



Appeal Decision

Site visit made on 9 October 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2024

Appeal Ref: APP/Q4625/W/24/3339827

Open land to the rear of Kenilworth Road, off The Paddocks, Balsall Common, Solihull

- 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 Mrs Irene Thompson against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2023/00114/PPFL.
 - The development proposed is described as 'proposed use of Rare Breed Goats, (Golden Guernsey's) with a barn for the storage of feed and machinery. Retention of static caravan for accommodation of owners of live stock for security and care of the live stock. Storage shed to the side of the caravan and three pens for the live stock'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the proposed development has commenced it has not been completed. I have therefore assessed the scheme as 'proposed' development.
3. The main parties agree that the proposed development is inappropriate in the Green Belt. Based on the evidence before me, I concur.

Main Issues

4. The main issues are:
 - The effect of the development on the openness and purposes of the Green Belt, and the character and appearance of the area;
 - The effect of the proposal on protected species; and
 - Whether the 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

Openness, purposes, and character and appearance

5. The National Planning Policy Framework (the Framework), at paragraph 142, sets out 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.

6. The appeal site is open grassland and is bounded by hedgerow and groups of trees. It is partially adjoined by buildings forming part of the settlement of Balsall Common. The remainder, and majority, of the site, is surrounded by open countryside.
7. The static caravan would be relatively large as would be the proposed barn. Consequently, when the storage building and the pens and shelters are also taken into consideration, the spatial openness of the Green Belt would be reduced, even though much of the site would remain open. The enclosed garden area, decking, regular parking of vehicles and paraphernalia associated with the residential occupancy of the site, would further erode spatial openness. Furthermore, whilst the caravan, buildings, pens and shelters would not be seen from public vantage points, they would be visible from adjoining properties on The Paddocks.
8. Accordingly, the development would result in a visual and spatial loss of openness of the Green Belt. Any harm arising from such loss would be limited and localised due to the position of the caravan, building, pens and shelters close to the boundaries of the site and the adjoining dense tree planting.
9. The site clearly forms part of the countryside, and the development is a physical encroachment into it. Consequently, as a matter of judgement, the development would conflict with one of the Green Belt purposes.
10. , the proposal involves development on a site that directly adjoins Balsall Common, and, as it would involve residential development, would represent an outward extension of that settlement. The proposal would, thereby, also conflict with the Green Belt purpose of checking unrestricted sprawl of a large built-up area.
11. The mature landscaping surrounding the site provides some natural screening. Nonetheless, the residential features comprising the static caravan, garden and decking, together with the associated domestic paraphernalia and regular parking of vehicles, would be a notable intrusion onto a site that was previously largely open and undeveloped. Whilst the barn, sheds, pens and shelters maybe typical within the rural area, in combination with the other elements, the proposal would have an urbanising quality that is out of keeping with, and harmful to, the established landscape character of the site and adjoining open countryside.
12. I conclude that the proposal would result in a loss of openness in the Green Belt and would conflict with two of the Green Belt purposes. Consequently, the development is contrary to paragraphs 142 and 143 of the Framework. As the proposals would be inappropriate development in the Green Belt which is, by definition, harmful, it would also conflict with Policy P17 of the Local Plan (LP) unless very special circumstances exist. Furthermore, the proposal would be harmful to the character and appearance of the area contrary to LP Policy P15 and Policy BE.2 of the Balsall Parish Neighbourhood Development Plan. Such policies require that proposals are compatible with, and conserve, local character.

Protected species

13. LP Policy P10, amongst other things, states that outside designated sites, developers will be expected to take full account of the nature conservation

value, and the existence of any habitats or species included in the Local Biodiversity Action Plan. It stipulates the requirement that developers undertake a full ecological survey and deliver a net gain or enhancement to biodiversity, unless it is demonstrated that it is not appropriate or feasible.

14. It is reasonable to consider that the site, which is not designated and is largely undeveloped and bordered by woodland and hedgerows, has some ecological value. As such it is important that appropriate surveys are carried out to accurately establish a baseline against which the effect of the proposal is judged.
15. Ecological surveys must be carried out at an appropriate time of year. Therefore, as suggested by the appellant, it may not have been possible to undertake them prior to the submission of the appeal. Nevertheless, current advice states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. For this reason, it would be inappropriate to secure ecological surveys through a planning condition as all relevant material considerations may not then be addressed in making the decision. Moreover, in the absence of such surveys, it has not been demonstrated that there would be no harm to protected species or their habitats. Whilst I acknowledge that the proposed use of the site is in connection with the holding of a rare goat breed, has been used in the past in connection with the keeping of other livestock, and regularly mown, this does not alter my conclusion in this regard.
16. The appellant states that there is no justified case for a requirement for biodiversity net gain (BNG). However, under the statutory framework for BNG, introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021), every grant of planning permission is deemed to have been granted subject to a pre-commencement condition that the biodiversity gain objective is met. The objective is that all development, other than specified exemptions that do not include the proposal, deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. Accordingly, the undertaking of appropriate ecological surveys to identify the biodiversity value before development takes place, is also a critical step in establishing whether the biodiversity gain objective would be met.
17. For the reasons given, it has not been demonstrated that the development would not adversely affect protected species, or their habitat. The proposal therefore conflicts with LP Policy P10 and with the Framework requirements that decisions should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.

Other Considerations

18. The proposal would provide benefits through the conservation of Golden Guernsey Goats, a rare breed that is in decline as confirmed by the Rare Breeds Survival Trust. This attracts moderate weight in favour of the appeal proposal.
19. I acknowledge that day-to-day activities may involve an early start, checking on the goats throughout the day, and tending to them last thing at night. Even so, there is no compelling evidence before me that this requires someone

permanently residing at the site. Furthermore, when taking into consideration that the site is not in a vulnerable or isolated location and is overlooked by adjoining dwellings, there is an absence of adequate and objective evidence that alternative measures, such as CCTV and alarms, would not adequately address any security concerns. Given the limited evidence provided, I cannot have confidence that there is an essential need for the proposed dwelling, even for a temporary period. Accordingly, I give only limited weight to such factors.

20. The appeal site is near the built-up area of Balsall Common with good access to services and facilities. In addition, aspects of the proposed development, including the keeping of livestock and the construction of the barn and pens, are not out of character with, or unexpected in, a countryside location. Nonetheless, these are neutral factor that do not weigh in favour of the proposal.

Green belt balance

21. The Framework, at paragraph 153, states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations. I have concluded that the appeal scheme would be inappropriate development and is, by definition, harmful to the Green Belt. In addition, I have found harm to the openness of the Green Belt and the character and appearance of the area. I have also, through the absence of appropriate ecological surveys that demonstrates otherwise, found harm to protected species.
22. The other considerations I have identified are of limited or moderate weight in favour of the proposal. Consequently, these considerations, along with all other matters identified in the evidence, do not clearly outweigh the substantial weight to be given to the identified harm to the Green Belt, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

23. The proposed development conflicts with the development plan and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR