposed materials would help revitalise the use of traditional craft skills, it incorporates limited novel features, concepts or materials.
42. In terms of its immediate setting, the site forms an intrinsic part of the agrarian and rural character and appearance of this open swathe or gap of countryside between settlements. The defining characteristics of the local area is open countryside which is part of the Green Belt.
43. The proposed dwelling is designed to be a landmark to be appreciated in views from along the Millennium Way footpath and Chadwick Lane. Even so, for the reasons I have already given, it would cause unacceptable harm to the Green Belt and its purposes.
44. As such, although the new dwelling would be complemented by a new landscape comprising a mosaic of pasture, meadow, woodland and ponds, the proposal would not be sensitive to the defining Green Belt characteristics of the site's setting, which includes openness. Consequently, the second limb of paragraph 80 e) is not met and it should not be regarded as being of exceptional quality in such terms.
45. The proposal was also considered by the Design Midlands Design Review Panel ('the Panel'). The Panel noted that the design of the house had been refined and developed to create a cohesive and convincing building of great quality inspired by the 'Templar' history of the site and surrounding area. That this

² The Knights Templar were a devout Christian brotherhood and military order founded in the early 12th century, and the buildings associated with them were typically functional and simple.

- provides a clear and powerful link between the design concept behind the house and this site.
46. The Panel also acknowledged that the various landscape elements surrounding the house are each rooted in its history and the existing topography and landscape character. Also, the Panel welcomed proposals to enhance the wider landscape character and biodiversity.
47. Nevertheless, based on my findings I cannot be certain that the proposal would enhance biodiversity. Furthermore, the Panel found that further development of the narrative was required. Even if I accept the appellant's assertion that the additional work referred to was in regard to explanatory and illustrative material and not in respect of the proposed composition of building and landscape, the review undertaken by the Panel falls short of confirming that the proposal meets the stringent criteria and high bar of Paragraph 80 e) of the Framework. Drawing on the above reasons, I am not persuaded that the proposal reflects the highest standards in architecture.
48. Paragraph 130 of the Framework identifies that all development should add to the quality of an area; be visually attractive as a result of good architecture; and should be sympathetic to the local character and landscape. Those requirements apply to all development. To an extent, the proposal would achieve those requirements, but for the reasons given, I am not persuaded that it would be truly outstanding.
49. Even so, the scheme is for a house with an informed, interesting and unique design within a complementary landscape setting. Accordingly, I still give weight to the overall design quality of the scheme, albeit it is not the significant weight envisaged in paragraph 134 of the Framework in terms of design as it would harm the Green Belt. As such, the design quality of the scheme is of merit and attracts moderate weight in favour of the proposal.
50. The proposal is intended to be a self-build dwelling for the appellant and his family. Nonetheless, there is no effective mechanism before me to ensure that the new dwelling would be occupied as a self-build dwelling. As such, I am unable to attach any significant weight to the benefit of intending to provide a self-build dwelling.
51. The Council has confirmed that it is unable to demonstrate a 5-year supply of housing land, which as of 1 April 2021, is 3.60 years. Whilst the "tilted balance" in favour of sustainable development set out at paragraph 11 of Framework does not apply by virtue of Footnote 7 and the site being in the Green Belt, the proposal would deliver a new dwelling. This would make an important but modest contribution towards the local housing need and aligns with the objective of significantly boosting the supply of homes, as set out in the Framework.
52. The proposal would create employment during the build phase. Thereafter, and notwithstanding the poor accessibility of the site, new residents would provide some support for rural communities, in accordance with paragraph 79 of the Framework. The proposed sustainable drainage solution would also alleviate some localised flooding along Chadwick Lane. These are important factors and benefits that weigh in favour of the proposal. However, such benefits arising from a single dwelling would still be modest. Therefore, this and some local support for the proposal only attract limited weight.

53. I have noted the appellant's desire to use underused farming land to pursue a sustainable lifestyle and dwelling which includes pursuing small scale livestock farming and agriculture. Regardless, these are personal matters that do not heavily influence the planning merits of the case and the need to make planning decisions in the wider public interest. As such, I attach limited weight to these.

Green Belt Balance

54. Framework paragraph 147 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Framework paragraph 148 states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In that balancing exercise, the Framework requires that substantial weight be given to any harm to the Green Belt.
55. Whilst I have given weight to the factors cited in support of the proposal, even when taking these matters cumulatively, they do not clearly outweigh the totality of the harm the proposal would cause. Consequently, the very special circumstances to justify the inappropriate development and other harm do not exist. Accordingly, the proposal conflicts with Policy P17 the LP and the Green Belt provisions of the Framework.

Conclusion

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

M Aqbal

INSPECTOR