

Appeal Decision

Site visit made on 21 August 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2024

Appeal Ref: APP/Q4625/W/24/3340717

Land at Back Lane, Meriden CV7 7LD

- 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 Berkswell Charities against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2023/01504/PPFL.
 - The development proposed is formation of new agricultural gateway.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of a new agricultural gateway at land at Back Lane, Meriden CV7 7LD in accordance with the terms of the application, Ref PL/2023/01504/PPFL, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

2. The Council's Officer Report refers to paragraph 150 of the National Planning Policy Framework (the Framework) and exceptions to the definition of inappropriate development that should not be approved except in very special circumstances. However, since the publication of the revised Framework in December 2023, it is within paragraph 155 that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it; this includes (b) engineering operations. The Council confirmed it did not wish to provide an appeal statement and the appellant's statement of case refers to paragraph 155 of the Framework. I have therefore dealt with the appeal on the paragraphs and policies of the revised Framework.

Main Issues

3. The main issues in this appeal 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;
 - the effect of the proposal on the character and appearance of the surrounding area; 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

4. The proposal is for a new gateway, visibility splays and associated hardstanding and fencing, to provide access off Back Lane to an agricultural field located in the Green Belt.
5. 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. Paragraph 154 of the Framework sets out that the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to certain exceptions. Paragraph 155 of the Framework explains that certain other forms of development are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it; this includes for (b) engineering operations.
6. The Council does not dispute that the proposal qualifies as engineering operations. I agree that the creation of a new vehicular access with associated visibility splays and driveway and the erection of fencing and gates constitute engineering operations for the purposes of Paragraph 155(b) of the Framework. Consequently, the proposal is not inappropriate development in the Green Belt, provided it would preserve its openness and does not conflict with the purposes of including land within it.

Openness of the Green Belt

7. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The openness of the Green Belt has both spatial and visual aspects to it.
8. The proposed new area of hardstanding of bound asphalt materials would extend from a new field gate, set back 8 metres from Back Lane and be approximately 3.5 metres wide. Two short lengths of low post and rail fencing are proposed either side of the access with a gate between. The proposed gate would be of open cross bar form and supplementary planting would replace the existing hedgerow, albeit on a different alignment.
9. The proposed fence would be of an open crossbar form and supplementary planting would replace the existing hedgerow, albeit on a different alignment. Taken on its own, the proposal represents a minor intervention into the existing hedgerow boundary, while the proposed hard surfacing would have no volumetric dimension. In spatial terms, the effect on openness would be limited. There would be a visual aspect in so far as the proposed access would be visible from Back Lane, however, in setting back the hedgerow boundary along the line of the proposed visibility splay in the context of a number of other similar access points locally, the proposal's visual impact on Green Belt openness would be negligible. Also, there would be no change to the wider

site, as it would remain as open agricultural land and no built form is proposed.

10. Taking into account the scale of the proposed development and its locational context, I am satisfied that the openness of the Green Belt would be preserved. Furthermore, the proposal would maintain all the five purposes of the Green Belt outlined under Paragraph 143 of the Framework. Given that the proposal does not include any new buildings, nor the re-use of land and, would not have a materially greater impact on the openness of the Green Belt and the purposes of including land within it, I find no conflict with Policy P17 of the SLP.
11. It follows that, having regard to the Framework and any relevant development plan policies, the proposal would not be inappropriate development in the Green Belt.

Character and Appearance

12. The proposed development would add a small area of hardstanding within an area of grassed verge and a gate and fencing would be introduced within gap created by the access point, together with removal and replanting of a realigned field boundary hedgerow, to accommodate the required visibility splays for the proposed access. However, from my observations there are a number of other existing similar access driveway points nearby, within a relatively short stretch of Back Lane, that typically break up the length of hedgerows in this part of Back Lane. This includes a number of other vehicular accessways to nearby residential and farmland on both sides of Back Lane, including at The Byre, RFS Limited, Oddicombe and, at Back Lane Farm.
13. The design of the proposed gate and fencing would be in keeping with that of typical rural field gates and could be controlled by a suitably worded condition. Thereby, the design and location of the proposed development would not appear at odds in the surrounding context and would not be harmful character and appearance of the surrounding area.
14. To accommodate the proposed access point and its associated visibility splays, it would necessitate the removal of existing hedgerow along the field boundary. However, the access point would be located where there is already part of the hedgerow missing along the field boundary close to Oddicombe. By virtue of the proposed location of the access, the extent of hedgerow that would need to be removed to accommodate the proposal would be minimised. Indeed, with supplementary and replacement planting, there would be an overall reduction in the break in the hedgerow boundary compared to the existing length of missing hedgerow.
15. The replacement field boundary hedgerow would be set back further from Back Lane, creating a greater depth of grassed verge area. However, I observed that continuing along Back Lane, particularly to the west, there is variety in the depth of the grassed verge, including some areas as wide and if not wider than that proposed. Thereby, the proposed change to the verge area and hedgerow alignment would not be harmfully at odds within the character of the surrounding area. Furthermore, subject to a suitably worded condition, and in time, I am satisfied that the replacement hedgerow would

ensure the appearance of verdant field boundary along Back Lane would be preserved.

