
Appeal Decision

Site visit made on 25 April 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/Q4625/W/22/3310448

Barn, Windmill Lane, Dorridge, Solihull B93 8PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by N Smyth against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2022/01328/PPOL, dated 21 June 2022, was refused by notice dated 30 August 2022.
 - The development proposed is for the development of a single infill dwelling
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all detailed matters reserved. I have dealt with the appeal on that basis.
3. Indicative plans have been submitted by the appellant to demonstrate that an acceptable detailed scheme could be advanced at the reserve matters stage. However, as all matters are reserved these plans are not part of the formal proposal and I have not treated them as such.
4. The description of development in the heading above comes from the planning application form which originally included the wording "outline application with all matters reserved". However as this is not a description of development, I have deleted this wording from the description of development in the heading.
5. Having regard to the stage of preparation of the emerging plan and in the absence of specific details regarding relevant policies and whether there are any unresolved objections or proposed modifications to them, I attach limited weight to the Local Plan Review.

Main Issues

6. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - whether the appeal site is a suitable location for new housing, having regard to access to goods and services; and,

- 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 necessary to justify the proposal.

Reasons

Whether the proposal is inappropriate development

7. The appeal site is located in the Green Belt. Policy P17 of the Solihull Local Plan December 2013 (LP) states, amongst other things, that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances. It further states that in addition to the national policy, the listed provisions shall apply. These include provisions relating to the replacement of buildings and limited infilling. The relevant parts of the policy relating to Green Belt are broadly consistent with the Framework and I have therefore had regard to it. Paragraph 149 of the Framework states new buildings within the Green Belt are inappropriate but provides 7 exceptions. Relevant to this case are exception 149 e) limited infilling in villages and 149 g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
8. The junction of Earlswood Road and Grange Road is the nearest suburban part of Dorridge to the appeal site. This junction marks a change in character from rows of residential development to leisure uses found along Grange Road including the Village Hall, Cricket Club, Bowls Club and The Railway Inn public house (PH). After the PH is the junction between Grange Road and Windmill Lane.
9. The appeal site is on Windmill Lane, a road that is largely verdant and without a dedicated footpath, with some large houses and gardens. The houses here are predominantly surrounded by field parcels. The appeal site is located between two large houses fronting Windmill Lane with another house at the rear. There are large open and verdant spaces between existing houses which front Windmill Lane. The frontage of Windmill Lane is predominantly defined by hedges and trees. The appeal site contains a single storey stable building with narrow gravel track leading from the road. The rest of the site is a paddock, with boundary hedges and fences and provides one of the largely open verdant spaces between houses. Both the paddock and the stable can be seen from the road.
10. From the evidence it appears that there is not a defined settlement boundary for Dorridge in the Development Plan. However, notwithstanding this, and taking account of the judgement provided to me by the appellant in appendix C¹ in their statement of case, I conclude from my observations on site that there is a distinct difference between the residential suburban area and the buildings used for leisure uses which define the edge of the village, and the verdant and open character of the appeal site. The appeal site and its immediate surrounding does not relate to the character and density of development within the built up part of the village nor does it read as a cohesive extension to it. I note that this finding is consistent with the findings

¹ Julian Wood -v- The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195

of another Inspector dealing with an appeal relating to a nearby site².

Consequently, as I have found that the appeal site is not within a village, the proposed development does not meet the exception for limited infilling in villages in either LP Policy P17 or paragraph 149 e) of the Framework. As I have found that the appeal site is not within a village, there is no need for me to consider whether the proposed development is limited infilling.

11. Both parties agree that the stable building and hardstanding on the site are previously developed land (PDL) but the inclusion of the wider paddock as PDL is disputed by the Council. However, the Council describes the last known use as an 'equine facility with a stable block consisting of 2 loose boxes with storage area and informal grazing land' and there is no reason given as to why the grazing land which forms the paddock would not be within the curtilage of the equine facility. At my site visit, I observed that this appears to be the case, with established hedges defining the boundary around the paddock. Therefore, having regard to the definition of PDL in Annex 2 of the Framework, for the purposes of this appeal, I consider the whole of the site to be PDL.
12. However, even if I proceed on the basis that the appeal site is PDL, paragraph 149(g) of the Framework also requires any redevelopment of such land to not have a greater impact on openness than the existing development. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to prevent urban sprawl by keeping land permanently open. Policy P17 of the LP states, amongst other things, that where the re-use of buildings or land is proposed, the new use, and any associated use of land surrounding the building, should not conflict with, nor have a materially greater impact on, the openness of the Green Belt and the purposes of including land in it.
13. As the appeal is for outline permission with all matters reserved, it is possible that a dwelling with a similar finish and scale as the existing stable could be achieved. If that were the case then when considered in isolation, the built development could result in a neutral effect on openness. However, although there is an existing stable building, the paddock which forms the curtilage of the building contains no other buildings or structures and is open. The proposed use of the site for a dwelling would also result in the use of land surrounding the dwelling for associated purposes such as parking and garden. This is likely to be a more intensive use of the land than that associated with the equine facility, and would result in the provision of domestic paraphernalia, all of which would reduce openness. Although suitable landscaping as suggested by the appellant may help to mitigate any visual effect on openness, it would not mitigate against the effect on the spatial aspect of openness. Consequently, the proposal would have a greater impact on the openness of the Green Belt than the existing development and would therefore be inappropriate development in the Green Belt.
14. The proposal is contrary to relevant paragraphs of the Framework including 149, Policy P17 of the LP and relevant policies in the Knowle, Dorridge and Bentley Heath Neighbourhood Plan 2018 – 2033 Made April 2019 (DBHNP), which amongst other things states that inappropriate development should not be approved in the Green Belt.

² APP/Q4625/W/17/3189652

Suitable location for housing

15. Policy P5 of the LP supports new housing on unidentified sites in accessible locations subject to meeting housing needs, enhancing local character and distinctiveness, and if located in places where accessibility to employment centres and a range of services is poor, there would need to be exceptional circumstances.
16. Policy P7 of the LP provides numerical standards for accessibility, providing distances to schools, doctors, food shops, railway stations and employment areas. The appeal site only meets one of these requirements being close to a bus stop which I saw near to The Railway Inn on Grange Road, though the Council's evidence suggests that services are infrequent. Part b of the policy applies to new development for fewer than three dwellings and requires that access to core walking, cycling, public transport and road networks, are safe, attractive, overlooked, and direct by foot, by bicycle and from public transport.
17. Windmill Lane is unlit and has no footpaths. The road is wide enough for two cars to pass but when undertaking my site visit, I found that I had to use the grass verge to ensure there was sufficient space when two cars were passing near to me. At the time of my visit the grass verge was a little overgrown and very soft and it would not be suitable for everyone, particularly those less mobile or using pushchairs or wheelchairs and at times of the year when the weather is poor, resulting in future occupiers being likely to need to rely on the use of a car to access nearby services and facilities. In addition, there is also a lack of visual surveillance along Windmill Lane due to the distance between properties and because of the established hedges. Consequently, access to the core walking or public transport network is neither attractive nor overlooked, contrary to the requirements of Policy P7 of the LP. No particular local or exceptional circumstances have been demonstrated to justify deviation from the requirements of LP policies P5 or P7. Whilst I recognise that sites in rural areas are often not well served by public transport, and that opportunities to maximise sustainable transport solutions will be more limited than in urban areas, nevertheless the proposal would not help to support the Council's goal of encouraging a shift to sustainable forms of travel.
18. I conclude that the appeal site is not a suitable site for housing, due to a lack of accessibility to goods and services which would result in future occupiers having to rely on a car and for which exceptional circumstances are not demonstrated. It is therefore contrary to policies P5 and P7 of the LP and the Framework in particular paragraph 124 which amongst other things seeks to promote sustainable travel modes that limit future car use.

