



Appeal Decision

Hearing (Virtual) held on 11 February 2025

Site visit made on 10 February 2025

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal Ref: APP/Q4625/W/24/3352513

Land NW of Oakfield, 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 Paul Chapman of Maneaton Homes LLP, against the decision of Solihull Metropolitan Borough Council.
 - The application Ref is PL/2022/01765/PPFL
 - The development is Proposal for single detached dwelling and associated landscape design in the countryside.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for a partial costs award was made by the appellant. This is the subject of a separate decision.

Preliminary Matters

Policy Background

3. It is not in dispute that the Council does not have a five year housing land supply. As such, the policies most important for determining this appeal are out of date, in line with Paragraph 11 d) of the National Planning Policy Framework (the Framework). I have considered each policy's consistency with the Framework and the weight to be given to those policies within my reasoning.
4. The draft local plan has been withdrawn. As such, I give no weight to draft policies or discussions at examination.

Grey Belt

5. Before the hearing I invited the main parties to submit representations on the grey belt. The Council forwarded a Green Belt Assessment¹ which assessed parcels of Green Belt land against the five purposes of including land in the Green Belt. The parties agree that the site should be considered as grey belt. I see no reason to disagree.

¹ Solihull Strategic Green Belt Assessment, Atkins July 2016

Adjournment

6. The hearing was adjourned as the appellant's team did not include anyone able to answer questions on the ecological main issue, and also to give additional time to the parties to consider the Golden Rules as set out in Paragraph 156 of the Framework. It was agreed at the sitting that in order to keep the appeal moving forward, I would provide a list of specific ecological queries. I have taken the responses received within the specified time frame into account in my reasoning. Following those responses, I concluded that there was no need to continue that discussion at another sitting.

Event procedure

7. The appellant's team suggested during the hearing that an inquiry would be a better forum to discuss the habitat issues. However, I saw no reason to elevate the event.

Site measurements

8. There is a discrepancy between the site area given on the application form and the Biodiversity Net Gain (BNG) calculations. The Council confirmed during the appeal that it would accept that the BNG area was correct.
9. The appellant's team indicated during the hearing that the appeal site area could be reduced in order to avoid its qualification as major development. However, it is not the purpose of the appeal process to evolve or amend the original application documentation.

Design

10. Although the Council has not raised a concern in relation to the design of the dwelling *per se*, the appellant advances the argument that exemplary design would be an other consideration sufficient to amount to very special circumstances required to justify inappropriate development in the Green Belt. As such, I considered the development's design as a main issue.

Main Issues

11. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;
 - Whether the development would accord with local policies and national guidance with regard to location;
 - The effect of the development on designated wildlife sites and biodiversity;
 - Whether the development represents exceptional design; and,
 - Would harm by reason of inappropriateness in the Green Belt, or any other harm, be clearly outweighed by other considerations so as to

amount to the very special circumstances required to justify the proposal.

Reasons

Green Belt

12. The Framework sets out in Paragraph 153 that councils should ensure that substantial weight is given to any harm to the Green Belt. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless the listed exceptions apply. One of those exceptions is limited infilling in villages.
13. The appeal site is an open field located on the fringes of Dorridge. The western end of Windmill Lane contains large residential plots with detached dwellings, which are interspersed with fields and other undeveloped land. The building pattern is sporadic and could be described as intermittent ribbon development. However, the size of the plots and their long road frontages results in a very thin spread of built form which sits within, rather than dominating, the rural landscape. Moreover, when travelling from the west and the more built-up area of Dorridge, I noticed a clear change in character at the junction of Grange Road and Windmill Lane.
14. In any case, there is no guidance as to the interpretation of the term infilling. Its normal meaning implies an anomaly, an undeveloped site contained within an established building pattern. Whilst I acknowledge that this site, although an open field, has residential plots on both sides on its road frontage, the appeal site stretches well beyond those plots. It is the few residential plots that appear as the anomaly in a rural setting, rather than the appeal site. It is not an infill site.
15. Furthermore, based on the underlying building pattern, the visual impact of such built form as there is and its setting, I conclude that the appeal site is not located in a village or a settlement. The proposals would therefore be inappropriate development in the Green Belt. My reasoning in this regard is reinforced by the conclusions of the Inspector for the previous appeal² who stated that *the buildings on Windmill Lane do not read as a cohesive extension to Dorridge village*.

