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## Appeal Decision

Site visit made on 13 November 2024

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24 March 2025**

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**Appeal Ref: APP/Q4625/W/24/3343895**

**Plot adjacent The Grove, Barston Lane, Barston B92 0JP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
  - The appeal is made by Mr David Bradley against the decision of Solihull Metropolitan Borough Council.
  - The application Ref is PL/2022/02410/MINFDW.
  - The development proposed is Construction of a detached two storey dwelling and ancillary site works.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. I have sought the parties views on the amendments and taken into account the responses received in reaching my decision.
3. Having regard to the stage of preparation of the emerging plan and in the absence of specific details regarding relevant policies and whether there are any unresolved objections or proposed modifications to them, I attach limited weight to the Local Plan Review.

### Main Issues

4. The main issues in relation to this appeal are;
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and development plan policies;
  - Whether the appeal site is a suitable location for residential development having regard to its accessibility to services and facilities;
  - The effect of the proposal on the character and appearance of the area, including the impact on trees; and
  - If the development is inappropriate, 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

#### *Inappropriate Development*

5. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It 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 indicates that other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.

6. Limited infilling in villages and limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development, are the exceptions set out at paragraph 154(e) and (g). These are the exceptions on which the appellant's case relies. Further to the amendments to the Framework, the appellant also considers the proposal would constitute the development of grey belt land.

#### *Limited Infilling in Villages*

7. Policy P17 of the Solihull Local Plan (SLP) 2013, is broadly consistent with the Framework's approach to the protection of Green Belt through restricting new development. However, it does further restrict limited infilling to 3 specified villages, none of which are relevant to the appeal site<sup>1</sup>. It goes on to say that in other Green Belt villages and hamlets, new buildings other than for agriculture and forestry, outdoor sport and recreation and cemeteries, or for extensions and alterations will be considered to be inappropriate development.
8. It is a matter of dispute as to whether the appeal site can be considered to fall within a village. The Framework does not define a village, nor does it preclude the use of additional restrictions on development in the Green Belt within local policies. However, the approach in Policy P17 is more restrictive and pre-empts any conclusions a decision-maker may have on whether a settlement is a village.
9. In my opinion, villages typically consist of a group of houses along with some associated buildings for community use such as a public house, church, primary school, village hall and local convenience store. They are larger than a hamlet (a small settlement) and smaller than a town. Caselaw has established that it is necessary for me as the decision-maker to have regard to the matter of the facts on the ground, in addition to any relevant policies<sup>2</sup>.
10. The appellant's statement does not refer to a specific village that the appeal site is considered to belong to, largely referring to the ribbon development along Barston Lane instead. The appellant suggests that the section of Barston Lane in which the appeal site is located 'is clearly not in a residential area<sup>3</sup>' but elsewhere refers to it as being part of the elongated village of Eastcote<sup>4</sup>.
11. No policies have been drawn to my attention with respect to any village boundary for Eastcote. The speed limit is 40mph rather than the 30mph you would typically expect in a village, where you may find residents walking between homes and facilities. Loose-knit development extends along Barston Lane with other sporadic dwellings located along Knowle Road and Eastcote Lane. Facilities are limited to a public house, a care home and a private GP practice, with a children's day nursery slightly more removed. Whilst these do offer some services, they would not necessarily meet the daily needs of local residents. Given these characteristics it

<sup>1</sup> The villages of Chadwick End, Cheswick Green and Tidbury Green as set out within paragraph 11.6.8 of the supporting text to Policy P17 of the SLP.

<sup>2</sup> *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195.

<sup>3</sup> Paragraph 3.10 of the appellant's final comments.

<sup>4</sup> Paragraphs 3.5 and 3.11 of the appellant's rebuttal statement.

seems to me that Eastcote is no more than a collection of buildings in a generally rural setting.

12. I acknowledge that 2 planning approvals for a retirement complex and housing have increased the amount of built development found locally. Although some plans have been supplied, the circumstances of these approvals are not before me, including whether very special circumstances for development in the Green Belt were presented. Nevertheless, their presence or consolidation of a building group, does not automatically confirm a village status.
13. It seems to me that the Eastcote Retirement Village stands in its own grounds set well back from Barston Lane in particular. A dispersed character remains with the public house and its associated car park providing a visual break between the northern and southern sections of built form. It is my judgement that Eastcote is not a village for the reasons explained. Therefore, even if I could consider that the proposal amounted to infill development, it would not satisfy the development plan or the Framework, because it would not be located in a village.
14. Reference is made to 2 previous decisions that allowed infill dwellings elsewhere within the borough<sup>5</sup>. In both cases, the Inspector's determined that the sites formed part of ribbon development washed over by Green Belt that extended out from larger and more sustainable settlements, that they were visually and physically related to. The context of these sites therefore differs to that before me, which is not located within a defined settlement and is not physically or functionally joined to the existing built form of a settlement.
15. The appellant suggests that Policy P17 in the emerging local plan includes an additional policy that limited infilling in villages shall be interpreted as the filling of a small gap within an otherwise built-up frontage with not more than two dwellings. I have already explained that I can attach no more than limited weight to the Local Plan Review, given the absence of specific details regarding relevant policies. Even then, if I could agree that the proposal met the prescribed definition of infill, it seems to me that it would still not be within a village.

