



Appeal Decision

Site visit made on 21 December 2023

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March

Appeal Ref: APP/Q4625/W/23/3323082

448 Norton Lane, Earlswood, SOLIHULL B94 5LR

- 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 and Mrs Jones against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2022/02621/PPFL, dated 8 December 2022, was refused by notice dated 8 February 2023.
 - The development proposed is conversion of existing domestic outbuildings to 3 self-contained dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (Framework) was published on 19 December 2023. Insofar as it is relevant to the matters at hand in determining this appeal, the Framework is consistent with the previous iteration. References to the Framework in this decision are to the new paragraph numbers.
3. Planning permission was granted for the demolition of two of the appeal site outbuildings and replacement with one new dwelling (Ref PL/2022/00305/PPFL). The permission is said to expire in August 2025. In the event that the appeal were unsuccessful it appears reasonably likely that that permission would be implemented. Consequently it forms a realistic fallback position (the fallback scheme) to which I afford considerable weight. I return to this subsequently.
4. It may be possible for some development within the grounds of the appeal site to be carried out under permitted development rights, such as the erection of outbuildings. However, given the presence of three existing outbuildings, it appears reasonably unlikely that further outbuildings would be sought in the event that the appeal were unsuccessful. Therefore, evidence that there is a greater than theoretical possibility that additional outbuildings would be implemented is not persuasive. Accordingly, this permitted development fallback position attracts very limited weight.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
- whether the location of the proposal is acceptable with regard to access to facilities and sustainable transport modes;
- the effect of the proposal on the living conditions of the occupants of No 448 with particular regard to privacy, outlook and access to outside space;
- whether the proposal would provide acceptable living conditions for the future occupants of plot 1, with particular regard to privacy, outlook and access to outside space;
- the effect of the proposal on the character and appearance of the appeal site and surrounding area;
- the effect of the proposal on highway safety, with regard to site access;
- if the proposal is inappropriate development, 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

Whether inappropriate development in the Green Belt

6. The appellants submit that the proposal falls within the exception to inappropriate development in the Green Belt at paragraph 155.d) of the Framework. This relates to the re-use of buildings provided that they are of permanent and substantial construction, preserve Green Belt openness and do not conflict with the purposes of including land within it. Policy P17 in the Solihull Local Plan (December 2013) (Local Plan) generally accords with this exception, requiring that proposals do not conflict with Green Belt openness, nor have a materially greater impact on it. It also includes an additional provision requiring that the re-use of buildings is designed to be in keeping with its surroundings.
7. It appears that the appeal buildings are of permanent and substantial construction. With respect to Green Belt openness the site is part of a triangular parcel of land that contains considerable built form including the adjacent garden centre and caravan storage park. The site is currently bound by substantial hedges which limits views of it from the surrounding area. The proposed conversions would not alter the volume of built form on site. Some areas of hardstanding would be replaced with soft landscaping to create gardens, therefore there would likely be a reduction in hardstanding overall.
8. However, the garden boundary for proposed plot 2 (existing stables building) would be extended into an area of open gravelled land in front of proposed plot 3. This would reduce the gap between the boundaries of plots 2 and 3, resulting in a diminished sense of openness there. I accept that some additional fencing within the site could be installed in any event, albeit no

robust evidence is before to indicate that that would be a likely outcome in the event of the appeal being dismissed.

9. Moreover, the maintenance of three additional plots to domestic standard and the likely presence of separate residential paraphernalia for each house, would diminish the sense of openness of the site in comparison to its existing occupation by a single household and its outbuildings. The site may currently be used for the parking of a number of vehicles. Nevertheless, the provision of formalised parking areas for each of the three dwellings would likely result in a greater number of vehicles regularly present on site than for the single existing dwelling. Consequently, vehicles and formal parking areas associated with the proposed development would have a greater impact on openness than that associated with the existing house.
10. Therefore, the proposed occupation of three buildings as independent houses would result in a notable reduction in the visual and spatial openness of the Green Belt within the site. Accordingly, it would not preserve Green Belt openness. As such, although I do not find conflict with the Green Belt purposes, due to its impact on openness it would not fall within the exception listed at paragraph 155.d).
11. Also, whilst I return to consideration of its effect of its design on its surroundings subsequently, its effect on openness would amount to inappropriate development under the terms of Policy P17 of the Local Plan. Furthermore, even if the development amounted to the partial or complete redevelopment of previously developed land, under the exception at paragraph 154.g) of the Framework, due to its greater impact on the openness, it would not satisfy that provision. Accordingly, the proposal would constitute inappropriate development.
12. The fallback scheme would result in the site being divided into two plots. That proposed new dwelling would be a three bedroomed detached house. However, like the buildings proposed for conversion it would be single storey. Consequently, occupation of the site by that single additional dwelling would amount to a lower density scheme than the appeal proposal. Therefore, the fallback scheme would have a lesser impact on Green Belt openness. As such, it does not alter my reasoning on this matter.
13. The permitted development fallback position has the potential to increase the amount of built development within the garden of the existing house. This could result in a greater impact on openness than the appeal scheme. However, for the reasons given above, this option attracts very little weight.
14. I note the appeal decision for development at Billericay in Essex (Ref APP/V1505/W/22/3306165). In that decision, the Inspector found there would be a significant reduction in the amount of hardstanding in commercial use that would change to soft landscaping. Whereas in this case the land is already part of a residential garden and whilst the extent of hardstanding would reduce, I have found that the sense of enclosure would increase. Furthermore, in that case the proposal buildings amounted to a smaller footprint and volume than the existing built development. Whereas in this case, there would be no such reduction. As the circumstances of that decision are notably different to this appeal scheme, it does not justify a different approach here.

