



Appeal Decision

Site visit made on 25 November 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2025

Appeal Ref: APP/Q4625/W/25/3369762

Rose Cottage, Lavender Hall Lane, Berkswell, Solihull CV7 7BL

- 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 Rick Taylor against the decision of Solihull Metropolitan Borough Council.
- The application Ref is PL/2025/00348/PPFL.
- The development proposed is change of use of grass area purchased from neighbouring field from agricultural to residential to form a garden.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the National Planning Policy Framework, including the effect on openness;
 - the effect of the development on the character of the area with particular regard to the Berkswell Conservation Area; 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 required to justify the proposal.

Reasons

Whether inappropriate development

3. The appeal site falls within land designated as Green Belt. It comprises part of a larger agricultural field to the rear of the host dwelling, Rose Cottage. Policy P17 of the Solihull Local Plan, Shaping a Sustainable Future, December 2013 (the LP) seeks to resist inappropriate development in the Green Belt and, in that regard, it is consistent with the National Planning Policy Framework (the Framework). The appeal proposal would not comply with any of the exceptions listed in Policy P17.
4. The Framework 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 establishes that buildings and other forms of development would be inappropriate unless they meet a listed number of exceptions. The exception most relevant in this appeal is 154(h)v. – material changes in the use of land (such as changes of use for outdoor sport or recreation,

- or for cemeteries and burial grounds), providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
5. The appeal proposal comprises the change of use of part of an agricultural field to use as an extension to a private residential garden. The change of use has occurred as the appellant has enclosed the appeal site with fencing and removed the original boundary.
 6. Change of use to residential gardens does not fall within the exception provided at paragraph 154(h)v, even though the use would be recreational. Moreover, even if residential garden use did fall within this exception, it would still need to comply with the requirement to preserve the openness and not conflict with the purposes of including land within the Green Belt.
 7. A fundamental aim of Green Belt policy is to keep land permanently open, as set out in the Framework. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appeal site is within an area with a rural character with open views across the countryside and the Green Belt. The fields around the village currently contribute positively towards the openness of the Green Belt, both spatially and visually.
 8. The appeal site is behind the host dwelling and there are limited views from the road given its rear location. Nevertheless, I saw that the appeal site is visible from a vantage point on the public right of way near the site, where there is a gap in the hedge. At the time of my visit the appeal site and the original garden were fenced off from the rest of the agricultural field with metal estate railings and a section of close boarded fence. The area inside the fence consists of mown grass and was relatively open.
 9. Whilst the appeal site was free from development and domestic paraphernalia, I saw that the original garden to the side of the dwelling contained poultry housing, a trampoline and a covered seating area. Even though the appeal site does not currently contain any buildings, structures or other features, the boundary fencing and the potential for domestic paraphernalia on the site would result in reduction to the spatial openness. I have no means to prevent the appellant from adding paraphernalia to the appeal site, even if they suggest they do not intend to.
 10. Although public views of the site are limited there would also be harm to the visual aspect of the openness of the Green Belt by reason of the views of the site from the footpath. Moreover, the extension of the garden onto agricultural land results in encroachment into the countryside and, therefore, conflicts with one of the purposes of including land within the Green Belt. Consequently, even if garden land was considered as recreational use, the appeal scheme would not meet the relevant exception set out at paragraph 154(h)v. of the Framework.
 11. I, therefore, conclude that the appeal proposal would be inappropriate development in the Green Belt and would have an adverse impact on both the spatial and visual openness of the Green Belt as a whole. It is, therefore, in conflict with Policy P17 of the LP and the Framework.

Character and appearance

12. The appeal site lies within the Berkswell Conservation Area. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides, at section

72(1), that with respect to any buildings or other land, in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of it.

