



Appeal Decisions

Site visit made on 20 May 2025

by **K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal A Ref: APP/Q4625/W/24/3355938

Windmill Lane, Dorridge, Solihull B93 8PZ

- 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 Omar Khatib against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2024/01101/PPFL.
 - The development proposed is erection of a dwelling and associated works.
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Appeal B Ref: APP/Q4625/W/24/3355939

Windmill Lane, Dorridge, Solihull B93 8PZ

- 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 Omar Khatib against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2024/01102/PPFL.
 - The development proposed is erection of a dwelling and associated works.
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Appeal A: Decision

1. Appeal A is dismissed.

Appeal B: Decision

2. Appeal B is dismissed.

Applications for costs

3. An application for an award of costs was made on Appeal A by Mr Omar Khatib against Solihull Metropolitan Borough Council. This application will be the subject of a separate decision.

Preliminary Matters

4. As set out above there are two appeals on this site. Appeal A seeks permission to build a new dwelling of the same design and scale as a scheme previously approved as a conversion. Appeal B seeks permission to build a new dwelling of a larger footprint and different design detailing. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. The description of development in the banner heading for both appeals is taken, in part, from the Council's decision notice. I have deleted reference to the demolition of the stables as these no longer form part of the site. The appellant's description of development in the application forms do not reflect what is being proposed and I

have, therefore, described the scheme as the erection of a dwelling and associated works.

6. At my site visit I observed that the stable building had been demolished and that construction work on a new dwelling had commenced.
7. The draft local plan has been withdrawn. As such, I give no weight to draft policies or discussions at examination.

Main Issues

8. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies, including the effect of the development on the openness of the Green Belt;
 - whether the appeal site is suitably located in relation to services and facilities; 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 necessary to justify the proposal.

Reasons

Whether inappropriate development

9. Paragraph 154 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent the replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces (154(d)), or they represent partial or complete redevelopment of previously developed land (PDL) which would not cause substantial harm to the openness of the Green Belt (154(g)).
10. Policy P17 of the Solihull Local Plan, Shaping a Sustainable Future, December 2013 (the LP) reflects the Framework in resisting development in the Green Belt except in certain circumstances. The most relevant are – development involving the replacement of buildings in the Green Belt will not be permitted if it will harm the need to retain smaller affordable housing or the purposes of including land within the Green Belt; and where the re-use of buildings is proposed, the new use, and any associated use of land surrounding the building, should not conflict with, or have a materially greater impact on the openness of the Green Belt and the purposes of including land in it.
11. A stable building previously sat on the appeal site and the appellant had planning permission to convert the stables to a dwelling. However, even if I accept the appellant's argument that work had commenced on the conversion scheme, the stable building has since been demolished and, therefore, there is no existing building to convert or replace. I have no compelling evidence that the condition of the stables was a significant health and safety risk nor any compelling evidence that the stables were not capable of being converted. Even so, the building has

been demolished and, although it had planning permission to be converted to a dwelling, this permission is no longer a valid fallback position. Having regard to the North Wilshire caselaw¹, the Baroness Cumberlege caselaw², and the appeal decision at Snitterfield³, the previous permission is not a material consideration to the decision. The appellant is no longer able to convert the building. There is also no building to replace, even if the appellant proposed replacement stables.

12. Furthermore, both appeals before me are for a new dwelling which would be a different use to the equestrian use of the stables. Even if the conversion work had commenced, the use of the building was not residential as the work had not been completed and the property had not been occupied. The building proposed in Appeal B would also be materially larger than the one that was previously on site. Neither Appeal A nor Appeal B would comply with the exception under Paragraph 154(d) of the Framework for these reasons.
13. Both main parties agree that the stables fell within the definition of PDL. Although the Council are continuing to argue that the paddock around the stables is not PDL, the Inspector in determining a previous appeal for a new dwelling on the same site⁴ accepted that the whole of the site fell within the definition of PDL, and I have no reasons to disagree with the finding of that decision. Although the stables have been demolished the definition of PDL in Annex 2 of the Framework includes land which is, or was, occupied by a permanent structure. I, therefore, find that the appeal site continues to fall within the definition of PDL, even though the stables have been demolished.
14. Paragraph 154(g) of the Framework allows for redevelopment of PDL providing it would not cause substantial harm to the openness of the Green Belt. This is a change in the wording since the previous version of the Framework which required such development to not have a greater impact on openness. Policy P17 of the LP reflects the previous version of the Framework and, in that regard, is not wholly consistent with the latest version of the Framework which sets a higher threshold of harm in respect of the openness of the Green Belt.
15. The appellant has also drawn my attention to footnote 55 of the Framework which relates to paragraph 153 and the requirement for substantial weight to be given to any harm to the Green Belt, including harm to its openness. Footnote 55 advises that this is other than in the case of development on previously developed land or grey belt, where development is not inappropriate. Although I note the wording of footnote 55 this needs to be read alongside the requirement of 154(g) and that any development of PDL needs to not cause substantial harm to openness. Footnote 55 does not provide a blanket approval for all PDL in the Green Belt.
16. The appeal site, at the time of my visit, contained the first few courses of blockwork of a new dwelling, piles of rubble and waste material, and a trench for services. Not all of the building works carried out on site have planning permission and would, therefore, not comply with the definition of PDL. Consequently, although there are some parts of a structure there is no existing building on the site. The land is open and devoid of buildings even though it is PDL.