Location of Development

15. Policy P7 of the Local Plan generally seeks to focus development on the most accessible locations. It contains a number of accessibility criteria for housing developments which are expected to be met unless justified by local circumstances. Some day-to-day goods would be available to future occupants at the adjacent garden centre. However, that is unlikely to meet all their needs such that occupants of the appeal scheme would need to travel for most goods and services to meet their daily needs. Bus stops are said to be circa 500m from the appeal site. However, given the absence of a pavement and street lighting for a considerable stretch of the route to bus stops, it would be unlikely to encourage future occupants of the appeal site to travel by bus. Moreover, information on the frequency of bus services and therefore their ability to provide a realistic alternative to travel by car is not before me.
16. The distance to rail stations of circa 2km also considerably exceeds the policy requirement. In addition, access to the nearest school, post office, general store would require future occupants to walk on an unlit road, without a continuous pavement. The road appears sufficiently busy that even a relatively short stretch without pavement and adequate lighting would be conducive to travel by private car rather than on foot, or even by bicycle in hours of darkness. Consequently, the location of the appeal site far exceeds the distances to the majority of the facilities sought in the Policy.
17. Although the site could be regarded as previously developed, I am not persuaded that there are any local circumstances sufficient to justify development in conflict with the accessibility criterion. Similarly, it would not amount to exceptional circumstances necessary under Policy P5 of the Local Plan to justify development in a location where accessibility is relatively poor.
18. Paragraph 109 of the Framework seeks to direct significant development on locations which are or can be made acceptable. It also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision making. The proposed development of three houses does not amount to significant development and would be located in a rural area. Nevertheless, the Framework (paragraph 83) supports rural housing where it will enhance or maintain the vitality of rural communities. Given the limited availability of local services, I am not persuaded that that would be the case here. Whilst more people may now be working at home and making greater use of online shopping facilities, national and local policy remains to focus development on the most accessible locations.
19. Accordingly, the location of the development is not acceptable, with regard to access to facilities and sustainable transport modes. It would thus conflict with Policy P7 of the Local Plan. Whilst acknowledging that opportunities for sustainable transport will vary between urban and rural areas, the proposal would fail to meet the Framework's approach of giving priority to pedestrian and cycle movements, and so far as possible, facilitating access to public transport.
20. The Council approved the fallback scheme, albeit full details of the reasons for that decision are not before. In any event, in comparison to that scheme the appeal proposal would result in two additional houses. This would likely result in a greater number of regular private vehicle trips and associated emissions

than the fallback scheme, which would endure for the lifetime of the development. Consequently, the presence of the fallback scheme does not alter my conclusions on this matter.

21. My attention has been drawn to an appeal in Suffolk in which the Inspector found that the development of 14 houses was acceptable despite most services and employment requiring travel by private car (Ref APP/W3520/W/22/3292871). However, in that case the Inspector found that the proximity of the local primary school and church would encourage regular trips by walking or cycling. Moreover, the development could generate additional demand for the school which was said to be undersubscribed. Consequently, the circumstances of that proposal are not sufficiently comparable to this appeal.

Living conditions: Occupants of No 448

22. Given the single storey nature of the annex building and the proposed removal of windows on the closest elevations to No 448, opportunities for the overlooking of habitable rooms and the garden of No 448 would be limited. There is currently an intimate relationship between the annex building and the rear of No 448, with limited separation between the two buildings. That appears acceptable in circumstances where the annex building is part of the garden for the occupants of No 448.
23. Whereas the proposal would result in the imposition of a garden boundary between the two properties. This would extend relatively close to the existing house, particularly where the gap between the two buildings is smallest on the side closest to the access drive. From the house and garden of No 448, that boundary would appear intrusive, considerably curtailing the pleasant open aspect of the existing garden. In addition, it would render the rear garden of No 448 to be an awkward shape and unacceptably small. Although the front garden of No 448 would remain, that would not provide sufficiently private outside space.
24. Therefore, the proposal would have an acceptable effect on the living conditions of the occupants of No 448 with regard to privacy. However, it would result in harm to their living conditions with regard to outlook and access to private outside space. Consequently, it would conflict with Policy P14 of the Local Plan, which generally seeks to ensure proposals protect the living conditions of existing occupants. It would also conflict with paragraph 135 of the Framework which, amongst other matters, seeks to ensure proposals achieve a high standard of amenity for existing users.