16. In view of the above, the proposed development would not have a harmful effect on the character and appearance of the surrounding area. Accordingly, there would be no conflict with Policy P15 of the SLP, which amongst other matters, requires development to conserve and enhance local character, distinctiveness, and streetscape quality.

Other Considerations

17. Bearing in mind my findings on the first three main issues, it is not necessary for any harm to be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Other Matters

18. Concerns have been raised by local interested parties in relation to the safety of the proposed access, although the Council's highway officer has raised no objection to the proposed access, provided it accommodates the required revised visibility splays and swept path analysis, which can be secured by conditions. Notwithstanding when the speed surveys were undertaken, I have no reason to disagree with the professional advice of the Council's highway officer, nor any evidence to the contrary to demonstrate that the proposed access would be harmful to highway safety. Additionally, I observed that in setting back the alignment of the boundary hedge to the appeal site, this would likely improve visibility at the access to Oddicombe, negating the need for the height of the hedgerow nearest to Oddicombe to be maintained at a lower height than what is typical along other field boundaries in Back Lane.
19. Neither the Council nor the lead local flood authority have raised concerns in respect of flood risk. I note the anecdotal representation regarding occasional waterlogging within the field. However, the proposal does not involve any change from the field's existing agricultural use and due to the nature of the proposed development and relatively small area of hardstanding proposed and hedgerow planting, I see no reason to consider the proposal would exacerbate flood risk elsewhere.
20. The proposed access would be located close to neighbouring residential property at Oddicombe, and thereby would bring vehicles accessing the land closer thereto. However, the proposed field access is to be used in association with the existing agricultural use of the appeal site and so no intensification of use of the land is proposed nor suggested by the appellant. Furthermore, the proposed swept path into the access shows that vehicles would angle into the site in a direction away from Oddicombe and, there is a tall hedgerow around this neighbouring property. Together such factors would help to reduce any general noise and disturbance caused to neighbouring occupiers by the proposal.
21. While it has been suggested that there may be more appropriate locations for a new access to the appeal site, and that the proposal may be a precursor to more evasive other future development within the site, such locations and development proposals are not before me for my consideration as part of this appeal. Therefore, I have considered the proposal having

regard to its individual merits and the basis of the plans and evidence before me.

Conditions

22. Having regard to the advice contained within the Planning Practice Guidance (PPG) and the Framework in respect of conditions, in addition to the standard implementation clause, it would be necessary in the interests of certainty to define the plans with which the scheme should accord.
23. In the interests of protecting the character and appearance of the surrounding area and to preserve the openness of the Green Belt, it is reasonable and necessary to impose a condition that ensures the proposed replacement and supplemental boundary hedge planting be undertaken and maintained. For the same reasons, it is necessary to impose a condition in respect of the finish and materials of the proposed gates and fencing. In the interests of highway safety, it is necessary to impose a condition that ensures that the proposed visibility splay at the new access remains unobstructed above the height of 0.6 metres for the lifetime of the development.

Conclusion

24. For the reasons given above, I conclude that the proposal accords with the development plan, as a whole, and the appeal should be allowed.

C Billings

INSPECTOR

Condition Schedule

1. The development hereby permitted shall begin not later than the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following plans: Location Plan, Planning Portal reference PP-12312173v1; Proposed Replacement Field Gate and Visibility drawing No P1692/01A; and Front Elevation and Artist Impression drawing No P1692/02.
3. The new and replacement hedgerow to be planted along the visibility splays, as shown on drawing No P1692/01A, shall be of mixed hedge species and be planted within the first planting season following the commencement of the development hereby approved, in accordance with details to be set out in a planting scheme, which is to be first submitted to and agreed in writing by the local planning authority. The planting scheme shall include details of the species to be planted, height on planting, number of plants and spacing between plants to form the hedgerow.
4. The hedgerow planted pursuant to Condition 3 shall be maintained for a period of not less than 5 years following the completion of planting. If any plants within the hedgerow or any such planted in replacement thereto, are removed, destroyed, die or become seriously damaged or defective within the first 5 years of the completion of the planting scheme, then they shall be replaced within the first planting season following their removal with others of similar size and species and in the same location thereto.
5. The field gate and fencing hereby approved shall be constructed of wood that is unpainted or painted in a brown or black colour and shall thereafter be retained as such for the lifetime of the development.
6. Prior to the first use of the access hereby permitted, the visibility splays shown on drawing number P1692/01A shall have been installed and thereafter kept free of obstruction of anything exceeding 0.6 metres in height and retained as such for the lifetime of the development.

End of Schedule