



Appeal Decision

Site visit made on 3 July 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2024

Appeal Ref: APP/V4630/W/23/3335112

251 Aldridge Road, Streetly, Walsall B74 2DX

- 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 Sainsbury's Supermarkets Ltd against the decision of Walsall Metropolitan Borough Council.
 - The application reference is 22/0526.
 - The development proposed is the erection of a Sainsbury's Local convenience store with associated car parking, landscaping and servicing and plant areas utilising the existing access to Farmer John's Public House.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The description of development in the banner heading above is taken from the Council's decision notice and the appeal form. I have used it in preference to the wording on the original planning application form as it provides a more comprehensive description of the proposal.
3. On 30 July 2024 the Government began a consultation on proposed changes to the National Planning Policy Framework ("the Framework"), including in respect of Green Belt policy. I have taken into account comments submitted in the light of those proposed changes. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.
4. During the appeal, the appellants submitted a signed and dated Unilateral Undertaking ("UU") under Section 106 of the Town and Country Planning Act 1990. This makes provisions in respect of certain highways matters, and I return to it in the relevant part of my reasons below.
5. Six reasons for refusal were given on the decision notice issued by the Council. Reasons 2, 3 and 4 all, essentially, dealt with matters of character and appearance, though each focussed on different aspects of the proposal including its effect on designated and non-designated heritage assets. Given the substantial crossover between the three reasons (including the citing of identical development plan policies in each) I have dealt with them together as a single main issue. The sixth reason for refusal related to the provision of off-site highway works, but as this does not in fact appear to be a fundamental point of disagreement between the main parties I have addressed it in the "Other Matters" section below.

Main Issues

6. The appeal site lies within the Green Belt. Accordingly, and having regard to the comments in the preceding paragraph, I consider that the main issues are:
- Whether the proposal would be inappropriate development within the Green Belt having regard to the Framework and any relevant development plan policies, and its effects on the openness and purposes of the Green Belt;
 - The effect of the proposal on the character and appearance of the Great Barr Conservation Area ("the GBCA"), including on the setting of the nearby Blue House Farm, a non-designated heritage asset ("NDHA").
 - The effect of the proposed development on protected species, specifically bats, and their habitats; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

The appeal site and the proposed development

7. The appeal site is an area of land on the west side of Aldridge Road, comprising the northern part of the customer car park serving Farmer John's public house. The whole of the appeal site is within the Green Belt. The majority of the site is given over to hardstanding, though there are areas of shrub planting separating, and bounding parts of, the car park. The entire car park (including areas outside the "red line" site boundary) is entered from Aldridge Road, and has space for approximately 100 vehicles. There are hedgerow and tree borders to the northern and western sides of the site, and grassed areas with low mounds to the Aldridge Road boundary.
8. The pub building itself, and other parking and service areas, sit alongside the southern site boundary, within the wider "blue line" boundary shown on the application plans. A short distance to the south of the pub building is a Scout centre, set in its own plot with separate access from Aldridge Road. A similar distance west of the pub is Blue House Farm ("the Farm"), a farmhouse and complex of associated buildings (at least part of which is in use as a reclamation yard) set within a paddock, entered by a separate lane from Aldridge Road immediately north of the appeal site. North of this lane, west of the Farm, and west and south of the Scout centre are agricultural fields. On the eastern side of Aldridge Road is an extensive area of suburban housing.
9. The proposed development is the erection of a convenience store with a gross floorspace of approximately 372m². It would have 19 car parking spaces (56 of the original 100 or so would be retained for the pub) and six cycle spaces, and would use the existing vehicular access to Farmer John's from Aldridge Road.

Relevant national and local policy

10. Paragraph 142 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with

the essential characteristics of Green Belts being their openness and their permanence. Paragraph 143 sets out the five purposes of the Green Belt: checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns merging into one another; assisting in safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration, by encouraging the recycling of derelict and other urban land.

