



Appeal Decision

Site visit made on 30 August 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2023

Appeal Ref: APP/Q4625/W/23/3318288

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 outline planning permission.
 - The appeal is made by Mr Jim Rogers of RCE Ltd against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2022/02171/PPOL, dated 13 October 2022, was refused by notice dated 8 December 2022.
 - The development proposed is outline of one two storey infill house adjacent to Newnham, 10 Bickenhill Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal is in relation to a refusal by the Council to grant outline planning permission with all matters reserved.

Main Issues

3. 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 the 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 development.

Reasons

Inappropriateness

4. 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.
5. 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.

6. 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.
7. The Council considers that the appeal site is outside any identified settlement area, whereas the appellant considers that the appeal site is probably the last remaining infill plot in the extensive continuous frontage of built development around Bickenhill Lane/Blackfirs Lane. In support of their view that the proposal should be considered limited infilling the appellant has also referred to some previous appeal decisions, including one involving a site at Grove Road in Knowle¹ which they have provided a copy and one involving a site in Lady Byron Lane where they have not, but have provided a location plan. They have also referred to other sites granted planning permission by the Council and 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 has been a relatively recent previous appeal decision for this site³. I agree with the previous Inspector when they describe the appeal site as being a plot of land with an existing two-storey detached dwelling located on the east side of Bickenhill Lane and that the detached garage on the site has been demolished but its footprint remains visible.
10. I accept that the proposal before me is materially different from the scheme subject of the previous appeal. However, in that case, notwithstanding that the proposal involved a replacement dwelling, it is clear that the appellant also argued that proposal amounted to limited infilling as the previous Inspector observed that within the appellant's evidence there was much discussion in relation to limited infilling noting that the appellant considered that the Council had not taken into consideration 'limited infilling' in their decision, and they had disregarded the exception under sub-paragraph e) of the Framework paragraph 149.
11. As a result, it was necessary for the Inspector to consider in detail whether the appeal site met the definition of a gap in the built-up part of a village or a settlement. Like the previous Inspector, I accept that the appeal site does have buildings either side and again the proposal would form part of a built-up frontage, but based on the position on the ground I agree that the appeal site is a plot of land within a ribbon of development within the Green Belt that is

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

³ APP/Q4625/W/22/3297110

physically separated from the main settlement of Marston Green which does not extend out from any other defined settlement.

12. Although located in close proximity to the National Exhibition Centre, Birmingham Business Park, Elmdon Trading Estate, Starley Way Trading Estate and other commercial development, the appeal site is not physically or functionally attached to them. On that basis, consistent with the findings of the previous Inspector I find that the appeal site cannot be considered to form a gap in the built-up part of a village or settlement.
13. It follows that the appeal site is materially different from the appeal site at Grove Road as that site formed a gap in an otherwise unbroken ribbon of built development that extends in a broadly continuous run from the centres of Dorridge/Knowle. The appellant has not provided adequate information, including the actual appeal decision for me to meaningfully compare the site at Lady Byron Lane with this proposal as the location plan provided does not allow me to assess whether that site is similar to the appeal site. In any event, I have undertaken the assessment of the appeal site based on the situation on the ground. Other sites, including the other sites granted planning permission, both by the Council and on appeal, which have been brought to my attention, have a different relationship with their surroundings and their existence does not alter my view in relation to the appeal site.
14. Accordingly, the appellant is unable to rely on the limited infill exception under paragraph 149 e) and the proposal would amount to the constructions of new buildings in the Green Belt and 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

15. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Spatially, the introduction of a two storey dwelling 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 house would have a significant presence in public views from Bickenhill Lane. As a result, there would be considerable harm to openness to which I give substantial weight.
16. The appellant has also briefly mentioned the exception set out in paragraph 149 (g). However, given my findings on openness, the appellant is unable to rely on this exception as the proposal would have a greater impact on the openness of the Green Belt than the existing development and the proposal does not involve affordable housing.

Other Considerations

17. 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, nor do I agree that it would result in acceptable infilling.

18. I attach neutral weight to the fact that the proposal would not harm the living conditions of neighbouring residents. The appellant also considers that the proposal would be located within a sustainable location and would enhance the sustainability of the site. However, inherently the benefits of the scheme in relation to these matters would be modest.
19. 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.
20. The provision of an additional dwellings would have some limited social and economic benefits stimulating work and trade during construction. However, the contribution from an extra household would be modest. The application of policies in the Framework that protect the Green Belt provides a clear reason for refusing the development proposed.
21. In any event, the substantial weight that I have given to the fact that the proposal would be inappropriate development in the Green Belt which is by definition harmful to the Green Belt and the considerable harm the proposal would have on openness would significantly and demonstrably outweigh these associated benefits, when assessed against the policies in the Framework taken as a whole.
22. The appellant considers that the proposal would not conflict with any of the purposes of the Green Belt. However, as noted above, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The proposal would conflict with the fundamental aim of Green Belt policy.

Green Belt Balance

23. 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 P17 of the SLP which sets out that inappropriate development in the Green Belt will not be permitted, except in very special circumstances.

Conclusion

24. 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