



Appeal Decision

Site visit made on 14 August 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/Q4625/W/23/3333804

Four Oaks, Back Lane, Meriden, Solihull 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 Mr Steve Singh against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2023/01622/PPFL.
 - The development is the change of use of the ancillary swimming pool outbuilding for commercial use between the hours of 09:00 and 17:45 on weekdays.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the ancillary swimming pool outbuilding for commercial use between the hours of 09:00 and 17:45 on weekdays. at Four Oaks, Back Lane, Meriden, Solihull CV7 7LD in accordance with the terms of the application, Ref PL/2023/01622/PPFL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development given above is taken from the planning application form, however I have omitted the word 'retrospective' and the site address as these are not acts of development.
3. The appeal submissions indicate that the swimming pool is being used for swimming lessons for visiting members of the public, I am therefore considering this part of the development retrospectively. However, the proposed alterations to the access and driveway have not yet taken place. In these circumstances, I have determined the appeal based on the submitted drawings.

Main Issues

4. The main issues for consideration are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - whether the development is in a suitable location having regard to accessibility;
 - the effect of the development on highway safety, with particular regard to visibility splays;

- the effect of the development on the character and appearance of the area; and
- any benefits arising from the scheme.

Reasons

Whether inappropriate development

5. The appeal site lies within the Green Belt. Paragraph 154 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, other than for the exceptions at paragraphs 154 and 155 of the Framework. In addition to those listed in paragraph 154, paragraph 155 sets out certain other forms of development that 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. These include, among others, d) the re-use of buildings provided that the buildings are of permanent and substantial construction.
6. Policy P17 of the Solihull Local Plan (SLP) sets out that inappropriate development in the Green Belt will not be permitted, except in very special circumstances. In addition to the national policy, where the re-use of buildings or land is proposed, the new use, and any associated use of land surrounding the building, should not conflict with, nor have a materially greater impact on, the openness of the Green Belt and the purposes of including land in it, and the form, bulk and general design of the buildings shall be in keeping with their surroundings.
7. The appeal property comprises a detached dwelling and outbuildings which occupies a generous plot. Permission is sought for the commercial use of the enclosed swimming pool in the rear garden of the property to conduct swimming lessons on weekdays between the hours of 09:00 and 17:45.
8. There is no dispute between the parties that the ancillary swimming pool building is of permanent and substantial construction. Moreover, the use of the building for commercial swimming lessons itself would have no effect on the openness of the external parts of the site. Nonetheless, even if the existing area of hardstanding does not require planning permission, the use of the area for the parking of vehicles arising from the use of the swimming pool, together with the widening of the existing access and driveway, so as to enable vehicles entering and leaving the site to pass, falls to be considered.
9. The presence of parked cars would result in a more intensive use of the land. However, due to the spacing of the lessons, and a maximum of 6 children attending each swimming lesson, the number of vehicles parked in the car park at any one time would be limited. Furthermore, the hours of operation mean that the vehicular movements and parking associated with the swimming lessons would be transitory, excluding weekends and evenings. In addition, parked vehicles would not be readily visible from the road and would largely only be seen from private land in the immediate context of the site. In that regard the use of the building and the associated parking of vehicles does not materially harm the openness of the Green Belt.
10. The alterations to the existing access and driveway at the entrance to the site would comprise the laying of hardstanding which would introduce built form, albeit it at ground level and without any discernible volume, in an area which is

currently free from development. Nevertheless, the additional area of hardstanding would be modest in scale and viewed within the context of the existing driveway and would therefore not diminish the openness of the Green Belt in spatial or visual terms.

11. For the foregoing reasons, the development does not constitute inappropriate development in the Green Belt. Furthermore, there would be no conflict with any of the purposes of the Green Belt as set out at paragraph 143 of the Framework. Accordingly, the scheme would not conflict with Policy P17 of the SLP or the aims of the Framework regarding the protection of the Green Belt.

Suitability of location

12. Policy P7 of the SLP sets out that new development should be focused in the most accessible locations and seek to enhance existing accessibility levels and promote ease of access. Among other things, it expects development to meet specific accessibility criteria, unless justified by local circumstances, including that leisure development should be located in town centres, or other established locations, none of which apply to the appeal site, and should be within a 400m walk distance of a bus stop served by a commercially run high frequency bus service. It also indicates that proposals for change of use are likely to be resisted if they reduce accessibility to levels below those listed in Policy P7.
13. The appeal property is in a small cluster of residential properties located on Back Lane; the surrounding area includes sporadic built development interspersed with agricultural land. The site is beyond the confines of the nearby smaller settlements of Four Oaks and Berkswell and the built-up areas of Meriden and the edge of Coventry. While there is a bus stop a short distance from the site, and a footpath between it and the site along Back Lane, the appellant confirms that it does not offer a high frequency service. Moreover, as the site is utilised for private lessons primarily for young children, and children and adults with special educational needs and disabilities (SEND), travel to and from the site is predominantly by private car.
14. I therefore find that the swimming pool is not in a suitable location having regard to accessibility. The reliance on the private car to access the site is contrary to the objective of promoting ease of access by a range of means set out in Policy P7 of the SLP, as well as the sustainable transport objectives of the Framework.

Highway safety

15. The site benefits from an existing vehicular access from Back Lane, which would be used by visitors to the swimming pool. The Council's main concern is the lack of visibility for vehicles egressing the site. The Highway Authority (HA) indicate that visibility splays of 90m are required, and this should be measured 4.5m back from the edge of the carriageway.
16. The appellant's Transport Statement¹ confirms that visibility splays over 90m in both directions can be achieved, measured from a point 2.4m back from the edge of the carriageway. While the 2.4m setback distance falls short of that suggested by the Council, there is no clear evidence before me as to why the HA consider a setback distance of 4.5m is required in this case. In addition,

¹ prepared by Motion dated June 2023

Manual for Streets sets out that a setback distance of 2.4 m should normally be used in most built-up situations, as this represents a reasonable maximum distance between the front of the car and the driver's eye and that a distance in excess of 2.4 m is not generally required in built-up areas.