11. Paragraph 154 of the Framework states that, other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. Paragraph 154 g) provides for limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, in two circumstances. The first of these is where it would not have a greater impact on the openness of the Green Belt than the existing development. The second relates to meeting an identified affordable housing need, and therefore cannot apply in this case.
12. Saved Policy GP2 of the 2005 Walsall Unitary Development Plan ("the UDP") includes "the effect on the environment of the countryside and Green Belt" among the list of considerations which will be taken into account when assessing development proposals. Policy CSP2 of the 2011 Black Country Core Strategy ("the BCCS") emphasises the role of the Green Belt in promoting urban renaissance, and states that its boundaries will be maintained and protected from inappropriate development. Policy GB1 of the 2019 Walsall Site Allocation Document ("the WSAD") states that "inappropriate development, as defined in [the Framework] will not be supported in the Green Belt in Walsall unless 'very special circumstances' exist which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm".
13. The appellant suggests that, given their age, only limited weight should be given to the policies of both the UDP and the BCCS. However, Paragraph 225 of the Framework is clear that "existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework", and that "due weight should be given to them, according to their degree of consistency with this Framework". None of the evidence put before me indicates that the policies are not consistent with the Framework. While Policy GP2 of the UDP might be considered somewhat "weak" in respect of the Green Belt when compared to the provisions of the Framework, it is not inherently incompatible with them. I have not been made aware that Policy CSP2 of the BCCS relies on any different definition of "inappropriate development" to that in the Framework. Both policies are, in my view, consistent with the Framework; I give them (and any conflict with them) full weight in the overall balance.
14. Previously developed land is defined in Annex 2 of the Framework as "land which is or was occupied by a permanent structure, including the curtilage of the developed land" (although the Framework also notes that it should not be assumed that the whole of the curtilage should be developed) "and any associated fixed surface infrastructure". There is no dispute between the main parties that the site is, for the purposes of determining this appeal, previously developed land. Whether or not the proposal would fall within the relevant exception described in Paragraph 154 g) and the policies of the development plan is therefore dependent on an assessment of its effects on the openness of the Green Belt.

Openness and purposes of the Green Belt

15. The baseline for considering the effect on openness, which is the absence of development and which has both spatial and visual aspects, must be what currently exists at the site. As I have already described above, the appeal site largely consists of areas of tarmac hardstanding, and the appeal scheme would introduce a substantial building where currently there is none. In simple spatial terms, there would therefore be a loss of openness.
16. The vegetation on the northern and western site boundaries would provide some screening and containment of the development, but from Aldridge Road to the east the site would inevitably take on a more developed appearance. While the site is already used as a car park, and the overall number of parking spaces on the site would be reduced from their current level, it is reasonable to assume that the proposed development would lead to an increased amount of vehicular activity on the site than at present. This would be likely, albeit in a small way, to further emphasise visually the development of the site and highlight the loss of openness. While the appearance of the site may well be “softened” to some extent by the planting and landscaping proposed as part of the scheme, it would be unlikely to disguise the overall loss of visual openness which would be a consequence of the development.
17. The proposed development would therefore lead to a loss of the spatial and visual openness of the Green Belt. While this would be localised, and small in the context of the Green Belt as a whole, the Framework is clear that substantial weight should be given to any harm to the Green Belt.
18. The *Green Belt Statement* submitted by the appellants¹ concluded that the site makes a weak contribution, or none at all, to the purposes of the Green Belt as set out in the Framework, noting that it “does not have a degree of openness that distinguishes it from the urban area”. However, while the boundary vegetation provides some containment, from what I saw during my site visit I consider that the appeal site (and the wider Farmer John’s site) is visually quite distinct from the built-up area to the east. While the eastern side of Aldridge Road is characterised by fairly closely-spaced suburban housing, the western side of the road is predominantly bounded by open fields, with a few intermittent buildings in spacious settings; there is therefore a degree of distinction between the built-up area and the Green Belt.
19. The development of a substantial convenience store close to the existing pub building would, to my mind, represent an obvious expansion of the built-up area onto the western side of Aldridge Road. There would therefore be some local conflict with the first purpose of the Green Belt set out in Paragraph 143 of the Framework (and which I have described at paragraph 10 above).

Findings on this main issue

20. As a result of its effect on openness, the proposed development would not fall within the exception described in Paragraph 154 g) of the Framework, and would be inappropriate development in the Green Belt. By definition, it would therefore be harmful to the Green Belt, and this is a matter to which I afford substantial weight in the planning balance. There would be further limited conflict with one of the purposes of including land in the Green Belt. The

¹ *Green Belt Statement – Proposed Sainsbury’s Store, Land on Aldridge Road, Streetly – Ground Control Limited*, March 2022

proposal would also conflict with Saved Policy GP2 of the UDP, Policy CSP2 of the BCCS, and Policy GB1 of the WSAD, which together (and among other things) seek to prevent inappropriate development in the Green Belt.