Openness

16. The site is partially screened from the lane by an unmanaged and leggy hedge. Standing on the lane close to the centre of its road frontage I was able to see across the site to the car park at Dorridge Park, on the other side of the valley. This would be the case to some extent even when the hedge was in leaf.
17. It is generally recognised that openness is predicated on a lack of development or activity. Although partially subterranean, the dwelling and garage, and their associated earthworks would rise several metres above ambient ground levels. The site analysis³ identifies a developable area on one side of the site, where buildings could be positioned without intruding into the main and centrally located view corridor between Windmill Lane and Dorridge Park. However, the dwelling would sit more or less centrally within the site. It and the associated earthworks would extend across that viewing corridor. The plans show that the combination of buildings and what is identified on the plans as *terraforming to conceal the house from view*⁴,

² APP/Q4625/W/17/3189652

³ Node LVIA Page 44

⁴ Point 2B, Dwg. 2406.1201 P1

above site levels, would stretch across most of the site, and intrude into this central visual corridor. The development would also partially impede views from the lane through the site to Dorridge Park.

18. I acknowledge that there would be separation between the dwelling and the garage. In some views across the site, this separation would align with the site entrance and there would be views across the vehicular hardstanding and ornamental planting to the undeveloped site beyond. However, wherever the dwelling and garage are to be located within the site, the intrusion of substantial built form and landform above existing levels would have an adverse effect on openness in spatial terms, and also obstruct some views into and across the site from the lane. This would have an adverse effect on openness in visual terms. Whilst the screening effect of the frontage hedgerow could be enhanced, I cannot be certain that this would be retained for the lifetime of the building. In any case, there would be views into the site at its vehicular entrance.
19. It is proposed to restrict domestic activity to specific areas close to the dwelling. However, even if activity could be contained within those areas, any activity, whether visible from the public domain or not, has an adverse effect on openness in planning terms.
20. The Landscape, Green Belt and Visual Impact Assessment (LVIA)⁵ concludes that the openness of the site would be *maintained by retaining the view corridor from Dorridge Park towards existing residential development, and through the development from Windmill Lane, siting the new building on the edge of the viewing corridor and using native planting to screen views*. However, as noted above development would extend across this central view corridor and would be bulky additions to the landform. Moreover, the design panel reviews mention *long views into the site from Dorridge Park*⁶ which suggests that the development would not be screened from the north. None of the viewpoints assessed in the LVIA appears to replicate the central view corridor I noted at my visit. As such the LVIA does not fully reflect the impact of the development on views into and across the site despite the central view corridor being described in the LVIA as prominent.
21. My attention has been drawn to changes to the built form in the area since 2018. However, although there has been additional building, this is largely set well-back from the lane frontage and does not strengthen the underlying building pattern to the extent that the appeal site appears as infill. I appreciate that there are more residential plots on the northern side of Windmill Lane than on the south, but this does not change my conclusions.
22. The Atkins Green Belt assessment concludes that the appeal site sits within a land parcel that scores moderately in relation to the purpose of assisting safeguarding the countryside from encroachment. However, for the purposes of this section of my reasoning, the site sits within the Green Belt.
23. The previous appeal did not have a supporting LVIA to support the appellant's arguments. However, the Landscape Institute has confirmed in recent guidance that Green Belt is a planning policy designation and compliance with policy should be assessed separately from LVIAs⁷. Moreover, there is nothing before me to

⁵ Node, July 2022

⁶ Design Midlands 25 May 2021

⁷ Notes and Clarifications on Aspects of Guidelines for Landscape and Visual Impact Assessment 3rd Ed, August 2024

indicate that the previous Inspector would have reached a different conclusion with regard to openness if an LVIA had been available.

