



Appeal Decision

Site visit made on 9 April 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

Appeal Ref: APP/L3245/W/23/3329361

Paper Mill, 121, Blunder Bridge Junction with A442 to Alum Bridge Junction, Birdsgreen, Alveley, Shropshire WV15 6HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr P Whiteman against the decision of Shropshire Council.
 - The application Ref is 22/05138/FUL.
 - The development proposed is change of use of agricultural land to form new residential access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the proposed development from the Application Form. The Council amended the description to make reference to the proposal being part retrospective, but that is not in itself development.
3. Nevertheless, I was able to see from my site visit that the access track and parking area have been completed. I noted that the appeal site currently has brick piers and walls at the proposed access point, along with a six bar wooden gate. Amended plans were submitted during the application which substituted the brick piers and walls for wooden gate posts, a 1.2m high post and rail fence, and for a solid wooden gate. I have determined the appeal on this basis.
4. Subsequent to the Council issuing its decision, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Therefore, having considered the parties' respective cases and the nature of the revisions, in light of the principles of natural justice it has not been necessary to seek the views of the main parties on this matter. I have referred to the updated paragraph numbers.

Main Issues

5. The main issues are:
 - 1) whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - 2) the effect of the development on the openness of the Green Belt;

- 3) the effect of the development on the character and appearance of the area; and,
- 4) 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 development.

Reasons

Whether inappropriate development

6. Policy CS5 of the Shropshire Core Strategy (2011) (CS) states that new development will be strictly controlled in accordance with national planning policies protecting the Green Belt. Policy MD6 of the Shropshire Site Allocation and Management Development Plan (2015) (SAMDev) stipulates that development proposed in the Green Belt must be able to demonstrate that it does not conflict with the purposes of the Green Belt.
7. The Framework indicates that the construction of new buildings in the Green Belt, subject to a number of exceptions, should be regarded as inappropriate development (paragraph 154). It sets out that engineering operations are not inappropriate development in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it (paragraph 155). One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment (paragraph 143).
8. The access track and tarmacked entrance, and hardcore/stone parking area can be considered as engineering operations and potentially fall within the paragraph 155(b) exception.
9. The access track has been measured as approximately 203m long and 4m wide and runs through undeveloped agricultural land. However, it is of a narrow width and is well screened, as it is sited along the edge of the field which is currently bounded by mature trees, hedgerows and foliage.
10. The hardcore parking area is located close to Paper Mill Cottage and, serving only one dwelling, it does not have an excessive number of vehicles parked upon it.
11. Notwithstanding the above, both the access track and hardcore/stone parking area represent an expansion of development into agricultural land. They therefore fail to safeguard the countryside from encroachment and so constitute inappropriate development in the Green Belt.
12. The Town and Country Planning Act 1990 refers to buildings as including any structure or erection. Given the height of the fence and the span of the gates, this element of the development should be considered as a building. It does not fall within any of the exceptions listed in paragraph 154 of the Framework and, as such, would be inappropriate development in the Green Belt.
13. Accordingly, the separate aspects of the appeal scheme are or would be inappropriate development in the Green Belt in conflict with the Framework, Policy CS5 of the CS and Policy MD6 of the SAMDev. Paragraph 152 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. In accordance with paragraph 153 of the Framework, substantial weight is given to any harm to the Green Belt.

The openness of the Green Belt

14. The Framework identifies that a fundamental aim of Green Belt policy is to keep land permanently open, and that the essential characteristics of Green Belts are their openness and permanence.
15. Openness can be perceived both spatially and visually. The hard core/ stone parking area is fairly sizeable. Although it has been developed at ground surface level, it is not well screened. By occupying space that was previously undeveloped open land, it reduces the spatial openness of the appeal site. Although the number of vehicles that could be parked would not be excessive, the introduction of vehicles will have a visual impact on the Green Belt, albeit very localised. I therefore find that the parking area does not preserve the openness of the Green Belt.
16. The proposed fence would be 1.2m high, and would be of an open, post and rail design rather than close-boarded. The gate, however, would be of a more solid, wooden design, with no gaps allowing views through it. The introduction of man-made built form in regard to the fencing, and the introduction of a larger and more solid gate which would be of greater volume and a more solid, physical barrier than that currently in place, would have a harmful impact on visual and spatial openness.
17. There is no significant visibility of the access track due to its low-key design at ground surface level and the screening provided by the boundary foliage, which helps to soften its visual impact. Views of the track from the lightly trafficked public highway, to passing motorists and pedestrians, are likely to be in the form of fleeting glimpses. This includes the presence of vehicles utilising the access to and from the dwelling. Whilst the access track occupies space that was previously undeveloped, due to its narrow width and low-level position, the volumetric effect on openness would be neutral. I am satisfied that the access track therefore preserves the openness of the Green Belt.
18. Despite my findings in relation to the access track, the parking area has, and the proposed fence and gates would have a harmful effect on the spatial and visual openness of the Green Belt, albeit this would be relatively localised.