#### *Previously Developed Land*

16. At the time of my visit the appeal site was so overgrown it was difficult to walk across it or establish its use from a visual inspection. The appellant's evidence with regard to the historic use of the appeal site is ambiguous. It is simultaneously suggested that it is not agricultural land and that it has never been part of The Grove, the dwelling to the south. However, it is then suggested the appeal site comprises what was once 'probably' [my emphasis] garden land<sup>6</sup>.
17. Even if I could accept that the appeal site has the dimensions of a 'house plot' and that a greenhouse exists or did exist on the appeal site, its use for growing vegetables would not specifically indicate either a residential or agricultural use on its own. In any case, it has long since blended into the landscape. Similarly, the presence of the frontage wall does not clearly define the previous use of the appeal site. For these reasons and in the absence of a certificate of lawful development, I cannot determine that the appeal site constitutes PDL<sup>7</sup>.
18. Irrespective of the above, the exception under paragraph 154(g) only applies where the proposal would not cause substantial harm to the openness of the Green Belt.

<sup>5</sup> Appeal decisions APP/Q4625/W/17/3191758 and APP/Q4625/W/17/3188046.

<sup>6</sup> Paragraph 3.19 and 3.22 of the appellant's statement of case.

<sup>7</sup> As defined within Annex 2 of the Framework.

Openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open<sup>8</sup>. It has both spatial and visual dimensions.

19. The appeal site comprises an area of land with self-seeded trees and shrubs, raised slightly above Barston Lane. The construction of a permanent 2-storey dwelling, along with associated car parking area and domestic garden on an undeveloped plot of land, would result in a spatial loss of openness. The increase in built development would be readily visible from Barston Lane. Consequently, the proposal would result in permanent harm to the spatial and visual openness of the Green Belt. Therefore, even if I could accept that the appeal site did form PDL, the proposed development would nonetheless be harmful to the openness of the Green Belt.

### *Grey-Belt Land*

20. Paragraph 155 of the Framework states that the development of homes within the Green Belt should not be regarded as inappropriate, where all of 4 criteria would be met. As the proposal does not constitute major development<sup>9</sup> it is not required to meet the golden rules set out at paragraphs 156-157 of the Framework. Criterion (d) of paragraph 155 does not therefore apply here.
21. The evidence presented is not sufficient to demonstrate that the appeal site comprises PDL. However, the definition of grey belt land provided within Annex 2 of the Framework includes any other land that does not strongly contribute to the specified purposes at paragraph 143 (a),(b) and (d). It seems to me that the appeal site with housing to 2 sides, does not strongly contribute to checking the unrestricted sprawl of large built-up areas, prevent neighbouring towns from merging, or preserve the setting and special character of historic towns. The proposal would therefore utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the plan area.
22. The appellant suggests that the Council cannot currently demonstrate a 5-year housing land supply with a shortfall of 1.56 years. This has not been disputed by the Council. I consider that there is a demonstrable unmet need for the type of development proposed. The proposal would therefore meet criterion (a) and (b) of paragraph 155 of the Framework.
23. The appeal site is located within a ribbon of development, a short distance from a public house, with a private GP practice and nursery further to the north. However, Barston Lane does not have a continuous footpath or streetlighting. With speeds up to 40mph it would not be particularly pleasant to walk even these short distances, especially with push chairs or children, or in the dark. Neither would it be safe to walk children to the nursery beyond the crossroads without a dedicated crossing. The private GP practice would only provide a limited service to those patrons willing to pay for it.
24. The appeal site would be within catchment areas for facilities such as doctor's surgeries and schools and there may be school, as well as ring and ride bus services<sup>10</sup>. Some journeys could therefore be made by a form of public transport but this would be limited to school children or qualifying residents who have special

<sup>8</sup> As described at paragraph 142 of the Framework.

<sup>9</sup> As defined within Annex 2 of the Framework.

<sup>10</sup> With reference to the catchment area for Hampton in Arden GP practice and the school bus timetables for George Fentham Primary School and Heart of England Secondary School as presented in appendices 5, 6 and 7 of the appellant's statement of case.

needs. These services, along with the availability of supermarket delivery or fulfilment services, do not reduce the need to travel and are instead likely to generate additional journeys by vehicle.