24. The development's footprint would be a very small proportion of this very large site, but the effect of a development on openness in the Green Belt is not a relative concept dependent upon the overall size of the site.
25. Moreover, my observations in relation to the adverse effects on openness are reinforced by the conclusions of the previous appeal⁸. This noted that the openness of the appeal site can be appreciated from Dorridge Park's car park, and that from other areas in Dorridge Park the site appears in the middle distance.
26. The volume of built form and associated earthworks, together with the movement of vehicles in and out of the site, domestic paraphernalia and domestic activities around the dwelling would have an adverse impact on openness. The proposals would therefore be inappropriate development as set out in Paragraph 154 of the Framework and would also conflict with Paragraph 143 c) of the Framework with regard to safeguarding the countryside from encroachment.
27. Policy 17 of the Local Plan (LP) allows limited infilling of a small gap within an otherwise built-up frontage. However, as the site is not a small gap within an otherwise built-up frontage there would be conflict with LP Policy P17, and Policy VC1 of the Knowle, Dorridge and Bentley Heath Neighbourhood Plan (NP) insofar as it supports the local plan in this regard.

Location

28. The site is located about 1 kilometre south of the busy village centre which has a railway station, a large supermarket and health services. The entrance to the site is located about 200 metres from Windmill Lane's junction with Grange Road. Although there are footways on Grange Road, there are no footways on Windmill Lane, which is also unlit.
29. There are soft road verges along Windmill Lane. There is just space for two running lanes, but there are no pedestrian refuges. Although traffic is infrequent, some vehicles travel inappropriately fast and the bend close to the appeal site is something of a blind spot. There is also evidence that vehicles mount the soft verge on occasion and the verges would not provide adequate pedestrian refuges as noted in the Transport Note⁹.
30. There is a public footpath nearby which takes pedestrians along a rough path and boardwalk to Dorridge Park, where the onward route is across grass. The grass at my visit, was muddy and waterlogged and the chicken wire covering the boardwalk in places could be a trip hazard. Whilst the footpath might be a pleasant walk for able-bodied pedestrians in good weather, it has largely recreational value.
31. There is an hourly bus service along Grange Road, although interested parties did note that it is infrequent and unreliable. However, onward access to or from Grange Road would be along the unlit lane with no footways, and without overlooking. The frequency of the service combined with the road conditions for pedestrians would be unlikely to provide a realistic alternative to vehicle use. As such, there are no alternative modes of travel likely to be used on a regular basis by future occupiers.

⁸ APP/Q4625/W/17/3189652

⁹ DTA September 2024

32. LP Policy P7 a) sets out requirements with regard to distances between new development and amenities and high frequency public transport, along with an expectation that walking and cycling transport modes will be accommodated. Exemptions from compliance are allowed where justified by local circumstances or where the development is in a rural settlement, which is not the case here. Compliance with the walking distances set out in the policy would require walking along the boardwalked footpath and through Dorridge Park, or along the unlit lane with no footway. These would not provide meaningful alternative routes. However, this part of the policy is more restrictive than the Framework and carries less than full weight.
33. LP Policy P7 b) requires that *access to development is safe, attractive, overlooked and direct on foot, by bicycle and from public transport*. Paragraph 115 of the Framework requires that in assessing specific applications for development, it should be ensured that sustainable transport modes are prioritised, taking account of the type of development and its location. It also sets out that safe and suitable access is to be achieved for all users and that the content of associated standards reflects the National Design Guide (NDG). The NDG requires safe and suitable access to amenities for pedestrians or for persons with mobility needs. I see no reason to conclude that LP Policy P7 b) is inconsistent with Paragraph 115 of the Framework or the NDG in this regard and it carries full weight.
34. Paragraph 110 of the Framework requires the planning system to actively manage patterns of growth to support the promotion of sustainable transport. It also recognises that opportunities to maximise those opportunities will vary between urban and rural areas and this should be taken into account in decision-making. I appreciate that Paragraph 110 of the Framework gives some flexibility in this regard. Nonetheless, I conclude that the lane, which is unlit, has no footways and is not overlooked, would not provide a safe environment for pedestrians or cyclists. Nor are there links to a pedestrian, cycling or public transport network.
35. The Transport Note states that LP Policy P7 b) is triggered only when a development is accessed from the core walking, cycling, public transport and road networks and the appeal site is not part of those core networks. However, whilst core networks are not defined, it seems highly unlikely that the policy text would sanction unsafe access. In any case, that interpretation would be inconsistent with Paragraph 115 of the Framework and the NDG.
36. The Transport Note also cites Paragraph 89 of the Framework which states that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found in locations not well serviced by public transport. However, there is nothing before me to indicate that this development would meet a community need.
37. The development would include the provision of pedestrian refuges along the site frontage but whilst this would improve the current situation, it would not provide a footway to Grange Road. An interested party also raised that there has been an accident on Windmill Lane involving a tractor and a private car, which has not been captured in the accident history provided. This was not challenged.
38. It was suggested at the hearing that the ditches could be culverted to improve pedestrian refuges but there is nothing before me to indicate that this is a realistic option or that the relevant authorities have been consulted.