13. Policy P16 of the LP seeks to conserve the characteristics of heritage assets and local distinctiveness. This is supported by Policy P15 which seeks to conserve and enhance local character and distinctiveness and landscape quality. Policies B3 and B5 of the Berkswell Parish Neighbourhood Development Plan 2019-2033 (the NDP), taken together, also require development to respond positively to the local and historic character of the area, reinforce local character and the character and appearance of the conservation area.
14. The Berkswell Conservation Area Character Appraisal and Management Proposals document supports the understanding of the importance of the area. As far as it is relevant to the appeal, I consider that the significance of the Conservation Area is mainly derived from the well-defined historic core, the significant landscape context of historic field patterns and the important views over open countryside.
15. The change of use to residential garden has included the erection of boundary fencing and I have no means to prevent the provision of domestic paraphernalia within the area. As already noted, the appeal is clearly visible from the footpath near the site. Although the garden does not extend any further into the countryside than the garden to one of the neighbouring properties, by subdividing this field, it would disrupt the early field system which is recognised in the Conservation Area document as important.
16. For the above reasons I find that the proposal would have an adverse effect on the character of the area with particular regard to the Berkswell Conservation Area, contrary to Policies P15 and P16 of the LP and B3 and B5 of the NDP. However, given the presence of existing houses and gardens, that the metal estate railings are appropriate for the countryside location and the Conservation Area, and that any domestic paraphernalia would be read in the context of domestic dwellings and gardens, the harm would be less than substantial.
17. I am, therefore, required to consider whether the public benefits of the development outweigh the harm to the Conservation Area. The appeal relates to an extension to a private domestic garden and I have not been provided with any compelling evidence of public benefits. Consequently, the public benefits would not outweigh the harm.

Other considerations

18. The appellant has sought to argue that the boundary fencing can be erected as Permitted Development and the grass mown, that this is the fallback position, and that the fences would not be removed, even if the appeal is dismissed.
19. Nevertheless, even if the fences are Permitted Development this would not justify the change of use of the land to domestic garden. The enclosure of land with fencing is only part of the effect on the Green Belt and the Conservation Area. The fallback position of retaining the fences would have a less harmful effect on both the Green Belt and the Conservation Area than the proposed change of use. Consequently, even if the fences are Permitted Development this would not constitute a benefit to weigh in favour of the development.

20. I have also been provided with historical aerial photographs and an image of a plan from the Council's website. Although I accept that this latter image indicates the boundary of Rose Cottage is on the line of the current appeal proposal it is clear from the application and other supporting documents that the boundary to Rose Cottage was not along this line until the appellant erected the fences. The historical aerial photographs indicate a track along a similar line to the edge of the appeal site. Nevertheless, a track across a field does not subdivide the field and all of the images provided also show that both sides of the track were in the same agricultural use. Neither the Council plan nor the track establish the separation of the appeal site from the remainder of the field.
21. The personal preferences of the current property owner for a larger garden for his family would not constitute very special circumstances and the property has clearly been in existence for some time with the garden area previously associated with it. Furthermore, I have not been provided with any compelling evidence that the garden associated with the neighbouring property has planning permission and, even if it does, this would not justify the appeal proposal.

Green Belt balance

22. The Government attaches great importance to Green Belt. I have found harm to the Green Belt by reason of the proposal being inappropriate development and its impact on both the spatial and visual aspects of openness. These matters attract substantial weight in accordance with the Framework which states that substantial weight should be given to any harm to the Green Belt, and that inappropriate development should not be approved except in very special circumstances. It goes on to explain that very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
23. The proposal would also cause harm to the character and appearance of the area and less than substantial harm to the Berkswell Conservation Area to which the Framework requires great weight to be attached.
24. Against the totality of the harm I have identified, the other considerations advanced by the appellant are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt. The harm by reason of inappropriateness, and any other harm, would not be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal. It would, thus, conflict with the Green Belt part of the Framework, Policies P15, P16 and P17 of the LP and Policies B3 and B5 of the NDP.

Conclusion

25. For the reasons given above I conclude that the proposal would conflict with the development plan as a whole, including the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, the appeal should be dismissed.

K Townsend

INSPECTOR