Character and Appearance

19. The appeal site lies within an attractive setting, accessed off a country lane which for large sections is tightly enclosed by vegetation and hedgerows that contribute to the rural character of the area. Whilst the prevailing land use surrounding the appeal site is mostly agricultural, there are a small number of residential properties close by.
20. The proposed wooden gates, set behind a tarmacked entrance, would have a more typically suburban appearance. Furthermore, the visual prominence of these suburban features would be increased by the removal of a section of established hedgerow to facilitate safe access by creating visibility splays at the entrance point. However, new hedgerow planting, while taking some time to become established, would in time help to mitigate the visual impact of the proposal.

21. Furthermore, I noted from my site visit that there a number of other properties in proximity to the appeal site which had more typically suburban features. One of the dwellings close to the entrance to the appeal site, for example, has a noticeably large modern conservatory. A number of neighbouring residential properties had suburban style entrances and boundary treatments, with walled piers and gate posts, large gates and tarmacked entrances to their drives. Whilst the proposed gate and tarmacked entrance would have a more suburban appearance than the hedgerow and access gate that were originally in place, in the context of neighbouring entrances, the proposed gates and tarmacked entrance would not appear as overly incongruous or incompatible with the surrounding pattern of development or boundary treatments.
22. I therefore consider that the proposed development would not harm the character or appearance of the area. As such, in the context of this main issue, the proposal would accord with Policies CS5, CS6 and CS17 of the CS, insofar as it maintains the character of the countryside and conserves the natural environment taking into account the local context and character. It would also be in accordance with SAMDev Policies MD2, MD6 and MD12 as it responds to the layout of existing development and the streetscape and respects local character. Furthermore, it would accord with Section 15 of the Framework, which seeks to conserve and enhance the natural environment.

Other considerations

23. Permitted development rights are available for the erection of gates and fences under Class A Part 2 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
24. The permitted development rights allow the erection of fences and gates up to 2.0m height, or 1.0m where adjacent to the highway. The proposed fence and gates would be between these two measures.
25. There is no definition of the word 'adjacent' within the GPDO but case law referred to in the evidence before me shows that the meaning of 'adjacent' in the context of the GPDO does not equate to contiguous or abutting. The thrust of case law is that gates and fences can be set back from a highway but still be 'adjacent' to it, as a matter of fact and degree providing that the enclosure is clearly to define the boundary of the property concerned from the highway and, moreover, is perceived to do so.
26. The proposed fence and gate would indicate an entrance to the appellant's property, and, as such, would clearly define the boundary between the edge of the highway and the appellant's land. Hence, the fence would be adjacent to the highway. The height of the proposed fence and gate would be over 1m and therefore would not fall under permitted development rights. Permitted development rights would allow a gate and fence up to 1m high adjacent to the highway, which would be less obtrusive than that proposed. Consequently, I give the appellant's suggested fallback position no weight.
27. Access to the site was previously possible from a byway open to all traffic (BOAT) off the A442 which leads to a self-contained accommodation annex which is ancillary to Paper Mill Cottage. Access from this point to Paper Mill Cottage was via a bridge across a stream.

28. The appellant states that the bridge was washed away during a period of heavy rainfall and I have no reason to doubt this statement. The bridge was not replaced and there is currently no access to Paper Mill Cottage over the stream or from the A442 entrance. The only access is via that proposed in this appeal.
29. The access track enables vehicular and pedestrian access to the dwelling. This is of much benefit to the amenity, health and well-being of the appellant and his family, allowing them, along with visitors and deliveries, the knowledge that they can safely and easily access their property, which is not possible without it. However, I have been provided with little evidence to indicate that the previous access over the bridge could not be replaced, excluding the new access and parking area, which are inappropriate development in the Green Belt. As such, I give this benefit moderate weight.
30. I acknowledge that there were no objections from neighbours or statutory consultees, but this is not determinative. I also note that the Highway Authority raised no objection to the proposal in contrast to the existing access point. However, planning policy requires developments to be safe and accessible, so this is a neutral matter.

Green Belt Balance and Conclusion

31. I outlined above that substantial weight should be given to any harm to the Green Belt. I have found harm to the Green Belt in terms of its openness and by reason of the proposed development's inappropriateness.
32. The Framework confirms that inappropriate development should not be approved except in very special circumstances. It goes on to confirm that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
33. I have found that there would not be harm to the character and appearance of the area. However, this lack of harm is a neutral factor in this balance.
34. Turning to the other considerations that have been advanced, for the reasons given I have afforded no weight to the suggested fallback position and have given moderate weight to the benefits that the access brings to the appellant and his family.
35. Those other considerations would not clearly outweigh the harm to the Green Belt that I have identified. Therefore, the very special circumstances necessary to justify the development in the Green Belt do not exist. The development would thus conflict with the Green Belt protection aims of the Framework and Policies CS5 of the CS and MD6 of the SAMDev.
36. The proposal conflicts with the development plan and the material considerations do not indicate that the decision should be made other than in accordance with it. Consequently, the appeal is dismissed.

L C Hughes

INSPECTOR