39. The Transport Note sets out that persons with mobility issues would be unlikely to occupy the development. However, this presupposes that future occupiers know what their future mobility needs might be, and these may very well change over time. Online shopping reduces the need for some shopping trips, but it remains that vehicles would be used to transport shopping to the development, irrespective of who is driving. Moreover, not all services can be accommodated by online services. In any case, my reasoning with regard to safe and suitable access is not confined to persons who have mobility needs.
40. I appreciate that there are already dwellings on Windmill Lane. However, the overall thrust of the Framework is to focus development on areas where sustainable and safe transport choices can be made.
41. A previous appeal¹⁰ for the Barn, concluded access along the lane was not safe. Although that appeal site is closer to Grange Road than this site, I see no reason to reach a different conclusion with regard to safety and accessibility.
42. Future occupiers would be dependent on private vehicles and there would not be safe and suitable access, or opportunities for alternative modes of transport. As such, the development would not accord with local policies and national guidance regarding location. There would be conflict with LP Policy P7 Part b), as set out above, to which I give full weight, as well as with Paragraphs 110 and 115 of the Framework, and the NDG. There would also be conflict with LP Policy P7 Part a) to which I give moderate weight. I see no reason why local circumstances should justify development in this location.

Local Wildlife Site

43. The appeal site is part of the Darley Brook Meadows Local Wildlife Site (LWS). LWSs are of regional and local importance, and an audit in 2013 noted that the site's conservation is critical to maintain a landscape rich in wildlife.
44. The most important habitats within the LWS are the valley marsh and alder carr. The importance of the LWS is derived primarily from habitat diversity, and to a lesser extent to fragility, and the LWS's ecological position as part of the corridor of wet woodland that forms an important link into the River Blythe Site of Special Scientific Interest. The site's habitats are broadly semi-improved neutral grassland, marshy grassland along the valley bottom, and a large area of plantation woodland.
45. The LWS audit records fragmented sections of species rich hedgerow along the Windmill Lane. This is supported by the ecological appraisal which records the hedge along the site frontage as an important hedgerow according to the Hedgerow Regulations.
46. The Council's concern relates to the potential loss of lowland neutral grassland habitats, increasingly scarce in the Council's area, although this is disputed by the appellant's ecologist. The Council also states that the site's value arises from its habitat matrix and that this LWS is particularly important because there is a lack of a buffer between the LWS and other land uses.
47. The site's current ecological status is set out in the Preliminary Ecological Assessments (PEAs). These conclude that the site has a moderate habitat structure with diversity and ecotones likely to support opportunities for a range of

¹⁰ APP/Q4625/W/22/3310448

protected and notable species including specialist grassland communities, and various species of mammals, reptiles, birds, amphibians and invertebrates. It highlights connectivity with adjoining land and the site's vegetated boundaries for some of those protected species.