25. Future occupants would typically have to travel away from the appeal site to visit a shop, supermarket, access employment areas or leisure/entertainment facilities to meet their everyday needs. As I have not been directed to a public bus or rail service close to the appeal site, such trips would be most conveniently undertaken by car, for the majority of future occupants. For these reasons, I find that the location of the appeal site is such that future occupiers of the proposed dwelling would be car dependant.
26. Whilst sites in rural areas are often not well served by public transport, and opportunities to maximise sustainable transport solutions will be more limited than in urban areas, the location of the proposed development would nevertheless fail to achieve the Framework and Council's goals of encouraging a shift to sustainable forms of travel. For these reasons the proposed development would not be in a sustainable location.

#### *Conclusion – Inappropriate Development*

27. The proposal would fail to meet either of the exceptions set out in paragraph 154(e) and (g) of the Framework. Whilst it would comply with criterion (a) and (b) of paragraph 155, it would fail to meet (c) for the development of homes in the Green Belt. The Framework is clear that all criteria are to be met. I find that the proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Suitable Location*

28. Paragraph 117 of the Framework places pedestrians and cyclists at the top of the movement hierarchy, with the facilitation of public transport as a matter to be pursued as far as possible.
29. Policy P5 of the SLP, with regard to the provision of land for housing, requires new development to be located in an accessible location, contribute to local housing needs and to enhance local character and distinctiveness. It goes on to suggest that new housing will not be permitted in locations where accessibility to employment, centres and a range of services and facilities is poor, unless there are exceptional circumstances.
30. Similarly, Policy P7 of the SLP generally seeks to focus development on the most accessible locations. It contains a number of accessibility standards for distances of new housing to schools, doctors, food shops, railway stations and employment areas. Proposals for fewer than 3 dwellings in urban areas and within rural settlements are exempt from these criteria. Both national and local policy therefore seeks to focus development on the most accessible locations.
31. Given the proximity of adjoining development, the proposal would not be physically isolated from other buildings. However, I have already determined that the appeal site does not form part of a village and there is no evidence before me to suggest that the appeal site is within a rural settlement or urban area. When applied, the proposal does not comply with the numerical distances to the specific services identified within criteria a)(i) of Policy P7. I have further determined that the proposed development would not be in a sustainable location and explained that future occupiers would largely be car dependant, despite a small number of

facilities nearby. No particular exceptional circumstances have been demonstrated to justify deviation from the requirements of Policies P5 or P7 of the SLP.

32. For the above reasons, I find that the appeal site is not a suitable location for residential development having regard to its accessibility to services and facilities. The proposal would therefore be contrary to Policies P5 and P7 of the SLP as set out above. Conflict is also found with paragraphs 115 and 117 of the Framework, which seek to prioritise pedestrian and cycle movements and ensure sustainable transport modes are prioritised.

### *Character and Appearance*

33. Barston Lane is characterised by loose-knit ribbon development along the south-western side of the road, with properties varying in their age, position to the road and the width of the plots. To the north-eastern side lies extensive agricultural land enclosed by a mature hedgerow and boundary trees, such that the rural location is readily apparent. As an undeveloped plot of land containing self-seeded shrubs and trees, the appeal site contributes positively to the verdant character of the countryside.
34. Buildings along Barston Lane are typically detached 2-storey dwellings with a balanced proportion of windows to wall within the front elevations. Gables are generally positioned to the side. Where they do occur to the front, they do so in singular formation, providing an architectural focal point for the front elevation. Windows are centrally located within the gable and chimneys are located on the ridges of roofs.
35. The proposed dwelling whilst detached and 2-storey in height, would present 2 front facing gables with long forward projections to the street scene. Coupled with features including a lean-to porch, roof lantern and eaves level chimney, the resultant dwelling would have an overly complicated appearance atypical of those found nearby. The proposed development would therefore stand out as an incongruous and harmful addition within the street scene. I observed that gaps free from built development occur between buildings in the locality, reinforcing the rural character of the area. Whether or not the proposal would be less urbanising than the retirement village, it would nonetheless erode a verdant parcel of land that contributes to the integrity of the area.

### *Impact on Trees*

36. A number of self-seeded trees are located within the appeal site and there are 2 mature trees outside, but close to, the northern and southern boundaries. T1 is identified as being of high arboricultural value with more than 40 years lifespan, while T3 is of fair structural and physiological condition with a lifespan of between 10-20 years. They are visible from within the street scene and contribute to the verdant character of Barston Lane.
37. The appeal submission is accompanied by an Arboricultural Impact Statement (AIS) which advises that there will be an overall loss of 1 category C tree and 3 category C groups. It is suggested that their removal will have minimal impact on the street scene and I have no reason to reach a different view.
38. The AIS advises that the default position should be that structures are located outside the root protection areas (RPA) of trees to be retained. Whilst this does not preclude some incursions, they should not exceed 20% of any existing unsurfaced

ground within the RPA. The AIS suggests that the proposed dwelling would intrude 1.9% into the RPA of T1 and thus within the suggested tolerance parameters.

