



Appeal Decision

Site visit made on 28 August 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2018

Appeal Ref: APP/Q4625/W/17/3191758

Land adjacent to No 20 Lady Byron Lane, Knowle, Solihull B93 9AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Penrow Developments Ltd against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2017/00148/PPFL, dated 19 January 2017, was refused by notice dated 22 June 2017.
 - The development proposed is erection of two storey dwelling house with loft accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two storey dwelling house with loft accommodation at Land adjacent to No 20 Lady Byron Lane, Knowle, Solihull B93 9AU in accordance with the terms of the application, Ref PL/2017/00148/PPFL, dated 19 January 2017, subject to the conditions set out in the Schedule to this decision.

Procedural matter

2. The Revised National Planning Policy Framework (the Framework) was published on 24 July 2018. However, it is not so changed from the previous version in relation to the issues at play in this appeal that either party is prejudiced by my taking it into account notwithstanding that they were given to opportunity to comment upon it.

Main Issue

3. The main issue is:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to relevant development plan policies and the National Planning Policy Framework (the Framework).

Reasons

4. The Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Framework paragraph 145 sets out seven specified exceptions, outside of which all other buildings are inappropriate development. This is generally reflected in policy P17 of the Solihull Local Plan (2013) (LP).
5. However, paragraph 11.6.8 of the policy's supporting text explains that limited infilling in villages will only be permitted in three specified settlements which

are washed over by the Green Belt, and that in the other Green Belt villages, new building other than that for agriculture and forestry, outdoor sport and recreation, cemeteries and extensions will be considered inappropriate. The three specified settlements in the policy do not include Copt Heath. The site also lies outside of any settlement boundary as identified in the LP.

6. The appeal site is an undeveloped and overgrown plot of land within a ribbon of development that extends along both sides of Lady Byron Lane. This street is characterised on both sides by substantially built-up frontages formed by large dwellings set within generous plots.
7. I have noted the previous appeal decision relating to this site. However, it is important to bear in mind that it pre-dates the Court's judgement in *Julian Wood v The Secretary of State for Communities and Local Government and Gravesham Borough Council 2015*. This made clear that a common sense, 'on the ground' view should be taken as to the physical extent of a village. This approach is reflected in another appeal decision¹ at Grove Road, Knowle.
8. Development along Lady Byron Lane is visually and physically joined to other substantial areas of built form in Copt Heath/Knowle. At my site visit, I drove around the local area and found that there is nothing to clearly separate the development along Lady Byron Lane from these other areas. Consequently, it is experienced as part of the overall settlement of Copt Heath/Knowle and there is no clear sense that the appeal site lies in an area away from a settlement. It is within easy reach of local shops and services in Knowle. Accordingly, the site is physically and functionally related to Copt Heath/Knowle.
9. In this context, I share the view of the Inspector in the Grove Road appeal that it would seem perverse to allow infilling in some smaller villages which are washed over by the Green Belt but not to allow it in a ribbon of development also washed over by the Green Belt but which extends out from a large and sustainable settlement. In its context, the site is a small gap within an otherwise built-up frontage.
10. The proposal would therefore comprise limited infilling within a settlement and it would not be inappropriate development in the Green Belt. Having reached this conclusion, it is neither necessary nor appropriate for me to go on to consider the effects on the openness of the Green Belt. The proposal would not conflict with LP policy P17 or the Framework.

Other matter

11. I have noted the views of interested parties who live close by. However, no planning-related arguments have been put forward that lead me to a different overall conclusion.

Conditions

12. The Council has suggested a number of conditions that it considers should be imposed in the event of the appeal being allowed and planning permission granted. I have considered them in light of the Framework and Planning Practice Guidance (PPG) and where necessary have amended the wordings for clarity and precision and to ensure consistency with that national policy and guidance.

¹ Ref APP/Q4625/W/17/3188046

13. Although not suggested by the Council, I have imposed a condition specifying the relevant drawings as this provides certainty. However, the list of documents submitted with the planning application includes a Site Location Plan with the drawing no SK00 but this plan is not before me. Nevertheless, the drawings include a Site and Location Plan (drawing no SK01) and a Site Location Plan (drawing no 1022 01) which are sufficient to provide the relevant details and define the development. The first and second floor plans are both incorrectly labelled as "Ground Floor Plan". I have therefore corrected this in the condition albeit that the drawing numbers are different. A materials condition is necessary in order to ensure the satisfactory appearance of the development.
14. I have given consideration to the Council's suggested condition relating to the removal of certain permitted development rights. However, the exceptional circumstances² necessary to justify imposing such a condition have not been made out to me. Moreover, I have not been made aware that such restrictions apply to other properties in Lady Byron Lane. It would therefore be unnecessary and inequitable to restrict permitted development rights in relation to this development and I have not imposed the suggested condition.
15. A drainage condition is necessary in order to protect the water environment and mitigate flood risk. In the interests of highway safety, a condition is necessary relating to vehicular access, parking and turning areas. I note the suggested condition related to hard and soft landscaping. However, I do not consider it necessary or reasonable to condition the landscaping of a private garden.
16. Conditions related to the protection of existing trees are necessary in the interests of the area's character and appearance. However, I have imposed a variation on the suggested version to account for the arboricultural information already submitted. Also in the interests of the area's character and appearance, I have imposed a condition relating to finished floor levels.
17. In addition to the suggested conditions, the Council has also requested the imposition of 'informatives' relating to noise, burning of refuse and dust control. However, it is neither appropriate nor possible to 'impose' informatives on a planning permission as they cannot be enforced and if the Council is so concerned about these matters, they should properly be the subject of a suitably worded condition. None has been suggested. However, given the residential surroundings, I consider it necessary to set some form of control over the above matters and have therefore imposed a condition requiring the submission of a Construction Method Statement that follows the objectives of the informatives.

Conclusion

18. For the above reasons, the appeal succeeds.

Hayden Baugh-Jones

Inspector

² PPG Paragraph: 017 Reference ID:21a-017-20140306

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: Site Location Drawing No 1022 01; Site Plan and Location Plan Drawing No SK01; Street Elevations 3 Drawing No SK02; Elevations 1 Drawing No SK03; Elevations 2 Drawing No SK04; Ground Floor Plan Drawing No Sk05; First Floor Plan Drawing No SK06; Second Floor Plan Drawing No SK07; Block Plan Drawing No SK08; Topographic Site Survey Drawing No 10/046/01; Tree Constraints Plan Drawing No 1.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No building hereby permitted shall be occupied until foul and surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development.
- 5) The development shall not be occupied until a means of access, parking and turning areas for vehicles shall have been constructed in accordance with details that shall have first been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved and the access parking and turning areas shall be retained thereafter for those purposes.
- 6) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees as identified on the Tree Constraints Plan Drawing No 1 has been carried out in accordance with the Arboricultural Impact Assessment by Wharton Arboriculture Ltd ref 230913 0145 S02 AIA V1 00-010. The approved scheme shall be adhered to throughout the life of the construction period.
- 7) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in

writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) measures to control the emission of dust and dirt during construction;
 - ii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - iii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.