¹ North Wiltshire DC v SSE & Clover [1992] JPL 955, (1993) 65 P&CR 137

² Baroness Cumberlege of Newick & Cumberlege v SSCLG & DLA Delivery Ltd [2017] EWHC 2057 (Admin), [2018] EWCA 1305; [2018] JPL 1268

³ APP/J3720/W/16/3167715

⁴ APP/Q4625/W/22/3310448

17. Views from the road outside the site are limited due to existing boundary fences and hedges. Nevertheless, the lack of development on the site currently contributes positively to the spatial aspect of openness. Furthermore, the site's visual openness is experienced from the properties around the site.
18. For both Appeal A and Appeal B, as I have already found that there is no existing building on site and the fallback of converting the stables has been lost, the proposal would result in a new dwelling on land which is currently open, albeit PDL. The proposal would result in one dwelling and other domestic paraphernalia that would lead to encroachment into the countryside, contrary to one of the aims of the Green Belt.
19. Both Appeal A and Appeal B would result in harmful visual impact to the openness of the Green Belt from the introduction of built development on an open site. For Appeal B, the visual effect would be greater than for Appeal A, due to the scale of the building proposed, the gable end projection on the front, and the open sided area on the end. I have no compelling evidence that, even if the appellant had converted the stable building, extensions and alterations would have been granted planning permission given the appeal site is within the Green Belt and considering the requirement of Paragraph 154(c) of the Framework and the advice in the Solihull House Extension Guidelines Supplementary Planning Document. The harm to the visual aspect of openness for both schemes would be moderate as the development would be screened from the road but would be visible to neighbouring properties.
20. However, openness also has a spatial aspect which is an absence of development, rather than an absence of a view. The appeal proposal would introduce development on a site where there is currently none. Even though the site is between existing houses, and even though I have accepted that the site is PDL, both appeal schemes before me would introduce new buildings and would, therefore, have a substantial impact on the spatial aspect of the openness of the Green Belt. The limited public views of the appeal proposal do not alter the spatial impact.
21. Moreover, the associated works including the parking and turning area and other domestic paraphernalia would reduce the openness of the site and introduce structures and features where the land is currently open. The proposed new dwellings in both schemes and the associated works would cause substantial harm to the spatial aspect of the openness of the Green Belt.
22. For the above reasons, the proposal would not constitute the replacement of a building of the same use and not materially larger than the one it replaces. Moreover, although the proposal would constitute the redevelopment of previously developed land, both Appeal A and Appeal B would cause substantial harm to the openness of the Green Belt.
23. The proposed development in both appeals before me would, therefore, be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and relevant development plan policies, including the effect of the development on the openness of the Green Belt, contrary to Paragraph 154(d) and 154(g) of the Framework and Policy P17 of the LP.

