The Planning Inspectorate

Appeal Decision

Site visit made on 18 June 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2019

Appeal Ref: APP/B3438/W/19/3222489
Fair View, Caverswall Common Lane, Caverswall ST11 9EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs Taylor against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2018/0749, dated 27 November 2018, was refused by notice dated 22 January 2019.
- The application sought planning permission for the erection of a replacement dwelling without complying with a condition attached to planning permission Ref SMD/2018/0599, dated 21 November 2018.
- The condition in dispute is No 7 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Class(es) A, B, D and E other than those expressly authorised by this permission, shall be carried out at the property without express planning permission first being obtained from the Local Planning Authority.
- The reason given for the condition is: To enable the Local Planning Authority to control development within the Green Belt in order to protect its openness in future.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Taylor against Staffordshire Moorlands District Council. This application is the subject of a separate Decision.

Background and Main Issues

3. Planning permission has been granted for the erection of a replacement dwelling at the appeal site. The Council concluded that the replacement dwelling would be materially larger than the one which it was intended to replace and was therefore inappropriate development in the Green Belt. When considering whether there were Very Special Circumstances, the Council considered a fallback position which demonstrated that a much larger dwelling could be achieved by extending the dwelling under Permitted Development Rights which, it was concluded, would have been much more harmful to the Green Belt than the replacement dwelling.

4. The appellant asserts that the removal of Class E permitted development rights is not reasonable, relevant to the development to be permitted and is not

necessary. Taking the above into account, the main issue is whether the condition meets the tests set out within the National Planning Policy Framework (the 'Framework')(2019) and is reasonable, relevant to the development permitted and necessary to protect the openness of the Green Belt.

Reasons

5. The appeal site comprises a substantial plot accessed via a private driveway off Cavershall Common. Although the site is relatively secluded with views of the site restricted by topography and mature vegetation, there are views towards the south west. The appeal site is located in the Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145. One of the exceptions cited is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Policy SS6c of the Staffordshire Moorlands Core Strategy (2014) states that strict control will continue to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government Policy.

6. The Council held that the proposed replacement dwelling would constitute inappropriate development in the Green Belt. However, in light of the fallback position, it found that the benefit of determining the application would be that the design can be controlled and any future permitted development rights for further extension removed. The Council concluded that, although the development would constitute inappropriate development in the Green Belt, as a result of the above benefits, very special circumstances existed.

7. Paragraph 144 of the Framework states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

8. The appellant asserts that the fallback position, specifically permitted development rights under Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO), coupled with the material benefits of delivering a more energy efficient dwelling, collectively amounted to very special circumstances to justify approval of the development. However, the Council held that the ability to restrict permitted development rights formed part of those 'very special circumstances' and whilst the officer's report did not differentiate between the different classes of permitted development within its conclusion, it is clear from the decision notice that this included Class E. Therefore, whilst the fallback position related to development permitted under Class A of the GPDO, the Council's consideration of whether very special circumstances related to those rights afforded by Part 1 Classes A, B, D and E.

9. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. I agree that

such rights should not be withdrawn as a matter of course in the Green Belt. Nevertheless, since the difference between the proposed dwelling and fallback position would be limited, in order for there to be very special circumstances it would have been necessary that the benefits of the proposed dwelling would clearly outweigh the harm to the Green Belt.

10. The appellant has drawn my attention to appeal decision reference APP/P3420/W/18/3200823 where the Inspector concluded that a condition suggesting withdrawing permitted development rights. However, the Inspector in this case concluded that the development was not inappropriate development in the Green Belt. It is therefore not comparable to the appeal scheme before me.

11. Thus, for the reasons given above, I conclude that the condition is reasonable, relevant to the development permitted and necessary in the interests of preserving the openness of the Green Belt. The removal or variation of the condition to allow the appellants to exercise their rights under Class E of the GDPO would harm the openness of the Green Belt and would conflict with Policy SS6c of the Core Strategy and the Framework.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed, and the condition retained in its present form.

M Savage

INSPECTOR