



Appeal Decision

Site visit made on 4 August 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28th September 2023

Appeal Ref: APP/Q4625/W/23/3317196

353 Tanworth Lane, Shirley, Solihull B90 4DU

- 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 Shaun Hussey of Kingswood Homes (West Midlands) Ltd against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2022/02189/PPFL, dated 14 October 2022, was refused by notice dated 9 January 2023.
 - The development proposed is demolition of outbuilding, erection of 2no. new build dwellings including associated access/highways alterations and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- whether the proposal would be inappropriate in the Green Belt having regard to the National Planning Policy Framework and any other relevant development plan policies;
- the effect of the proposal on the openness of the Green Belt; and
- whether any harm by reason of inappropriateness, or other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriateness

3. The National Planning Policy Framework (Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
4. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149, including limited infilling in villages.
5. Policy P17 of the Solihull Local Plan – Shaping a Sustainable Future, December 2013 (SLP) conforms to the general thrust of the Framework in so far as it sets out that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances and refers specifically to national

policy. It also recognises that limited infilling will not be considered to be inappropriate development within certain defined Green Belt settlements, provided this would not have an adverse effect on the character of the settlements. However, by restricting the areas to a limited number of specified settlements where limited infilling could be considered not inappropriate development Policy 17 of the SLP is not entirely consistent with the exceptions set out in the Framework. Bearing in mind, the SLP predates the Framework I give those parts of Policy 17 that restrict limited infilling to certain specified settlements limited weight in the determination of this appeal and rather give significant weight to paragraph 149(e) of the Framework which as outlined above includes an exception for limited infilling in villages and is not restricted to certain areas.

6. The appeal site is located among a small cluster of houses and other uses located along Tanworth Lane. At either end of the cluster of houses on the same side of the road there is open countryside which separates the cluster from any other settlement. On the opposite side of the road there is the complex of Baroda Farm and Baroda House which are both set back from the road with surrounding agricultural land on either side which also separates these properties from any other settlement.
7. The Council consider that the appeal site is outside any identified settlement area. The appellant has included a plan in their appeal statement which draws a line around the small cluster of houses and the other uses and refers to it as a hamlet. They also refer to the cluster as a hamlet in their appeal statement. They have also referred to some previous appeal decisions, including one involving a site at Grove Road in Knowle¹ which they have provided a copy and have also referred to relevant case law².
8. It is clear from the judgment that whether this proposed development constitutes limited infilling in a village is a question of planning judgement taking account of an assessment of the position on the ground and while a settlement boundary as defined in the Local Plan is a relevant consideration it is not determinative and again it is a matter of planning judgement based on an assessment of the position on the ground.
9. There are no facilities to indicate that the small cluster of houses and other uses is a village. Rather, the appeal site is located within an isolated cluster of houses and other uses that is separated from any existing settlement by open fields in either direction along Tanworth Lane and does not form part of a ribbon of built development that extends from any existing settlement. It follows that the appeal site is materially different from the appeal site at Grove Road. Having visited that site during my site visit, I observed that the site in that case formed a gap in an otherwise unbroken ribbon of built development that extends in a broadly continuous run from the centres of Dorridge/Knowle. Thus, I find that the appeal site is not located within a village.
10. As the appeal is not located within a village, it is unnecessary to consider whether it amounts to limited infilling as the appellant is unable to rely on any of the exceptions contained in paragraph 149 of the Framework. The proposal would amount to the construction of new buildings in the Green Belt and

¹ APP/Q4625/W/17/3188046

² Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195

consequently would be inappropriate development, which paragraphs 147 and 148 state is, by definition, harmful to the Green Belt and consequently I give substantial weight to that harm. It also follows that I do not consider that the proposal amounts to acceptable infill development in the Green Belt.

Openness

11. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Spatially, the introduction of two five bed houses with double garages and the associated floor space and volume would be significant. Also, by occupying space that was previously undeveloped, the proposed development would harmfully reduce the openness of the site. Visually, the houses would have a significant presence in public views from Tanworth Lane. As a result, there would be considerable harm to openness to which I give substantial weight.

Other Considerations

12. The appellant has set out a number of considerations which in combination they feel amount to very special circumstances to justify the proposal. I have dealt with some of these already and so for example, I do not consider that the appeal site is an appropriate location for development and would not result in acceptable infilling. The appellant also highlights that the appeal proposal would enhance the existing site and improve access. I observed that that the appeal site was generally an attractive area incorporating grazing land. Although there was some storage and other less attractive outbuildings overall, I do not consider that the proposal would result in such an enhancement of the site to justify giving this consideration anything greater than minimal weight.
13. I attach neutral weight for the proposal providing adequate access for the proposed houses. I accept that the proposal would also improve the existing access arrangements for No 353 Tanworth Lane. However, I observed that the current access appears adequate to serve the existing property and so I only give any improvement minimal weight.
14. The appellant also considers that the proposal would enhance the sustainability of the site as the site frontage would be altered to incorporate a new pedestrian footpath along the whole site frontage, there are bus stops on either side of the road to serve existing properties, the proposed houses would be of a high quality design and would reflect their surroundings and would respect the living conditions of neighbouring residents. Again, any benefits associated with these matters have minimal weight.
15. The appellant points out that the proposal would not cause harm in relation to trees, ecology and highway safety, however the absence of harm in relation to these matters does not carry positive weight in favour of the proposal.
16. The provision of two additional dwellings would have moderate social and economic benefits stimulating work and trade during construction and would provide two new homes in an area where the Council cannot demonstrate a 5 year supply, which I discuss further below.

Green Belt Balance

17. Overall, the proposal would be inappropriate development in the terms set out by the Framework and would result in a harmful loss of openness to the Green

Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. For the reasons set out above the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Further, the proposal would conflict with the relevant part of Policy 17 of the SLP which sets out that inappropriate development in the Green Belt will not be permitted, except in very special circumstances.

18. In reaching these conclusions, I note the Council confirm that they are only able to demonstrate 3.6 years supply of deliverable housing sites and the agreed existence of an undersupply below 5 years triggers paragraph 11d) of the Framework. However, even acknowledging the shortfall and the need for housing in the area, in accordance with footnote 7 of paragraph 11d)i. of the Framework, for the reasons given above the application of policies in the Framework that protect the Green Belt provides a clear reason for refusing the development proposed.

Conclusion

19. The proposed development conflicts with the development plan and the Framework taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given and having had regard to all other considerations raised the appeal is dismissed.

S Rawle

INSPECTOR