48. The PEAs conclude that the development would be likely to result in habitat loss, fragmentation, damage and degradation, and that the wet ditches, which support the marsh as well as the marshy grassland, could be adversely affected by pollution and contamination. With regard to protected and notable species, the potential impacts of the development would be the killing of injuring of animals as well as loss and fragmentation of habitat, disturbance and displacement. It is proposed that mitigation during and after the construction phase could minimise these effects during those phases, and that habitat enhancements could provide compensation. The loss of semi-improved neutral grassland at the higher and southern end of the site is not anticipated to be detrimental to the more diverse and important marsh habitats in the valley bottom, provided appropriate safeguarding, including the prevention of pollution, are implemented.

Biodiversity Net Gain

49. Although there is no statutory requirement for the development to demonstrate biodiversity gains, I am invited to give great weight to a BNG assessment. This concludes that there would be an increase in the biodiversity value of the area habitat and hedgerow units if the development, together with a long-term management plan, was allowed.
50. The enhancements to existing semi-improved neutral grassland make the greatest contribution to the proposed BNG. The baseline habitat survey identifies three parcels, one of which includes land which would be in the immediate area of development.
51. The development itself would require significant excavations, in some cases to more than five metres below current ground levels. It is highly likely to require extensive areas for materials storage, site cabins, soil mounds, parking, heavy plant and circulation well beyond the footprint of the development itself. It is highly unlikely that this grassland will be in the same condition at the end of the works as it was pre-development. As such, to give this parcel of grassland the same enhanced value as the other grassland parcels, which are remote from the development, appears to overstate its future biodiversity value in the BNG calculation. A more realistic assessment would give this parcel of grassland a lesser uplift, or to presume that area would need to be recultivated and reseeded. Both of which would be likely to have a lesser BNG than that shown.
52. Furthermore, in order to reach the enhancement values included in the BNG calculations, the grassland would have to meet all five of the criteria set out in the assessment criteria¹¹, rather than the three recorded in the PEAs. In any case, the PEAs state that as a precautionary approach the baseline condition assessment criteria were overstated as the walkover was carried out at a less than optimal time of year. As such, even more enhancement work would be needed to reach the optimum condition and the highest BNG score. Moreover, criteria 1 and 2 of the

¹¹ DEFRA Biodiversity Metric 3.0 - Grassland Condition Assessment Criteria for Medium, High and Very High Distinctiveness Grassland

condition assessment criteria are highly detailed, and require specific percentages of sward height, with indicator species clearly visible.

53. I acknowledge that a Landscape and Ecological Management Plan (LEMP) is proposed to set out a mechanism for ensuring that these criteria are met, through the imposition of a condition, but the LEMP is not before me. In any case, a high degree of skill and attention would be required to meet and maintain these assessment criteria over an area of this size and over a 30 year period. As such, I have concerns in relation to the reasonableness and enforceability of such a condition, particularly given the proposed weight to be given to the those works in relation to this appeal. It seems to me that a condition is not the appropriate mechanism to secure these objectives and consequently the proposed management plan and level of enhanced biodiversity cannot be guaranteed. In any case, the development is likely to have a lifetime of significantly more than 30 years. The Council notes that if required by condition the proposed level of enhancement would have to be met, but it remains unclear how this would be enforced.
54. The Council has also noted that it is unlikely that the 'good' condition anticipated for grassland could be achieved under the proposed tree planting. This would also reduce the overall BNG for area habitats. In addition, other landscaped areas would not be like for like replacements for the grassland areas lost beneath the development's footprint.
55. The Technical Note¹² also states that all hedgerows will be retained but given the current width of the lane and the site opening, and the need for heavy machinery to gain access, it seems very likely that sections of the important hedgerow next to the site entrance would need to be removed or at least have upper crowns cut back. Although new hedges can be planted, important hedgerows are identified as such as a consequence of their historic and biodiversity value which cannot necessarily be replicated in the short or medium term by new planting.

Site management

56. The evidence indicates the LWS's marsh areas are getting smaller, and species diversity is declining, largely as a consequence of the lack of appropriate management. The ecologist's report 2023¹³ states that there has been limited management to date on the site and this was supported by the appellant at the hearing. However, there are no statutory requirements for landowners of LWSs to adhere to a management plan and all ecosystems change over time unless specific circumstances halt succession.
57. Consequently, any sympathetic management, whether it met the given objectives to achieve the BNG gains or not, could benefit the biodiversity of the site. However, for the reasons set out above, I am unable to conclude that the biodiversity gains would be of the magnitude suggested. Moreover, there is nothing to suggest that any biodiversity improvements would be commensurate with the lifetime of the dwelling. As such, this carries limited weight in favour of the appeal.

