



Appeal Decision

Site visit made on 28 May 2025

by **Les Greenwood MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 June 2025

Appeal Ref: APP/Q4625/W/25/3362319

46 Lovelace Avenue, Solihull B91 3JR

- 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 M Thamas against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2024/01090/PPFL.
 - The development proposed is the erection of one self-build house to the rear of 46 Lovelace Avenue with associated works to 46 Lovelace Avenue.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one self-build house to the rear of 46 Lovelace Avenue with associated works to 46 Lovelace Avenue, at 46 Lovelace Avenue, Solihull B91 3JR in accordance with the terms of the application, Ref PL/2024/01090/PPFL, subject to the conditions set out in the attached Schedule.

Preliminary matter

2. The appellant's appeal statement indicates that the application/appeal is for outline planning permission, with matters of detail reserved for later determination. The application form is clear, however, that the application is for full planning permission and the Council has treated it as such. Reasonably full details have been submitted and the drawings are not marked as being indicative only. I therefore take the appeal proposal to be for full planning permission.

Main Issues

3. The main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt; and
 - ii) The effect of the proposal on the character and appearance of Lovelace Avenue, including the effect on trees.

Reasons

Whether inappropriate development in the Green Belt

4. Lovelace Avenue is a private street lined by large houses on extensive plots. The houses are set back from the street to allow for frontage parking and landscaping, but do as a rule front onto the highway. No 46 is typical in all these respects. It sits in the middle of a row of houses, with its long back garden sloping down to the rear. The proposal is to build a new 1.5 storey house at the bottom of the garden, with

access along the side of No 46 provided in part by demolishing a small, single storey side section of that house.

5. Paragraph 153 of the National Planning Policy Framework (the Framework) advises that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 explains that development in the Green Belt is inappropriate unless one of the listed exceptions applies. These exceptions include: (e) limited infilling in villages.
6. Policy P17 of the Solihull Local Plan (LP) takes a very similar approach to inappropriate development in the Green Belt, with an exception for limited infilling which it defines as the filling of a small gap within an otherwise built-up frontage with not more than 2 dwellings. In the absence of any definition for 'limited infilling' in the Framework, this development plan definition establishes the baseline for assessing this proposal.
7. The Council confirms that it has allowed other infill houses to be built on Lovelace Avenue, but these were all in gaps in the built frontage. The proposed siting in this case would be well to the rear of the built frontage. Although the new house would sit next to a commercial nursery with greenhouses and polytunnels, this would not bring it within the definition of limited infilling in LP policy P17. I note that a swimming pool building has been permitted in a next door garden, but this has not been built and would make no real difference to my assessment in any case.
8. The appellant refers to another house being built to the rear of the existing frontages, on the other side of Lovelace Avenue. That plot (No 97) is accessed from the end of the lane and appears to be in a different situation, much farther to the rear of the existing properties. I have not been provided with any details of its consideration by the Council. On the basis of the scant evidence before me, it appears to be a materially different case. I find that the appeal proposal would not constitute limited infilling as defined in LP policy P17 and therefore would not meet the exceptions set out in that policy and the Framework.
9. The December 2024 revisions to the Framework (as corrected in February 2025), however, introduce a further potential exemption to the generally restrictive Green Belt policies, through the concept of the 'grey belt'. This new policy considerably post-dates the adoption of the LP. The Framework is the more up-to-date document in this regard.
10. The definition of 'grey belt' is set out in Annex 2 of the Framework. Although the appeal site is not previously developed land, this on its own does not stop it being grey belt. Crucially in this case, the site does not strongly contribute to purposes (a), (b), or (d) for including land in the Green Belt, as set out in Framework paragraph 143: it does not assist in checking the sprawl of any large built-up area, does not help to prevent neighbouring towns from merging and does not help to preserve the setting and character of a historic town. Furthermore, the site is not within an area where the particular protections referenced within paragraph 155 apply. It can therefore be considered to be grey belt land.
11. Framework paragraph 155 states that the development of new homes on grey belt sites should not be considered inappropriate in the Green Belt so long as a set of criteria are met. The key here is criteria (b), which states that there must be a demonstrable unmet need for the type of development proposed. Footnote 56 of

the Framework confirms that this includes cases where there is a lack of a 5 year supply of deliverable housing sites.