39. However, the AIS has not had regard to the proposed landscape masterplan. Whilst the appellant suggests that the masterplan is an interpretation of how the eventual development could be laid out, there is no evidence that it is intended to be indicative<sup>11</sup>. To the contrary, it is extremely detailed. The masterplan indicates that paved patio areas and a pond would also encroach into the RPA of T1 including under the crown spread. It is unclear to what extent if any, such works would affect the significant, structural roots of this tree. Nuisance from pinecone debris may also be generated given the suggested position of the proposed patio areas which could lead to pressure to prune or fell the tree from the future occupants.
40. Moreover, a 44.7% incursion into the RPA of T3 would occur, significantly above the recommended guidance allowance. The AIS suggests that as the corner of the dwelling that would cause the incursion would be on the periphery of the RPA its impact would be acceptable. I note that the Council's Landscape Officer does not object to the proposal and it is also suggested that the proposed driveway can be mitigated using an above soil construction methodology. However, the position of the driveway is such that it would generate pressure to prune T3 which would not be the case without the proposed development<sup>12</sup>.
41. The proposal would therefore increase the risk of works to trees that could reduce their contribution to the character of the area. Given that the AIS does not appear to have considered the proposed landscape masterplan, I cannot be certain that the proposed development in its entirety is acceptable with regard to the impact on trees, or that any adverse impacts can be properly mitigated. Given the diverging information and constraints provided by the trees, I am not satisfied that this matter could be appropriately dealt with by condition.

### *Conclusion – Character and Appearance*

42. The proposed development would have an adverse effect on the character and appearance of the area, including the impact on trees. For these reasons it would fail to comply with Policies P5 and P15 of the SLP which seek to conserve and enhance local character, distinctiveness and streetscape quality and ensure that the scale, massing, layout and landscape of the development amongst other things, respects the surrounding natural and built environment. The proposal would also be contrary to the Framework which requires developments to be of a high-quality design and sympathetic to local character.

### *Other Considerations*

43. The proposal would provide one new dwelling on a site that is not physically isolated from other built form. It would contribute to housing supply within the borough at a time when the Council cannot demonstrate a 5-year supply of deliverable housing sites and the Government's objective is to boost housing. Given the small scale of the proposal, it would attract modest weight.

<sup>11</sup> As described in the appellant's 'comment on response to Planning Inspector' document, dated November 2024.

<sup>12</sup> As cited at paragraph 6.7.3 of the AIS.

## Other Matters

44. Reference is made to a planning application pending determination for the redevelopment of 3 outbuildings within Eastcote Cottage<sup>13</sup>. However, no further details of this application have been presented to me such that I am unclear of its relevance to the appeal before me.
45. Interested parties have raised concerns with regard to the impact of the proposed development on ecology. Had the proposal been acceptable in other regards, I would need to have been satisfied at the point of determination that biodiversity and protected species would not be harmed. Given my findings in respect of the main issues, this matter is not determinative. The lack of objections with regard to the impact of the proposal on the living conditions of neighbouring occupiers, highway safety and drainage are neutral matters that weigh neither for, nor against, the proposal.

## Planning Balance and Conclusion

46. The proposal would amount to inappropriate development in the Green Belt resulting in a loss of openness through the encroachment of development into the countryside. The Framework establishes that substantial weight should be given to any harm to the Green Belt.
47. There would be a modest benefit arising from the creation of a new dwelling. However, it would not clearly outweigh the harm that I have identified to the Green Belt and the character and appearance of the area. Consequently, the very special circumstances necessary to justify the proposal do not exist.
48. The Council cannot demonstrate a 5-year supply of housing. Nevertheless, the presumption in favour of sustainable development is not engaged regardless of any shortfall, if the application of policies in the Framework that protect areas of importance, provide a clear reason for refusing the development proposed<sup>14</sup>. This includes land designated as Green Belt and, in this case, the harm identified to the Green Belt provides a clear reason for refusing the proposal. The proposal would not benefit from the presumption in favour of sustainable development.
49. Even if paragraph 11(d) of the Framework was engaged, the adverse impacts of granting planning permission would not be significantly and demonstrably outweighed by the benefits.
50. The scheme conflicts with the development plan and there are no material considerations including the Framework which indicate a decision should be made other than in accordance with it. Accordingly, the appeal is dismissed.

*M Clowes*

INSPECTOR

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<sup>13</sup> Planning application reference PL/2023/01721/PPFL as cited at paragraph 3.17 of the appellant's statement of case.

<sup>14</sup> Paragraph 11 and footnote 7 of the Framework.