
Appeal Decision

Site visit made on 28 June 2024

by S. Hartley BA (Hons) Dist.TP (Manc), DMS, MRTPI, MRICS

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Appeal Ref: APP/Q4625/D/24/3339120

Benton Lane Farm, Benton Green Lane, Berkswell, Solihull CV7 7AY

- 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 and Mrs S. Bird against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2023/01402/MINFHO.
 - The development proposed is alterations and extensions to the existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The National Planning Policy Framework 2023 (the Framework) was amended on 19 December 2023. The amendments made did not have a material bearing upon the main issue in this appeal, and it was therefore not necessary to seek comments from the main parties upon it. Where I have referred to the Framework, it is that of the December 2023 version.

Main Issues

3. The appeal site is located within the Green Belt. 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. The main parties agree that the proposal would represent inappropriate development in the Green Belt, being a disproportionate extension, as defined in Policy P17 of the Solihull Local Plan 2013 (LP), the Council's House Extensions Guidelines Supplementary Planning Guidance 2010 (SPG) and chapter 13 of the Framework. I concur with that position.
4. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt.
5. Therefore, the main issues are (i) the effect of the proposed development upon the openness of the Green Belt and (ii) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances to justify development.

Reasons

Effect upon the openness of the Green Belt

6. The fundamental aim of the Green Belt is to keep land permanently open. Openness can have both a visual and spatial element. The proposed development, by its position, scale and massing, would add spatially and visually to the already constructed extensions, creating development onto open land.
7. I find that the proposed development would have a limited adverse impact upon the openness of the Green Belt and, in this regard, would be contrary to Policy P17 of the LP, the SPG and the Framework unless very special circumstances exist to justify the development. I deal with such possible circumstances in 'other matters' and in the planning balance and conclusion.

Other Matters

8. The appellant refers to an extant approval, granted under Schedule 2, Part 1, Class AA of the General Permitted Development Order 2015 (as amended) (GPDO) for a single storey rear extension (prior approval scheme)¹.
9. However, there is a dispute between the main parties as to whether the prior notice approval relates to the appeal dwelling, and whether it meets the requirements of the GPDO, thus casting doubt upon its implementation. I have considered the legal opinions submitted by the appellant referring to this matter. I also note that the appellant has submitted a second such prior notice application to the local planning authority (LPA) but this has been refused ².
10. The appeal before me relates to a householder planning application. The appeal does not require me to determine whether the above prior notice scheme accords with the provisions of the GPDO. This could be a matter to be determined by a lawful development certificate application (LDC) to be submitted to the LPA. In view of the dispute between the parties in this matter, this limits the weight which I can afford it in terms of a fall-back position, and I can only afford it limited weight.
11. The appellant also considers that the host property could be extended in other ways under permitted development rights afforded by the GPDO, and that these could have a greater impact upon openness than what is currently proposed. I have taken into account the references to other appeal decisions where such a fall-back position has been taken into account. However, unlike the current appeal, there was no dispute regarding a prior notice approval and there was also an LDC approved. In any event, I have determined the appeal on its individual merits.
12. I accept that permitted rights could be removed by way of a condition. However, overall, I have no evidence before me to indicate that such permitted development represents a greater than a theoretical possibility that the development might take place, and so I afford this matter only limited positive weight in the overall planning balance.

Planning Balance and Conclusion

13. The proposed development would be inappropriate in the Green Belt. In addition, I have concluded that it would also cause limited harm to its openness. I attribute substantial adverse weight to the totality of the harm that

¹ PL/2022/02666/PNH

² PL/2023/02442/PNH

would be caused to the Green Belt. I have taken into account the impact of the fallback position and also the disputed prior notice approval, but where I have attached only limited weight for the reasons outlined. On the evidence before me and on balance, I conclude that the harm that would be caused to the Green Belt would not be clearly outweighed by the other considerations so as to amount to the very special circumstances necessary to justify development. Therefore, the appeal should be dismissed.

S. Hartley

INSPECTOR