17. In light of the above considerations, I find that there would be adequate visibility for the drivers of vehicles leaving the site and consequently the commercial use of the swimming pool would not be harmful to highway safety. In that regard it would not conflict with Policy P8 of the SLP which sets out that development will not be permitted which results in a reduction in safety for any users of the highway or other transport network.

Character and appearance

18. The generous verdant nature of the appeal site, and the neighbouring residential properties, contribute positively to the rural character of the area. The existing car park and overflow car park at the site cover a considerable area, however, the number of visitors and staff using the swimming pool at any one time is likely to be limited. As such, the use of the land for the parking of vehicles would not have a significant effect on the spacious character of the site.
19. The area is located within the grounds of the existing dwelling, which benefit from a high degree of visual containment within the wider rural landscape, by virtue of the well-established mature boundary planting. Consequently, the parking area and vehicles upon it would not be readily seen in views towards the site, other than from the immediate neighbouring properties, or from Back Lane. Furthermore, by virtue of the extent of the proposed works to the access and driveway, this element of the scheme would not be an anomalous feature in the street scene or detract from the domestic scale of the existing access arrangements.
20. Although not referred to specifically in the refusal reason, the officer's report sets out concern that the commercial use of the swimming pool would change the character of the site. While the conduct of swimming lessons does lead to an increase in visitors and the level of activity on the site, due to the limited size of the pool, hours of use, and number of attendees, it does not give rise to an increase in the overall level of activity on the site that would have a significant tangible effect on the character of the site.
21. For the foregoing reasons I conclude that the use of the building for swimming lessons, together with the associated parking of vehicles and proposed alterations to the access and driveway, would not harm the character and appearance of the area. Accordingly, the development would not conflict with Policy P15 of the SLP which seeks good quality design, that among other things, conserves and enhances local character, and the aims of the Framework in relation to achieving well-designed and beautiful places.
22. The Council's fourth refusal reason also refers to Policy P17 of the SLP, however it is unclear from its submissions as to the conflict that would arise in relation to the character and appearance of the area.

Benefits

23. The commercial use of the swimming pool would offer benefits in terms of the provision of a private space to enable children, including those with special needs and disabilities, as well as adults, to learn to swim.
24. The use of the swimming pool for swimming lessons also reflects the Framework in so far as it supports the sustainable growth and expansion of all types of business in rural areas. The Framework also recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.

Other Matters

25. The Council's Public Protection Officer has not raised an objection in relation to the effect of the proposal in terms of noise, nor do the Council raise an objection to the scheme based on its effects on the living conditions at nearby residences. In light of the scale of the activity and the evidence before me in this case, I have no reason to reach a different conclusion.

Planning Balance

26. The development is not in a suitable location given that visitors would largely be reliant on the private car and, therefore, the proposal would conflict with the development plan taken as a whole. However, the implications for the promotion of sustainable transport would be modest given the size of the development.
27. Set against this, while the use of the swimming pool is not exclusively limited to those with special needs, it would nonetheless offer benefits in terms of the provision of swimming lessons, including an environment suitable for individuals with specific needs. In addition, it offers benefits in relation to supporting the rural economy. Consequently, based on the evidence before me, there are material considerations that outweigh the conflict with the development plan and indicate that permission should be granted otherwise than in accordance with it.

Conditions

28. The conditions set out in the accompanying schedule are based on those suggested by the Council should the appeal be allowed. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the Planning Practice Guidance (PPG). While a condition to control the timescale within which the development must commence is not necessary as the development has started, I have imposed a condition to specify the relevant plans, in the interests of certainty.
29. A condition to require the carrying out of the works to widen the access and driveway and the provision of visibility splays is necessary in the interests of highway safety. A condition to limit the number of members of the public attending a lesson at any one time to a maximum of 6, as set out in the supporting information, and the hours of operation are necessary so as to preserve the openness of the Green Belt. Given the location, scale and nature of the use, and that users will be likely to travel to and from the site by private

car, a condition to require a Travel Plan to encourage alternative transport modes is not necessary.

30. Having regard to the likely volume of visitors and parking arrangements, a condition to require the formal demarcation of the parking spaces and vehicular circulation areas has not been shown to be necessary. I have not imposed the Council's suggested condition to restrict the commercial activity to the appellant. The PPG advises that planning permission usually runs with the land, and it is rarely appropriate to provide otherwise. Moreover, there is nothing substantive before me to suggest that the carrying out of the use by different individuals would result in any materially different effects in terms of the main issues to demonstrate that such a condition would be necessary.

Conclusion

31. For the foregoing reasons the appeal is allowed.

E Worley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg no. 01 -Existing Location and Block Plan and Dwg no. 002A - Pool Building Regularisation Application - dwg no 002A.
- 2) The swimming pool shall only be used by members of the public between 09:00 and 17:45 Mondays to Fridays.
- 3) No more than 6 members of the public shall be in the swimming pool at any one time.
- 4) Within 6 months of the date of this permission the widening of the access and driveway at the entrance of the site shall be carried out in accordance with the details shown on Dwg no. 002A - Pool Building Regularisation Application and visibility splays shall be provided at the vehicular access to the site with an 'x' distance of 2.4m and 'y' distance of 90m to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted, or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6m above the level of the public highway carriageway.

*****end of conditions*****