¹² Technical Note, Ecology Middlemarch September 2024

¹³ Design Review contribution, Middlemarch

Buffer and connectivity

58. The development would sit on the narrowest part of the site, close to semi-natural woodland on the other side of Windmill Lane. Although connectivity across the lane is recorded in the PEAs for some species, later ecological evidence appears to give very little weight to that connectivity. This was disputed by interested parties, with particular regard to badgers. Although a badger survey was recommended in the PEAs, this has not been undertaken.
59. In any case, even with a condition to limit the impact of lighting on bat movement, residential development across the southern end of the site would introduce noise and disturbance into what is currently an undeveloped site. This could reduce such connectivity as does exist and contribute to habitat fragmentation.
60. I appreciate that the area closest to Windmill Lane has less diversity than other areas of grassland within the site. Nonetheless, I am mindful of the Council's concern regarding the lack of the buffer between the LWS and other land uses. The encroachment of residential development even on the higher and drier areas of the site would reduce the buffer between the key habitats present on the LWS and other land uses. Taking all the above into account, I conclude that the development would have an adverse effect on the biodiversity of the site and the LWS.
61. LP Policy P10 states that development likely to have an adverse effect on a LWS will be permitted only if the reasons for development clearly outweigh the natural conservation value of the site and its contribution to wider biodiversity. The reasons for development are that the appellant wishes to build a large family house. The attention to design, and the importance now given to landscape and biodiversity elements appears to have arisen largely as a consequence of a previous unsuccessful appeal. Whilst I acknowledge the evolution of the design process, these factors do not alter the underlying reason for the development and other than ownership, I see no broader imperative for siting a dwelling on this site. Moreover, the appellant has owned the site for a considerable period of time and its biodiversity has declined in that period. Notwithstanding that there is no legal requirement to manage the site in accordance with biodiversity objectives, the lack of effective management to date further reduces the weight I give to future management proposals. The reasons for development do not clearly outweigh the adverse impact on the LWS and there would be conflict with LP Policy P10 as set out above.
62. LP Policy P10 is more restrictive than the Framework in the protection afforded to LWSs. Nonetheless, local policies carry weight even when inconsistent with the Framework or considered to be out-of-date, and in this circumstance, I see no reason why protection given to local habitat sites should be time-limited. As such, I give substantial weight to the conflict with LP Policy P10.

Design

Dwelling

63. The development would comprise a substantial two-storey semi-subterranean dwelling and garage with hardstanding. The dwelling would have a Z-shaped footprint to step down the sloping ground.

64. Notwithstanding that there would be underground accommodation, the dwelling would rise several metres above ground levels on all sides. The long principal elevation would be a blank rammed concrete wall some 30 metres long, with only an entrance door for visual interest. Although set down from the lane's level, the slope does not fall away sufficiently for the roof line to sit below the eye line of people on the lane. It would therefore be an intrusive and very substantial impediment to views from the lane towards the valley.
65. The side elevations would partially enclose triangular garden areas under a sloping roofline, and would be punctuated by an irregular arrangement of windows and entrances. The long northern elevation would be a glazed curtain wall serving a large family living area with elevated views to Dorridge Park.
66. The dwelling would be associated with extensive earthworks. A long triangular mound would attach to the dwelling's north-western corner at roof level and taper to ambient ground levels some distance away. The floor level of the main living area would be higher than the existing slope at the north-western corner, but there would also be additional mounding in front of that part of the curtain wall to provide privacy from viewers in Dorridge Park. The extent, footprint and gradients of those earthworks would fail to relate to the underlying topography. Given the bulk and mass of the above ground dwelling, and its associated and incongruous earthworks I am unable to conclude that it is embedded or nestled within the existing topography as stated in the appellant's evidence.
67. The imagery shows a soft verge along site frontage more or less untouched by access requirements but given the need for visibility splays, and turning radii, I conclude that this is not a realistic image of the proposed frontage. In my experience Grasscrete retains its grass infill only where there is occasional use, which is unlikely here.
68. The dwelling's form appears contrived and bulky, and it is difficult to discern any legibility or design rhythm. It appears artificially imposed upon the site rather than emerging from the landscape, and would dominate the upper portion of the site. There would also be an underlying incongruity between the overall form and scale of the dwelling, and the extent and gradient of earthworks required to assimilate the dwelling onto the existing slope.
69. The site contributes to the rural context of Windmill Lane, but the development would sit within the main viewing corridor identified in both the Design and Access Statement and the LVIA and would not retain the site's open character and visual transparency. It would also introduce significant urbanisation along the lane's frontage which would not be concealed or wholly mitigated by the use of Grasscrete hardstanding or green roofs.