Great Barr Conservation Area and Blue House Farm

21. The site is wholly within, though on the eastern boundary of, the GBCA. I note that the draft GBCA Appraisal and Management Plan ("the AMP") recommends the removal of the area including the appeal site from the conservation area. Nevertheless, at the moment it remains within the GBCA; I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (Paragraph 195). It goes on to advise that any harm or loss requires clear and convincing justification (Paragraph 206) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (Paragraph 208).
22. The GBCA was first designated in 1976, focussed on the Great Barr Hall estate and the historic centre of the settlement of Great Barr which lie some way to the west of the appeal site. The conservation area was extended in 1996 to encompass much of the surrounding agricultural landscape, including the appeal site. I have not been provided with the full AMP, but from the evidence before me I consider that the significance of the GBCA, insofar as it relates to this appeal, is derived from the quality of its historic core of the 19th century landscaped park and estate, with the broader agricultural setting providing context for the origins of the estate.
23. The proposed convenience store would be a single storey building, with a large glazed main south-east frontage facing towards Aldridge Road, brick cladding to other elevations of the sales area, and grey aluminium cladding to the "back of house" areas. It would have a maximum height of around 5m, with a shallow pitched roof, also finished in dark grey panelling. It would be taller than some of the surrounding planting, but not excessively so – it would not, for example, be as tall as Farmer John's.
24. It would be angled relative to Aldridge Road in a similar manner to Farmer John's, and set a similar distance from the highway. In other respects the proposed store would be visually distinct from the pub, which adopts some of the stylings of traditional agricultural buildings such as small windows and steeply pitched tiled roofs; the form and materials of the proposed development would give it a more contemporary appearance. However, it would not be unique within the wider area; it would be similar in form and stylings to the nearby Scout centre, which was granted planning permission in 2012. I saw that the Scout centre had been built on a site well-screened by boundary planting without appearing to have caused significant harm to the character or appearance of the area.
25. In respect of design matters, the Council drew my attention to guidance in its 2008 (revised 2013) *Designing Walsall* Supplementary Planning Document ("the Design SPD"), and in its 2015 *Shop Front* Supplementary Planning Document ("the Shopfront SPD"); both have been adopted as supplementary planning documents and are material considerations in this appeal. For the reasons I have just given, I am satisfied that the proposed development would respect local identity and, other than in respect of Green Belt matters which I

have addressed separately, would comply with the advice relating to the creation of a high quality public realm and an adaptable and sustainable built environment; there would be no significant conflict with the relevant guidance in the Design SPD. The section of the Shopfront SPD to which the Council referred relates to the design, and in particular the proportions, of shopfronts. On my reading, however, that guidance is primarily directed towards "traditional" shopfronts in older buildings, and is of limited relevance to the circumstances of this appeal; I therefore also find no significant conflict with the Shopfront SPD in this case.

26. The Framework advises (at Paragraph 209) that "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application". Although Blue House Farm is not on the "Local List" maintained by the Council, this is not an essential criterion for an NDHA (as set out in the definition in the Framework's glossary). Again, there is limited information before me on the history of the Farm, though it is evident that the main farmhouse and its principal associated outbuildings date from the 19th century. The farmhouse itself is a two-storey building with a steeply pitched roof; the one- and two-storey brick outbuildings enclose a yard area. The Council's Conservation Officer particularly drew attention to the open setting of the Farm and the "spacious open character" of its surroundings.
27. The extent to which Blue House Farm can be appreciated from public spaces such as Aldridge Road itself, and "semi-public" spaces such as the Farm access track and Farmer John's car park, is limited by the thick border planting around the appeal site. The appeal scheme includes additional landscape planting so there would continue to be considerable visual screening, as well as more than 50m of spatial separation, between the proposed store and the NDHA. As such, I am satisfied that the historic significance of Farm as an NDHA would be preserved.
28. Accordingly, I conclude that the proposed development would not cause significant harm to the character or appearance of the area, and the character and appearance, and thus the significance, of the GBCA would be preserved. The setting and character of Blue House Farm, and its significance as an NDHA, would also be preserved. The proposal therefore complies with Saved Policies GP2 and ENV32 of the UDP, Policies ENV2 and ENV3 of the BCCS, and Policy EN5 of the WSAD. Together, and among other things, these policies seek to ensure that the design and appearance of development is appropriate to its local area, and that heritage assets including Conservation Areas and locally-listed buildings are protected and enhanced. As I do not find that the development would cause harm to designated heritage assets, it is not necessary to apply the public benefit test set out in Paragraph 208 of the Framework.

Protected species

29. The Council stated that "there are no objections to [the scheme] on ecological grounds", although it was concerned that lighting along the site boundaries could have an impact on local bat population flightlines. No detailed lighting scheme was provided as part of the application. Very little substantive evidence has been put to me on this point, though there is nothing before me to suggest that any bat roosts would be disturbed. It is therefore a matter which I am satisfied could, if the proposal were acceptable in all other respects, be dealt

with by an appropriate condition. This would require the submission, approval and compliance with a suitable lighting scheme before the commencement of works, as suggested in the Council ecology officer's response to the original planning application consultation.

30. Subject to such a condition, I am satisfied that the proposed development would comply with guidance in the Council's 2013 *Conserving Walsall's Natural Environment* Supplementary Planning Document ("the Natural Environment SPD") and elsewhere, and with the relevant national legislation relating to protected species. There would be no conflict with Saved Policy ENV23 of the UDP, Policy ENV1 of the BCCS, or with Policy EN1 of the WSAD; together these policies seek to ensure that wildlife corridors, nature conservation assets, habitats and biodiversity are protected and enhanced, and that legally protected species are not harmed by development.