24. In coming to this decision, I have had regard to the Lee Valley case⁵.

Location

25. Policy P5 of the LP supports new housing on unidentified sites in accessible locations subject to meeting housing needs, enhancing local character and distinctiveness, and, if located in places where accessibility to employment, centres and a range of services is poor, there would need to be exceptional circumstances. Policy P7 of the LP provides numerical standards for accessibility, providing distances to schools, doctors, food shops, railway stations and employment areas to ensure that development is in the most sustainable locations.
26. The appeal site lies near Dorridge. Policy P7 sets an exception for proposals of fewer than three dwellings in urban areas west of the M42 and in rural settlements. However, the appeal site is not within Dorridge or any other rural settlement, it is also not within an urban area. Therefore, this exception would not apply. The nearest bus stop is less than 800m from the site, although I acknowledge that this bus stop has a limited service. All of the other facilities in Dorridge would be beyond the distance requirements of Policy P7 of the LP.
27. Moreover, the walk would be along a country lane with no pavements or lighting. Although there are grass verges where a pedestrian could wait for a vehicle to pass, the distance to the nearest services and facilities would be beyond a reasonable walking distance. It is unlikely that residents of either appeal scheme would walk between the site and the nearby settlement for day-to-day facilities, especially in inclement weather or after dark. Access to the core walking or public transport network is neither attractive nor overlooked, contrary to the requirements of Policy P7 of the LP. Cycling would be a reasonable option for travel between the site and the larger settlement, though residents are unlikely to cycle for shopping trips.
28. Given the location of the site, beyond the settlement, there are limited opportunities for sustainable transport modes or for residents to undertake many activities without the use of the private car. Whilst I recognise that sites in rural areas are often not well served by public transport, and that opportunities to maximise sustainable transport solutions will be more limited than in urban areas, nevertheless neither appeal proposal would help to support the Council's goal of encouraging a shift to sustainable forms of travel. In my judgement, the occupants of the future developments would be likely to rely on the private car for the majority of journeys. Neither appeal scheme would, therefore, promote sustainable modes of transport or reduce carbon emissions.
29. For the above reasons, I find that the site is not suitably located in relation to services and facilities and both Appeal A and Appeal B would be contrary to Policies P5 and P7 of the LP which, taken together, seek to resist new housing in locations where accessibility to employment, centres, and a range of services and facilities is poor, and seek to ensure that all development is focused in the most accessible locations through meeting the accessibility criteria listed, unless justified by local circumstances.

⁵ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

Other considerations

30. Paragraph 155 of the Framework advises that the development of homes in the Green Belt should not be regarded as inappropriate subject to compliance with all of the subsequent bullet points. The appeal site would not result in the unrestricted sprawl of a large built-up area, it would not result in neighbouring towns merging and it would not affect the setting or special character of a historic town. The appeal site would, therefore, constitute Grey Belt land when assessed against the definition in Annex 2 as it is both PDL and other land that does not strongly contribute to purposes (a), (b) or (d) in paragraph 143.
31. The appeal site would result in encroachment in the countryside. Nevertheless, given the scale of the proposal, I find that this would not fundamentally undermine the purposes of the remaining Green Belt. Given the lack of a five year housing land supply in the Borough there is demonstrable unmet need for housing. However, I have found that the appeal site would not be in a sustainable location and, therefore, neither Appeal A nor Appeal B would comply with the requirement of paragraph 155(c) of the Framework.
32. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that both Appeal A and Appeal B would comprise inappropriate development in the Green Belt, even considering the status of the land as PDL and even though the site did previously benefit from planning permission for conversion of a stable building. In addition, there are adverse impacts to the visual and spatial aspects of openness resulting from both schemes. Very special circumstances will not exist unless the harm to the Green Belt, and any other harms, are clearly outweighed by other considerations.
33. There would also be adverse harm from the location of the site and the reliance on the private car. I give significant weight to this harm. The appeals would also fail to comply with one of the five purposes of the Green Belt in that they would result in encroachment into the countryside.
34. Both Appeal A and Appeal B would have associated social and economic benefits both during and post construction and add to the supply of housing in the local authority area. Appeal B would also have environmental benefits of reducing waste and energy from building the larger dwelling rather than a smaller property to then be extended. However, as both schemes propose one dwelling these benefits would be limited.
35. Both schemes would have a neutral effect on the living conditions of the occupiers of neighbouring properties, highway safety and biodiversity. These matters weigh neither for, nor against the proposals.
36. For the above reasons I find that the other considerations in this case do not clearly outweigh the harm that I have identified to the Green Belt and other matters. Consequently, the very special circumstances necessary to justify the development do not exist.

Other Matters

37. I consider that the harm and policy conflict I have identified would be such that both proposals would conflict with the development plan as a whole. An important

material consideration is the Framework. In this regard, the Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing land with the housing supply, at the time of the decision, being 3.60 years, which is a moderate shortfall. Paragraph 11d) of the Framework therefore applies.

38. However, as set out at footnote 7, if the policies in the Framework relating to the Green Belt provide a strong reason for refusing the development proposed, then the 'tilted balance' is disengaged. In this case, I have found that the harm to the Green Belt would not be outweighed by the benefits, and this provides a strong reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework does not apply.
39. The appellant has referred to lack of communication from the Council and that they have not approached the decision positively. However, the conduct of the Council during the consideration of the application does not affect my findings on the main issues.

Conclusion

40. Appeal A conflicts with the development plan and the Framework. There are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, Appeal A is dismissed.
41. Appeal B conflicts with the development plan and the Framework. There are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, Appeal B is dismissed.

K Townsend

INSPECTOR