



Appeal Decision

Site visit made on 20 June 2023

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/P4605/W/22/3306723

3 Wiggins Hill Cottage, Wiggins Hill Road, Birmingham, Sutton Coldfield B76 9QE

- 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 P Wadlow against the decision of Birmingham City Council.
- The application Ref 2022/05271/PA, dated 30 June 2022, was refused by notice dated 18 August 2022.
- The development proposed is change of use to form residential unit.

Decision

1. The appeal is allowed and planning permission is granted for change of use to form residential unit at 3 Wiggins Hill Cottage, Wiggins Hill Road, Birmingham, Sutton Coldfield B76 9QE in accordance with the terms of the application, Ref 2022/05271/PA, dated 30 June 2022, subject to the condition set out at the end of this decision.

Preliminary Matters

2. The description above has been taken from the planning application form. I have however, removed the portion "resubmission of LPA ref: 2022/02075/PA" as this is superfluous and not a description of development.
3. At the time of my visit the garage was being used as accommodation for the appellant's parents. However, I understand that this is as an annex, rather than a separate dwelling.

Main Issues

4. The appeal site is located within the Green Belt and therefore the main issues are:
 - 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;
 - The effect of the proposal on the openness of the Green Belt; and,
 - Whether the appeal site is suitable for new residential development.

Reasons

Whether Inappropriate Development

5. Paragraph 147 of the Framework establishes 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.

6. Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include the re-use of building provided that the building is of permanent and substantial construction. Policy TP10 of the Birmingham Development Plan (January 2017, the BDP) relies, in so far as it is relevant to the matters of the appeal before me, on the exceptions set out within the Framework.
7. The appeal site consists of part of a residential garden that contains a garage and carport. It is set back from the road by a long drive and is located within a small cluster of residential dwellings. The wider area is characterised by a rural landscape of fields. As noted above, the garage is already being used as a residential annex for the appellant's parents, but the proposed ground floor internal alterations had not been carried out at the time of my visit.
8. From the information before me and my observations on site I find that the building is of a permanent and substantial construction. I note that neither party has substantially demonstrated otherwise. The development would re-use this building and therefore, to this extent at least, complies with the exception under Framework Paragraph 150(d).
9. Paragraph 150 also requires that developments preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The appeal site forms part of a residential garden where there are a number of outbuildings. During my visit I also noted residential paraphernalia common for domestic gardens. The proposal would subdivide the garden in to two and there would likely be some doubling up of residential paraphernalia, such as garden furniture, washing lines, and ornaments. However, given the scale of the proposed garden, this would be limited. Moreover, it would be seen within an already domestic area discrete from the wider rural landscape and open green belt. I therefore find there would be no noticeable difference to the openness of the site, or wider Green Belt, as a result of the development.
10. I note the Council's concerns regarding the erection of new extensions and outbuildings, but I cannot be certain that this would occur as a result of the proposal. Moreover, given the siting and orientation of the new dwelling, it is unlikely that any new outbuildings, carried out under permitted development, would be possible. It also appears that the existing dwelling is already able to construct new outbuildings under permitted development and the proposal would not significantly alter this.
11. Consequently, and given there would be no extension to the host building, the proposal would preserve the openness of the Green Belt. In this way, the proposal would comply with the requirements set out under Paragraph 150 and 150(d).
12. Whilst the Council have considered the development against the exception set out under Paragraph 149(g) of the Framework, I do not find that this is the most relevant exception to the proposal before me. Nevertheless, as the proposal would preserve the openness of the Green Belt, I find that it would

also not result in a greater impact on the openness of the Green Belt than the existing development. Therefore, even if I were to consider the proposal against paragraph 149(g), it would comply with those requirements too.

13. The conversion of the existing garage to a residential dwelling would meet the exception set out under Framework Paragraph 150 (d) and would preserve the openness of, and not conflict with the purposes of including land within, the Green Belt. Therefore, the proposal would not be inappropriate development within the Green Belt and would comply with BDP Policy TP10 as set out above, as well as Chapter 13 of the Framework.

Whether Suitable for Residential Development

14. Although within a predominantly rural area and clearly separate from the edge of nearby Sutton Coldfield, the appeal site is nevertheless close to the urban edge. Wiggins Hill Road leads directly on to a main road (the A4097) which serves, and links on to, commercial and employment areas. I also noted during my site visit that the canal to the south of the site has a path leading towards this area.
15. Given the degree of separation between the new dwelling and the commercial and employment area, I find it likely that it would not be an attractive prospect for future occupiers to regularly walk. The nature of the lane towards the A4097 would also make walking a less safe or inviting option. However, I find these matters would have a much lesser impact on cycling, which would be a realistic prospect for occupiers to reach their daily needs, especially if using the canal path. Therefore, whilst there would be some reliance on private motor vehicles, occupiers would not be solely dependent on them. I find that this would be similar to occupiers of the existing cluster of dwellings.
16. I note that the Council have suggested that, should the appeal be allowed, conditions be attached requiring the provision of electric vehicle charging point and covered bicycle storage. Whilst these would not necessarily result in the use of more sustainable options, it would go some way to enable and encourage their use. Given the above, and mindful of Paragraph 105 of the Framework which requires a pragmatic view of the opportunities for maximising sustainable transport options, the above would cumulatively provide more sustainable options for reaching daily needs.
17. Although from the plans submitted by the Council it appears that the Peddimore development may improve the pedestrian and cycling connection to nearby services and facilities, given the stage at which I understand this development currently stands, it has not been determinative in my considerations.
18. The appellant has directed my attention to the decision at Three Chimneys¹, to the north of the appeal site. This was a recent retrospective permission granted by the Council for the change of use of an outbuilding to a separate residential dwelling. While it is further from the edge of the settlement, it was not refused on the grounds of the reliance on private motor vehicles. Whilst all proposals must be considered on their own merit, I find that there are some similarities between the two schemes in so far as it relates to reliance on motor vehicles. I have therefore been mindful of this permission in considering this matter.

¹ Permission reference: 2021/02366/PA

19. Although the Council and appellant have made reference to other appeals² and permissions³, I find that none of these examples are so similar with regard to their location, scale or the scope of the development as to be relevant to this appeal.
20. In light of the above, the proposal would not result in any unacceptable impact with regard to reducing carbon emissions and the appeal site would be a suitable location for residential development. The proposal would comply with BDP Policies TP27 and TP28 which, collectively and amongst other matters, require that developments contribute to sustainable places and provide access to jobs, shops and services by modes of transport other than the car. The proposal would also comply with Paragraphs 78-80, 104 and 105 of the Framework regarding the location of rural homes and the opportunities for sustainable modes of transport.

Other Matters

21. I note the concerns raised as to the potential for overlooking and the loss of privacy to neighbouring occupiers. The closest properties to the appeal site are numbers 3 and 4 Wiggins Hill Cottages and the host property would afford some views of the gardens of both. However, views over both would be at a distance and with regard to No 4, would be at an angle. The other dwellings part of this cluster are of a sufficient distance away from the host building to prevent any loss of privacy. I therefore find that there would be no unacceptable loss of privacy to neighbouring occupiers.

Conditions

22. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
23. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
24. In the interests of promoting sustainable transport options, conditions requiring the provision of bicycle storage and an electric vehicle charging point would be necessary.
25. It would not be necessary for details of the boundary treatments to be submitted prior to the commencement of works. However, to ensure the living conditions of neighbouring and future occupiers are protected, it would be necessary for suitable treatments to be provided prior to the first occupation. The submission of details would also ensure that the treatments do not adversely affect the character and appearance of the surrounding area.
26. The Framework requires that conditions restricting national permitted development rights should only be used where there is a clear justification. Extensions and alterations to the new dwelling would have the potential to harm the living conditions of neighbouring occupiers or the openness and

² Appeal References: APP/J0405/W/20/3244166 and APP/W1850/W/19/3225309

³ Permission references: 2020/00657/PA and 2021/02272/PA

purposes of Green Belt. I therefore find that it would be clearly justified and necessary to restrict some permitted development rights at the new dwelling.

Conclusion

27. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing number HGD22-04-1.1 Revision C
- 3) The dwelling hereby permitted shall not be occupied until suitable covered bicycle storage has been provided in accordance with details which have first been submitted to, and approved in writing by, the Local Planning Authority. This storage shall thereafter be permanently retained for use.
- 4) The dwelling hereby permitted shall not be occupied until suitable boundary treatments have been provided in accordance with details first submitted to, and approved in writing by, the Local Planning Authority. The boundary treatments shall be retained thereafter.
- 5) The dwelling hereby permitted shall not be occupied until an electric vehicle charging point has first been provided for use. The charging point shall thereafter be maintained for use.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any order amending, revoking and/or re-enacting that order, with or without modification), no enlargement, improvement or other alteration of the dwelling hereby permitted or its roof shall be carried out.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed in the south and west elevations of the dwelling hereby permitted and no dormer windows other than those expressly authorised by this permission shall be constructed in any roof slope of the dwellings hereby permitted.