12. The Council advises that its latest published figures show a housing land supply of 4.19 years, but this figure is for April 2020 and must be out-of-date in 2025. The appellant refers to a much more recent appeal decision¹ indicating that the Council's actual supply of deliverable housing sites is much more limited than this, within the range 1.11 to 2.13 years. As concluded by that Inspector, this is a significant shortfall in the amount of housing land required to meet the need for homes in the Borough. This demonstrable unmet needs meets criterion (b) of Framework paragraph 155.
13. The proposal also meets the other criteria set out in paragraph 155: (a) the development would not fundamentally undermine the purposes of the Green Belt; (c) the development would be in a sustainable location, given that the Council accepts that the site is sufficiently close to local services to meet the accessibility requirements of LP policy P7; and (d) the 'golden rules' for affordable housing provision set out in Framework paragraphs 156 and 157 do not apply to such small scale housing development.
14. The requirements of Framework paragraph 155 are therefore met. This means that, despite my negative findings about limited infilling, the proposal is not for inappropriate development in the Green Belt due to its compliance with recent national policy regarding development of grey belt land within the Green Belt.

Character and appearance

15. The proposed new house would sit well to the rear of the line of houses fronting onto Lovelace Avenue, in a backland position. The Council's Residential Backland Development Supplementary Planning Document (SPD) acknowledges that in suburban areas of low density like this, backland development can potentially enhance places and bring benefits by providing new homes, adding amongst other things to architectural quality and streetscape variety. It also cautions, however, against piecemeal development, over-urbanisation and over-development of backland areas and loss of green spaces.
16. Notwithstanding the reference to 97 Lovelace Avenue above, it appears to me that the proposed new home in the rear garden of No 46 would be the first new backland house on the street. It would therefore be at odds with the local pattern of development. This would be most clearly marked by the proposed site access, which would have to squeeze through a narrow gap between the retained structure at No 46 and the side boundary. The SPD specifically warns against this type of situation, where an unattractive tunnel effect would be created by development up to the site boundaries with lack of space for planting either side. The visual dominance of the hard surfacing and structures here would conflict with the much greener, more spacious character of the street.
17. The proposed house, on the other hand, would be almost out of view – a low structure at the bottom of the slope. It has been well thought out to appear as a subservient structure to the main house, in both scale and design. The tree survey and other details submitted with the appeal show that sufficient trees could be retained and new trees planted so that the new house would sit comfortably within

¹ APP/Q4625/W/24/3351230, dated 27 February 2025

a green setting. Although in an uncharacteristic position, the new building would in itself have little impact on local character and appearance.

18. My concern about the appearance of the site access, however, is the overriding factor here. I conclude that the proposal would cause minor but still significant harm to the character and appearance of Lovelace Avenue. It therefore conflicts in this respect with LP policies P5 and P15 and the SPD, which aim to ensure that development achieves good quality, inclusive and sustainable design that conserves and enhances local character, distinctiveness and streetscape quality. The Council also refers to LP policies P8 and P10 here. These relate to the safety and sustainability of accesses and to the effect on biodiversity, so do not appear to be directly relevant to this particular issue.

Other matters

19. I have taken the views of local residents and other interested parties into account. I note in particular that the junction of Lovelace Avenue with Widney Manor Road is already very busy, but there appears to be good visibility for drivers there. The Highway Authority does not raise any objection to the proposal and I have no reason to think that the addition of traffic from a single new dwelling would cause any significant danger on Lovelace Avenue or at the junction. A small amount of noise and disturbance would no doubt be caused to neighbours by traffic using the access but this would be reasonably minimal, given that only a single house would be involved. I likewise have no evidence to suggest that utility capacity or drainage should be overriding issues here.
20. Although the commercial nursery next to the site has concerns about the effect on its buildings and operation, I see no reason why the creation of a single dwelling next door should necessarily cause such problems. Finally, as the proposed house would be a self-build dwelling it would be exempt from Biodiversity Net Gain requirements, though normal biodiversity issues remain relevant, in line with LP policy P10. Biodiversity preservation and enhancement can be dealt with by conditions.

Planning balance

21. Although the proposal is not inappropriate in the Green Belt, it does significantly conflict with LP policies P5 and P15 due to harm to local character. The proposal therefore conflicts with the development plan, taken as a whole. In line with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should not be granted unless there are material circumstances that indicate a decision in conflict with the development plan.
22. The scheme would bring some economic benefits, but the key consideration here is housing land supply. In line with Framework Footnote 8, the Council's shortfall in the supply of deliverable housing sites triggers the 'tilted balance' set out at paragraph 11(d) of the Framework. This means that the development plan policies (excluding Green Belt policies) most important for determining the appeal - in this case LP policies P5 and P15 - are considered to be out-of-date.
23. In this situation, paragraph 11(d) states that planning permission should be granted unless one of 2 circumstances applies. Firstly, refusal could be indicated if the proposal would conflict with Framework policies protecting areas or assets of particular importance, such as conservation areas. Except for the Green Belt, which

is dealt with above, this area has no relevant special designation, so there would be no policy conflict in this regard.

24. Secondly, planning permission should not be granted if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In my assessment, the harm to local character and appearance caused by the access proposals would in this case be relatively minor and clearly outweighed by the need for additional housing. Although this single dwelling would make only a limited contribution to overall housing supply, this would not be insignificant bearing in mind the strong need to address the shortfall and the statement in Framework paragraph 70 that small and medium sized sites can make an important contribution to meeting the housing requirement of an area.
25. I understand the concerns about a precedent being set for backland development, but have assessed this case on its own merits, in light of the circumstances prevailing at this time.

