



# Appeal Decision

Site visit made on 18 June 2024

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 July 2024**

---

**Appeal Ref: APP/P1805/W/23/3326231**

**Hollywell Lane/Whettybridge Road, Rubery, Birmingham, West Midlands, B45 9EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Access Home LLP against Bromsgrove District Council.
  - The application Ref is 22/01314/FUL.
  - The development proposed is 2 pairs of 3 bed semi-detached dwellings 4 dwellings in total.
- 

## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Access Homes LLP against Bromsgrove District Council. This application is the subject of a separate decision.

## Preliminary Matters

3. This appeal follows the failure of the Council to determine the planning application within the prescribed period. Had it been able to determine the application, the Council has indicated that the application would have been refused.
4. I note the matters set out within the Council's Statement of Case. Whilst this is not the application decision, as jurisdiction over that was taken away when the appeal was lodged, I have treated it as the decision the Council would have made, had it been empowered to do so.

## Main Issues

5. In light of the above, the main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - The effect of the proposal on the openness of the Green Belt;
  - Whether the proposal would provide a suitable standard of living conditions for future occupiers and what effect it would have on neighbouring occupiers; and,

- 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 required to justify the proposal.

## Reasons

### *Whether Inappropriate Development*

6. Paragraph 152 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
7. Subject to a number of exceptions, as listed in Paragraphs 154 and 155, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include limited infilling in villages and the limited infilling or redevelopment of previously developed land where it would not have a greater impact on the openness of the Green Belt than the existing development. Policy BDP4 of the Bromsgrove District Plan (2011-2030) (the BDP) relies, in so far as it relevant to the matters of the appeal before me, on the exceptions set out within the Framework.
8. The appeal site is a field accessed from Whettybridge Road, it sits between the built-up development of Rubery and the wider open countryside. The closest dwellings to the appeal site are the short row of cottages immediately adjacent to the site and the dwellings on the opposite side of Whettybridge Road, extending along Hollywell Lane. Mature vegetation surrounding the site largely screens and softens it from views along Hollywell Lane and Whettybridge Road.
9. Given the appeal site's relationship with the surrounding built development, I find that it more closely reads as being part of the wider open countryside. As such, and given its location at the edge of Rubery, I consider the site to be outside of the settlement. Moreover, there is no development present on two sides of the appeal site and as such the site cannot be considered as a gap. The proposed development would not, therefore, be infilling within a village. Although I am mindful of the A38, the associated highway infrastructure does not bear on the site's relationship with the settlement or as to whether infilling is possible. However, I am content that the two pairs of semi-detached dwellings would be limited development commensurate with the size of the plot. Nevertheless, the proposal would still not comply with the exception set out under Framework Paragraph 154(e).
10. At the time of my site visit there was no development present on the site and I have not been provided with any evidence of there previously having been any development. Although I note the site may have previously been associated with Nos 13 and 15 Hollywell Lane, no substantive evidence has been provided to demonstrate that it was a garden. I therefore cannot find the site to be previously developed land for the purposes of the exception set out under Framework Paragraph 154(g).

11. Even if I were to consider the site to be previously developed land, as the land does not currently contain any built development the presence of four dwellings with associated garages, parked vehicles and residential paraphernalia would innately have a greater impact on the openness of the Green Belt. I am mindful of the screening provided by the surrounding vegetation, and this would go some way to limit any visual impact on the openness. It would not, however, be sufficient to mitigate the spatial harm through the physical presence of the buildings.
12. I recognise the scale of the proposal in relation to the Green Belt as whole, as such I find that the harm to its openness would be limited. However, the Framework, under Paragraph 153, is clear that any harm to the Green Belt should be given substantial weight.
13. The proposal is inappropriate development in the Green Belt and would harm its openness, the proposal would therefore conflict with BDP Policy BDP4 as set out above, as well as Section 13 of the Framework, including Paragraphs 142 and 143 and Paragraphs 152 to 154 as noted above.