Setting

70. I asked at the hearing how the development would significantly enhance its immediate setting. The response was that it would frame views, have a positive effect on biodiversity and orchard planting, retain the natural characteristics of the site, and form areas of volume by folding the building up. However, even if I agree that increased biodiversity is a contributory element to setting, the dwelling would not sit sympathetically within the sloping site. Nor is there anything before me to suggest that orchard planting would enhance the LWS's important habitats.

LVIA

71. The LVIA notes that this is a locally distinctive landscape containing valued characteristics. The Landscape Character Assessment (LCA)¹⁴ states that the Knowle and Dorridge Fringe has *defining landscape features creating a balanced landscape in a good to fair condition and that the pastoral character in some parts adds to local distinctiveness*.
72. The LVIA concludes that views into the site from the lane are restricted by woodland mature hedgerow. However, even if there is additional planting, the hedge would not necessarily obstruct the winter views and it cannot be presumed that the hedge would last for the lifetime of the dwelling. Although the site falls away from Windmill Lane towards the valley, the site's open grassland is a dominant feature of the rural experience for people using the lane. The site will not retain its pastoral character in views from the lane, and as such the development would have an adverse effect on local distinctiveness.
73. Moreover, notwithstanding that there are trees along the valley floor, there are also viewpoints where there are unrestricted views from Dorridge Park into the site. That there would be intervisibility between the development and the park is set out in the design panel reviews.

Design Midlands

74. The appellant's team has sought advice from Design Midlands review panel. The recommended design approach was to *reference and reinforce the landscape context, i.e. a house that emerges from the landscape over an artificial man-made one*, and that the site's Green Belt designation and its openness was the most important consideration.
75. However, the reviews fail to demonstrate that the dwelling design overcomes the key issues of Green Belt openness. Nor do they elucidate the physical design features of the dwelling that qualify it as exemplar, instead relying mainly on references to the external works, energy efficiency and the living experience.
76. Moreover, significant weight appears to have been attached to ongoing site management of the site and the commitment to enhancing biodiversity credentials. However, current and previous site management has been informal and sporadic, and it has not prevented biodiversity decline. Whilst this does not necessarily weigh against the appeal, I am unable to give the site's former and current management the same weight as the design panel. In any case, I have concluded that the proposed biodiversity benefits associated with the development have been overstated. The imposition of the suggested condition would not give certainty in this regard.

Paragraphs 84 e) and 139

¹⁴ Solihull Borough Landscape Character Assessment, Waterman 2016

77. Paragraph 84 of the Framework states that planning decisions should avoid the development of isolated homes in the countryside, unless the design is of exceptional quality, and Paragraph 139 states that significant weight should be given to outstanding design so long as that development fits in with the overall form of surroundings.
78. The courts have found¹⁵ that the test for an isolated home is physical remoteness from a settlement. Although the development would be in an unsustainable location for reasons of safe and secure access, it is not remote from other dwellings. As such, it is not an isolated home in the countryside. Even if I concluded that it was, the development would not be truly outstanding and would not significantly enhance its immediate setting, as required by the Framework.