Conditions

26. I impose a condition specifying the relevant plans to provide certainty. Three conditions concerning a Construction Environmental Management Plan, the implementation of tree protection measures and proposed site levels need to be dealt with before development commences - to avoid harm to the local environment including biodiversity and to establish approval for detailed levels on this sloping site in the interest of local character and appearance.
27. Conditions requiring approval of materials and landscaping are also needed to protect local character and appearance. A scheme of biodiversity enhancements is required, as set out above. Conditions detailing appropriate site access, parking and gates are needed for highway safety reasons. Finally, a condition requiring this to be a self-build dwelling as presented is needed to secure the proposed use, which is exempt from Biodiversity Net Gain requirements. The wording of this condition is based on one imposed in another self-build housing appeal decision², as suggested by the appellant. This restricts first occupation to someone with a primary input into design and layout, which may be a limiting factor for this detailed scheme but is an important aspect of self-build and custom build housing.

Conclusion

28. Although I find some conflict with development plan policies, the strong need for additional housing in general and self-build housing in particular leads me to find that there are material circumstances in this case indicating a decision in conflict with the development plan. I therefore conclude that the appeal should succeed.

Les Greenwood

INSPECTOR

² Ref APP/F2415/W/22/3303898

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9498/pl1000A, 9498/pl1001A, 9498/pl1002, 9498/pl1003, 9498/pl1004, 9498/pl1005A, 9498/pl1006 and DEV241213-1257.
- 3) Before the development hereby permitted is commenced a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The plan shall include:
 - a) The parking of vehicles of site operatives and visitors;
 - b) Loading/unloading and storage of construction materials ;
 - c) A detailed reactive and proactive road cleaning schedule, incorporating the use of road sweepers, on-site wheel wash facilities and the use of hand brooms on wheels and roads where necessary;
 - d) Measures to control the emission of dust and noise during construction;
 - e) A scheme for recycling/disposing of waste resulting from site preparation and construction works;
 - f) Hours of construction work, site opening times, hours of deliveries and removal of materials;
 - g) Full details of any piling technique to be employed, and the control of hours of use if relevant;
 - h) Location of temporary buildings and associated generators, compounds, structures and enclosures;
 - i) Routing of construction traffic and indication of signage locations to assist those delivering to the site;
 - j) Contact details for site manager, including how these details will be displayed on site;
 - k) Full details of preventative measures to avoid surface water run-off during construction; and
 - l) measures to safeguard local ecology during construction in general accordance with the submitted Preliminary Ecological Assessment HE 1940623.

The development shall thereafter be carried out in full accordance with the approved details.

- 4) Before the development hereby permitted is commenced the tree protection measures detailed on drawing MWA/TPP/01 shall be fully implemented. The approved tree protection measures shall be retained in place for the duration of the development works and the development shall be carried out fully in accordance with the details of the Arboricultural Method Statement in the Arboricultural Appraisal Report DEV241213-1257.
- 5) Before the development hereby permitted is commenced details of existing and proposed contours of the site, adjoining land and highways and finished floor levels of the building all relative to Ordnance Datum shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details.

- 6) No above ground works shall be carried out as part of the development hereby permitted until a schedule of external materials has been submitted to an approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details.
- 7) No above ground works shall be carried out as part of the development hereby permitted until a scheme of hard and soft landscaping works including trees to be retained, details of new tree planting, hard surfacing and site enclosures together with a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with these approved details and all hard surfacing shall be retained as approved thereafter. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) The development hereby permitted shall not be occupied until a scheme of biodiversity enhancement measures in general accordance with the submitted Preliminary Ecological Assessment HE 1940623 has been submitted to and approved in writing by the Local Planning Authority and has been implemented in full. The approved measures shall thereafter be retained throughout the lifetime of the development.
- 9) The dwelling hereby permitted shall not be occupied until a means of vehicular access has been constructed and car parking spaces provided in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved access and car parking spaces shall be retained available for these uses throughout the lifetime of the development.
- 10) Any vehicular access gates to be provided within the development shall be sited at a minimum of 5 metres from the edge of the adjoining carriageway and shall only open away from the highway.
- 11) The dwelling hereby permitted shall be constructed as a self-build dwelling within the definition of self-build and custom build housing set out in the Self-build and Custom Build Housing Act 2015. The first occupation of the dwelling shall be by a person or persons who had a primary input into the design and layout of the unit and who intend(s) to live in the unit for at least 3 years. The Council shall be notified of the person(s) who intend to take up first occupation of the dwelling hereby permitted at least 2 months prior to first occupation.