#### *Living Conditions*

14. The proposal would introduce two pairs of semi-detached dwellings running along the site in a similar way to the existing row of cottages. However, they would be set further back from the road than the existing row. Gardens would be provided at the rear of the site with an access road and parking towards the front of the dwellings.
15. The submitted plans do not include the proposed side elevations or a site plan with the proposed first floors. It is therefore difficult to ascertain how the proposed and existing properties would relate. However, the Council have provided a further plan showing the proposed first floors and it is possible from this to assess the effect of the proposal on the neighbouring pair of cottages.
16. I find it is clear, from the submissions available to me, that the proposed two-storey section of the closest of the proposed dwellings would project significantly beyond the rear elevation of No 13 Hollywell Lane. Given the close relationship between these two properties, the proposal would be unacceptably intrusive and an overbearing impact on the garden and windows serving No 13. This would be detrimental to the neighbour's pleasant enjoyment of their property and garden ultimately harming their living conditions.
17. The Council, through their High Quality Design Supplementary Planning Document (the SPD), sets out minimum requirements for outside private amenity spaces serving dwellings. These require gardens to provide an overall space of 70m<sup>2</sup>, which excludes areas within the canopy of a tree, and for two-storey dwellings to be at least 10.5m long.
18. As the proposed plots are not numbered, I have followed the Council's numbering scheme in counting up the four plots from right to left on the submitted plans. The proposed gardens are irregular in shape and size, in particular with plot 1 that has a small rear garden and a larger side garden.
19. I find that only the garden serving plot 4 would strictly follow the requirements of the SPD in providing a garden that is both sufficient in area and length. The garden to plot 1, as noted above, is split across two areas and it does not appear to extend 10.5m from the rear of the property. However, I am content

that the overall space provided would be sufficient and that the shorter length of the rear garden would not be detrimental to the living conditions of future occupiers.

20. The garden for plot 3 is shown on the plans as containing a pair of trees. Their identified canopies cover a significant portion of the garden, and a smaller portion overhangs the garden of plot 2. The overall area of these gardens is therefore reduced against the Council's requirements. Moreover, it appears that plot 2's garden does not extend the required 10.5m.
21. Whilst these matters would reduce the quality of these two gardens, I do not find that they would result in an unacceptable standard of living conditions for future occupiers. In particular, although the gardens are not as long as required, I consider this is made up for by the broader width of the gardens. Similarly, although the two gardens are covered by an area of tree canopy, the canopy does not cover such a significant portion of the useable garden area so as to make it a poor quality. Whilst the trees may cast shadows, these would move with the sun and it is unlikely to significantly affect living conditions.
22. I consider that all four gardens would provide sufficient space for future occupiers, which may include families with children, to meet their typical needs such as sitting out, hanging out washing and playing. Therefore, the proposal would not strictly comply with the guidance set out within the SPD, this is just guidance and I find these gardens would still comply with the aims of the Framework.
23. Notwithstanding this, the proposal would still result in an unacceptable impact on the living conditions of neighbouring occupiers by way of being overbearing and intrusive. The proposal would therefore conflict with the Framework, including Paragraph 135(f) which sets out that proposals should promote well-being and provide a high standard of amenity.

#### *Other Considerations*

24. The Government's objective is to significantly boost the supply of housing and the proposal would provide four new dwellings in a location with access to services. It would also lead to a small and time-limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. Given the small scale of the proposal these matters would at most attract moderate weight.

#### *Green Belt Conclusion*

25. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. Further harm would also occur, through the harm to the living conditions of neighbouring occupiers. These matters carry substantial weight. I have attached moderate weight to the consideration in support of the proposal. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with BDPD Policy BDP4 and the Framework as outlined above.

## **Other Matters**

26. The appellant has made reference to a local plan review and that the appeal site is being considered, under No 164, as a potential location for development. I have not been provided with the current status of the review, and I note the appellant states no decision has been made as to whether the site will be included within the plan. Consequently, given the apparent early stages of this review, this matter has not been determinative.
27. My attention has been drawn to an appeal decision<sup>1</sup> relating to the erection of a pair of residential dwellings within the Green Belt and I note the comparisons made. I have not been provided with the full details and facts of this decision. However, it appears that this scheme was between a row of development and so the context is not comparable. Whilst other planning and appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers or Inspectors at the time. Given the apparent difference in context and the limited available information, I cannot make any meaningful comparisons to the appeal scheme before me, which I must consider on its own merits.

## **Planning Balance and Conclusion**

28. I note that both parties agree the Council cannot demonstrate a five-year housing land supply. However, the Framework provides a clear reason for refusing the development, as it is inappropriate development in the Green Belt, and therefore the proposal does not benefit from the presumption in favour of sustainable development.
29. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons outlined above, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR

---

<sup>1</sup> Appeal reference: APP/P1805/W/22/3309821