



Appeal Decision

Site visit made on 18 June 2025

By G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/L3245/D/25/3364170

Spring Cottage, 69 Vicarage Bank, Alveley, Bridgnorth, WV15 6HG

- 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 James Cumiskey against the decision of Shropshire Council.
 - The application Ref is 24/04514/FUL.
 - The development proposed is the erection of walls and entrance gates to drive.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of walls and entrance gates to drive at Spring Cottage, 69 Vicarage Bank, Alveley, Bridgnorth, WV15 6HG in accordance with the terms of the application, Ref 24/04514/FUL, subject to the conditions set out in the accompanying Schedule.

Preliminary matters

2. The Council has not produced an officer report but relies solely on its reasons for refusal.
3. The appellant's surname is spelt with an 'o' in the application form, but with a 'u' in the appeal form. I have used the latter and apologise if I got it wrong.

The proposed development

4. The appeal site is in countryside designated as Green Belt (GB), being set apart from the village of Alveley alongside what is best described as a rural lane.
5. Planning permission was granted¹ for the erection of a replacement dwelling on the site in December 2021, and this, externally, appeared virtually complete at the time of my visit, although some works remain to be done outside.
6. It appears that reliance was placed on the then existing access provisions, when permission was first granted. The appellant wishes to construct a more robust means of enclosure and access arrangements at the front for security reasons. I noted that work has already begun on the scheme, but appeared to have stopped.
7. The appellant proposes the creation of an entrance gate set well back from the carriageway to enable a vehicle to turn off and park off the narrow highway whilst the gate is opened. A separate pedestrian gate is also proposed. These would be supported by what are best described as decorative pillars, and side walls would extend from the gates to within 2.5m or so of the highway. Alongside the access

¹ Ref 21/04632/FUL

point a fence would be erected along the remainder of the site frontage running in parallel to the highway. In the appeal documentation the appellant confirms that the verge between the fence and the highway, which is around 2.5 m wide, would be landscaped. No details of the fence or landscaping have been provided.

8. The Council regards the proposal as being more consistent with an urban rather a rural setting and considers that the proposal would irreparably harm the open, tranquil and simple nature of this part of the GB by introducing inappropriate design elements. The reasons for refusal imply that the proposals seem too ostentatious for a cottage of its type set in countryside and a simpler more rustic scheme, empathetic to its setting and location should be pursued.

Main Issue

9. The main issue is whether the proposed development would be inappropriate development in the GB and, if so, whether other considerations clearly outweigh the harm to the GB so as to amount to very special circumstances.

Reasons

Whether inappropriate development

10. The Framework² establishes that the construction of new buildings in the GB should be regarded as inappropriate unless one of the specified exceptions applies. The proposals fall to be considered as a building, being a structure or erection. This building does not fit any of the cited exceptions in the Framework and should therefore be considered inappropriate development in the GB.
11. Policy CS5 of the Shropshire Core Strategy (CS) provides that new development in the countryside and GB will be strictly controlled in accordance with national planning policies.
12. I therefore conclude that the proposal comprises inappropriate development in the GB, which, by definition, is harmful, and this carries substantial weight against the development.

Other considerations

13. Since there is no officer report I have no way of knowing whether the Council took into account other similar development it permitted in the GB. The appellant provided photographs of many examples, although their contexts were not fully explained. However, I saw one such example at the entrance to Applecross Farm a short distance to the east of the appeal site, alongside the same rural lane and within the GB. On the basis of this and some of the other examples provided, some of which are in the GB, the Council, it seems to me, has shown little consistency.
14. When planning permission for the replacement dwelling was granted, a condition was imposed removing some permitted development (PD) rights. However, this did not extend to the erection of means of enclosure, walls, fences or gates. The appellant, by reference to another appeal decision³, argues that the appellant could implement a broadly similar scheme to that subject of this appeal utilising his permitted development entitlements.

² The National Planning Policy Framework

³ Ref APP/K3605/X/21/3279391 dated 4 April 2022

15. Although no Certificate of Lawfulness for a proposed development has been applied for, I share the appellant's view, from my own understanding of the Order⁴, that a scheme sharing many characteristics with the appeal scheme could be built without a formal planning permission.
16. Accordingly, I regard the availability of PD rights as a material consideration in the determination of this appeal. In the absence of an officer report, I have no way of knowing whether or not the Council considered the issue of the appellant's permitted development rights when making its decision.
17. The appellant refers to case law, but it seems to me that the later Mansell case⁵ reviews the current state of the law as to the status of a fallback development as a material consideration in a planning decision. The case highlighted that the relevant law as to a 'real prospect' of a fallback development being implemented was applied in the Court of Appeal in Sullivan LJ's judgement in the Samuel Smith Old Brewery case⁶. The basic principle is "*... for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice*".
18. The appellant could carry out a similar scheme under his permitted development entitlements. This could be implemented out without any agreement on matters such as the submission of details in respect of materials or landscaping; indeed, there would be no requirement to undertake any landscaping were permitted development rights exercised.
19. As a matter of planning judgment, I consider it a distinct possibility, if not a likelihood, and therefore a real prospect that the appellant's PD entitlement to create a development on broadly similar lines as the appeal proposal would be implemented were this appeal dismissed. It follows that I attach significant weight as a material consideration to the appellant's PD rights.
20. A planning permission would enable conditions to be imposed, particularly in respect of landscaping, and in this respect, I would envisage any landscaping scheme to be largely comprised of planting at the site's frontage, to the front of the proposed fence replicating the hedges present either side of the appeal site in the verge alongside the highway. The hedge, when matured, would assist in supplementing extant rural greenery and in screening the means of enclosure and gates when approaching the site from both directions.
21. Thus, the effect of the proposal on the character and appearance of its surroundings would be no worse than that effected by the construction of a similar scheme to that subject of appeal under PD rights. I thus consider that this is a case where the material considerations indicate to me that the design provisions of the development plan policies set out in the reasons for refusal need not be strictly adhered to.

Planning balance and overall conclusions

22. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It

⁴ *The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)*.

⁵ *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314 (The Mansell case)

⁶ *Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government* [2009] JPL 1326

goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

23. The other considerations put forward in my judgment show a material benefit in granting planning permission, otherwise a scheme bereft of landscaping could in all possibility take place utilising PD entitlements. Additionally, the Council is required to demonstrate consistency in its decision-making, and on the evidence available to me this has not been demonstrated. The other considerations clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness. Consequently, the very special circumstances necessary to justify the development exist, and the appeal succeeds.

Conditions

24. As mentioned earlier, a start has been made on the scheme, and the conditions to be imposed reflect this.
25. In the interests of certainty, it is important that the development is completed in accordance with the approved plans, and a condition to this effect is imposed.
26. In the absence of detail as to the proposed fencing and landscaping and in the interests of visual amenity, relevant conditions are imposed.

G Powys Jones

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be completed in accordance with the following approved plans: the location and site plans; and the unreferenced plan showing wall elevations, gates and access layout.
- 2) No further works shall be undertaken on the development hereby permitted until details of landscaping and of the proposed fencing at the front of the site have been submitted to and approved by the local planning authority. The proposed fencing shall be installed and the landscaping carried out in accordance with the approved details. All plants/trees comprised in the landscaping scheme shall be planted during the first planting season following the Council's approval of the scheme and any plants that die, become diseased, damaged or are removed shall be replaced immediately with similar plants to those originally approved.