Design conclusion

79. Although the concept drawings show an elegant clarity of vision, with alternating and angled roof structures stepping down the slope, that clarity of form and the dwelling's relationship with the underlying slope has not been realised in the building's final design. The development would be visible and intrusive. It would neither retain the natural characteristics and sweep of the underlying topography, nor enhance its immediate setting. I appreciate that other design professionals take a different view, but this does not alter my reasoning or conclusions.
80. I acknowledge that the dwelling would be an interesting and attractive building to live in, particularly given the proximity of the natural environment. I can also appreciate that it would be a building of interest to particular parties in terms of design, advances in building technology and energy efficiency. Nonetheless, these benefits do not outweigh the harm identified in relation to its physical appearance. I disagree that it is exemplar for the reasons set out above.
81. As such, there would be conflict with Paragraphs 84 e) and 139 of the Framework as well as NP Policy VC1 which requires development to be in harmony with the rural character of the village's surroundings and sit well within the landscape, with regard to the principles set out in the LCA and Warwickshire Landscape Guidelines. There would also be conflict with Paragraph 139 of the Framework as the development would not fit in with the overall form and layout of its surroundings, particularly with regard to openness in the Green Belt.

Grey Belt

82. The main parties are satisfied that the site sits within the grey belt, and as the Council is unable to identify sufficient housing supply land, the development would meet the test set by Paragraph 155 b) of the Framework.
83. Paragraph 155 c) sets out that development should be in a sustainable location, with particular reference to Paragraphs 110 and 115 of the Framework. However, I have already concluded that the development would not be in a sustainable location for reasons of safe and secure access and the restricted options for pedestrians, cyclists and users of public transport. As such, the proposals would be inappropriate development in the Green Belt.

Planning obligation

¹⁵ *Bramshill v SSHCLG* [2021] EWCA Civ 320, and *Braintree District Council v Secretary of State for Communities and Local Government* [2018] EWCA Civ 610

84. I have a Unilateral Undertaking before me which sets out that the appellant will pay affordable housing contributions to the Council as required by Paragraph 156 of the Framework. However, no figure is given. In any case, as I have found harm in relation to other issues it is not necessary for me to consider this further.

Other matters

85. The appellant has highlighted other appeals which are concerned with the interpretation of LP Policy P17 and infilling. However, the appeal site is not an infill site. Reference is also made to an unsuccessful appeal for the redevelopment of former stables at the Barn which, it is argued, would have been more visible in the landscape. I am unclear how that appeal weighs in favour of this one but in any case, this appeal has been determined on its merits.
86. I acknowledge that there have been significant design changes since the previous appeal. Nonetheless, I have based my decision on what is before me.
87. The evidence indicates that the development would be self-build but there is no mechanism before me to ensure that this would be the case. As such, this carries no weight.

Conclusion

88. Paragraph 11 d) of the Framework states that where the policies most important for determining and application are out of date, permission should be granted unless the application of policies in the Framework that protect areas of assets of particular importance provide strong reasons for refusal. The Green Belt is one of those assets.
89. Although arguments have been advanced that the development would be an exemplar, I have found the evidence less than compelling in this regard. Nonetheless, it would provide a bespoke and large family home in a unique location, and would provide an attractive and enjoyable living experience which would make a minor contribution to the Council's housing supply with high levels of energy efficiency. There would also be a minor boost to the local economy during the construction phase.
90. However, these minor benefits do not outweigh the substantial harm arising from inappropriate development in the Green Belt, and other harm as identified above. Nor do the other considerations amount to the very special circumstances sufficient to outweigh the harm to the Green Belt or any other harm. The appeal is dismissed.

A Edgington

INSPECTOR

APPEARANCES

Appellant

Hugh Richards KC	No 5 Chambers
Paul Watson	PRW Strategic Advice
Irina Dumitrascu	PRW Strategic Advice
Paul Chapman	
Dean Shaw	BPN Architects
David Neil	DTA
Nigel Wakefield	Node

Council

Becky Mactravers	Senior Development Manager
Nicola Walker	Ecologist

Interested Parties

Jack Smyth KC	No 5 Chambers
Dame Caroline Spelman	Neighbour
Peter Davies	Neighbour
Robert Standley`	Neighbour