Future Living conditions: Occupants of Plot 1

25. Due to the single storey nature of the existing house at No 448, habitable rooms of proposed plot 1 and its rear garden would not be unduly overlooked. Furthermore, due to its orientation at 90 degrees to No 448, windows from its main habitable rooms would look out on to its own reasonable sized rear garden.
26. Accordingly, although close to No 448, its layout and orientation would provide acceptable living conditions for the future occupants of plot 1, with particular regard to privacy, outlook and access to private outside space. As such, in respect of this main issue the proposal would accord with Policy P14 of the

Local Plan. Similarly, it would provide a suitably high standard of amenity for its future occupants in accordance with paragraph 135 of the Framework.

Character and Appearance

27. The appeal site is part of a small cluster of development surrounded by fields. The adjacent garden centre comprises low rise horticultural buildings set back from the road behind a modest car park. Adjacent to the garden centre and fronting onto the road is a two storey detached house and other single storey houses. There is consistency in their positions set back from the road. No 448 is similarly set back from the road. This affords a sense of spaciousness that appears in keeping given the rural surroundings and is a positive defining feature of the character of the site and its surroundings.
28. The existing buildings proposed for conversion are single storey and therefore their residential use would be unobtrusive in the street scene. On entering the site, it would be apparent that plot 1 and No 448 are positioned close together. Nevertheless, the extent to which the proximity of the two dwellings would be appreciable would be limited to in passing views on entering the site. Furthermore, the proposal would not diminish the characteristic sense of spaciousness at the front of No 448.
29. Therefore, the proposal would not harm the character and appearance of the appeal site and surrounding area. With respect to this main issue, it would accord with Policy P15 of the Local Plan which generally seeks to ensure proposals achieve good design including in respect of layout and surrounding characteristics. Similarly, it would accord with paragraph 135 of the Framework on this matter. Amongst other matters this seeks to ensure proposals are sympathetic to local character.

Highway Safety

30. In order to achieve adequate visibility at the site access and ensure safe access from Norton Lane, alterations would be required to the site frontage boundary treatment. It appears that such alterations could be achieved on land within the appellants' control. Therefore, I am satisfied that in the event the appeal were to be allowed, a suitably worded planning condition could be imposed to require implementation of the required visibility splays. I note that such an approach was undertaken by the Council in respect of the fallback scheme.
31. Accordingly, the proposal is capable of being acceptable with respect to highway safety, having regard to its site access. Therefore, it would accord with Policy P8 of the Local Plan. This requires that all proposals have regard to highway safety. Similarly, it would not conflict with paragraph 115 of the Framework, which requires that developments are refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Considerations

32. The proposed conversion of the appeal buildings would provide short term direct and indirect benefits to the local and wider economy. The occupants would be likely to stimulate consumer spending, boost local labour supply and help to support services in the wider area. Given the scale of the proposal and nature of the conversion works, these would constitute modest benefits.

33. The proposal would provide three additional dwellings on a previously developed site that is not physically isolated from other built form. It would contribute to the supply of housing in the borough and the Government's objective to boost housing supply. Small sites can make an important contribution and can be made available relatively quickly. The appellants refer to an appeal decision from February 2023 in which a housing land supply of between 3.02 and 3.6 years was agreed between the main parties. Accordingly, I afford significant weight to the delivery of three additional houses.
34. The proposal could be said to make more efficient use of the site. However, the Framework is clear that making efficient use of land should include taking into account the importance of securing well-designed, attractive and healthy places.

Conclusion

35. The proposal would be inappropriate development and by definition would harm the Green Belt. I afford substantial weight to this harm. The proposal would result in harm to the living conditions of the occupants of No 448. Moreover, the location of the proposal is not acceptable having regard to its accessibility.
36. Therefore, whilst I afford significant weight to the delivery of the new homes, the harm to the Green Belt and other harms would not be clearly outweighed by the other considerations. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. As such, the proposal would conflict with Policy P17 of the Local Plan in respect of development in the Green Belt.
37. Framework 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 a proposal. Footnote 7 confirms the Green Belt as such an area. As the Green Belt provides a clear reason for refusal in this case, the presumption in favour of sustainable development under paragraph 11.d)ii) of the Framework does not apply.
38. Having taken all other relevant matters into account, the proposal conflicts with the development plan taken as a whole and with the approach in the Framework. Consequently, the appeal should be dismissed.

Rachel Hall

INSPECTOR