Other Considerations

19. There is an extant planning permission for the existing stables to be converted to a single residential dwelling³ and I have had regard to appendices F⁴ and G⁵ of the appellant's statement of case regarding consistency. The appellant states that the extant permission has not been implemented and I have no details of the development granted planning permission before me. Moreover, there is no evidence regarding how likely it is that the conversion scheme would be

³ PL/2021/02523/PPFUL

⁴ North Wiltshire District Council v Secretary of State for the Environment and Clover [1993] 65 P. & C.R. 137

⁵ (1) Baroness Cuberlege of Newick (2) Patrick Cuberlege -and- (1) Secretary of State for Communities and Local Government (2) DLA Delivery Limited

implemented and if so, whether that scheme would be less harmful than the proposal before me. Consequently, I cannot determine whether the level of harm to the openness of Green Belt resulting from the proposal before me would be at all comparable to that of the extant permission. Consequently, I attach limited weight to the fallback position.

20. I have had regard to the High Court Judgement in appendix B of the appellants statement⁶. However, the development the subject of that judgement is not directly comparable to that proposed by this appeal. The number of houses proposed in the judgement case was 55 which provides a significantly greater contribution to the objective of the Framework to significantly boost the supply of homes, than the proposal, which is for a single house, so I attach limited weight to this judgement.
21. The appellant states that the proposal would better utilise the land, though there is limited explanation as to why this would be the case. I therefore attach limited weight to this consideration.
22. In addition, the proposal would provide one additional dwelling and would contribute to housing supply in the area, providing associated social and economic benefits. This is at a time when the Council cannot demonstrate a five year supply of deliverable housing sites. There is also reference to the proposal being self build, though there is limited information before me regarding this and no suggested mechanism to ensure that this is the case. Taking this into account and given the small scale of the proposal, I attach limited weight to the provision of an additional dwelling.
23. Reference is also made to a dwelling being more harmonious and more in keeping with surrounding residential development. However, whilst I acknowledge that there are residential uses adjoining the site, the presence of a house and curtilage here would be detrimental to the areas open and verdant character seen between houses and result in a more intensive use of the land, harmful to the areas character and appearance. I therefore ascribe no weight to this purported benefit.

Green Belt Balance

24. 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. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and 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.
25. The proposal is inappropriate development, and the appeal site is not a suitable location for new housing, having regard to access to goods and services.
26. There would be some limited benefits following the proposal. However, 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 proposal do not exist.

⁶ Wokingham Borough Council and (1) Secretary of State for Housing Communities and Local Government (2) Taylor Wimpey UK Limited (1) Darrell John Beasley (2) Beverley Anne Beasley [2019] EWHC 3158 (Admin)

Other Matters

27. Both parties agree that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. Consequently, paragraph 11 d) of the Framework is applicable. However, paragraph 11 d) i) states that there are circumstances where the application of policies in the Framework to protect areas or assets of particular importance provides a clear reason for refusing permission. Footnote 6 of the Framework identifies the Green Belt as such an area and therefore the presumption in favour of sustainable development does not apply in this case.
28. The appellant suggests that the council was not positive or creative during the consideration of the planning application. Even if this was the case, this is not a relevant consideration in the determination of the appeal.
29. In reaching my decision I have had regard to appendices C⁷, D⁸ and E⁹ of the appellants statement of case. However, as I have found the proposal is inappropriate development these judgements and this appeal decision are not directly relevant to the main issues of this appeal.

Conclusion

18. The proposal is contrary to the development plan when taken as a whole and there are no material considerations that justify a decision not in accordance with the development plan. The appeal is therefore dismissed.

S Crossen

INSPECTOR

⁷ Julian Wood -v- The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195

⁸ R. (on the application of Lee Valley Regional Park Authority) -and- Epping Forest District Council and Valley Grown Nurseries Ltd. [2015] EWHC 1471

⁹ APP/J3720/W/16/3167715