Other considerations

Economic and social

31. It is stated that the proposed development would create around 20 jobs. It is not clear from the information before me if this would be 20 full-time equivalent jobs, or 20 posts including part-time and "flexible" positions, but in any event there would be increased employment opportunities for local people. I understand that there are no retail facilities within 1km of the appeal site, though I saw on my visit that there are some shops (including petrol stations with food outlets) which appear to be just over that distance from the site. Nevertheless, the appeal scheme would increase shopping choice in the area, and provide an additional outlet within walking distance for some residents who might otherwise need or choose to drive to a shop. The additional jobs and improved access to shopping facilities for local people would represent appreciable economic and social benefits, to which I attach considerable weight.
32. The appellant also suggests that the development would support the long-term viability of Farmer John's; reference is made to the existing pub car park (including the appeal site) being "overly large", but there is little else before me to support this point. It is not therefore an argument which carries significant weight in the overall balance.

Possible changes to the Framework

33. The proposed changes to the Framework include introducing the concept of "grey belt" land, defined as "previously developed land and any other parcels and/or areas of Green Belt land that make a limited contribution to the five Green Belt purposes". Amendments are proposed in respect of the "previously developed land" exception set out in Paragraph 154 g) (and summarised in paragraph 11 above), removing the requirement for redevelopment to "not have a greater impact on the openness of the development than the existing development", and instead requiring only that it would "not cause substantial harm" to openness.
34. The consultation amendments also propose that housing, commercial and other development in the Green Belt should not be regarded as inappropriate where it would utilise grey belt land in sustainable locations, would not fundamentally undermine the function of the Green Belt across the area of the plan as a

whole, and where major development would make appropriate provision for affordable housing, infrastructure and green space. As drafted, this change would apply in local planning authorities which cannot demonstrate a five year supply of deliverable housing sites, or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years, and in cases where “there is a demonstrable need for land to be released for development of local, regional or national importance”.

35. I have had regard to the proposed changes to the Framework, and to the related Written Ministerial Statement made by the Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government on 30 July 2024² which set out the Government’s rationale for them, as material considerations. In view of my reasoning on the Green Belt main issue, I consider that the changes which are ultimately made to the Framework may, as the appellant suggests they will, weigh in favour of this appeal scheme. At present, however, when the consultation on the proposed changes has only just closed there must still be considerable doubt over the final wording, and the implications of, the revised Framework. I am therefore able to give the proposed changes only limited weight at this point.

Other Matters

Highways improvements

36. The submitted UU aims to secure a financial contribution towards off-site highways works, primarily to provide a new pedestrian crossing on Aldridge Road to improve access to the proposed development. The appellant has not contested the need for such provision, and I am satisfied it would be necessary, related directly to the development and fairly related in scale and kind. As such, it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.
37. I do have some concerns about the document itself, and whether the Council could rely on it to secure the necessary highway works. Although the UU is signed and executed as a deed, it is missing this appeal reference³ and the site identification plan⁴. These are omissions which could, I am sure, be put right quickly and easily; however, as I am dismissing the appeal for other reasons I have not pursued them with the appellant. As things stand therefore, I am not satisfied that the submitted UU would make adequate provision to comply with the requirements of Saved Policies GP2 and T4 of the UDP and Policy TRAN2 of the BCCS, which seek to ensure that the transport impacts of development are met, including by providing safe access by a variety of means.

Planning Balance and Conclusion

38. 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 153 states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of

² Online at <https://questions-statements.parliament.uk/written-statements/detail/2024-07-30/hcws48>

³ Section 1 – Interpretation and definitions

⁴ Appendix 1 – The Land

inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

39. I have found that the proposed development would be inappropriate development in the Green Belt, would cause harm to the openness of the Green Belt, and would lead to some conflict with one of the five purposes of including land within the Green Belt. These are matters to which I attach substantial weight, as required by Paragraph 153 of the Framework. The proposal also conflicts with Saved Policy GP2 of the UDP, Policy CSP2 of the BCCS, and Policy GB1 of the WSAD which seek to protect the Green Belt in line with national policy.
40. I have found that there would be no harm to the character or appearance of the area, and the significance of the GBCA and the nearby Blue House Farm, an NDHA, would be preserved. There would also be no significant harm caused to protected species. A lack of harm, and the subsequent lack of conflict with the development plan on these matters, is a neutral factor in the overall balance.
41. I have also considered and weighed the matters in the scheme's favour which have been put to me by the appellant. As I have explained above, while the proposed amendments to the Framework carry only limited weight in favour of the scheme, I give considerable weight to the likely benefits of the scheme. However, I conclude that the substantial weight to be given to the Green Belt harm arising from the development is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
42. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector