The Planning Inspectorate

Appeal Decision

Site visit made on 20 August 2024

by Elaine Moulton BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2024

Appeal Ref: APP/B3438/D/24/3339663
Farley, Roughcote Lane, Caverswall, Staffordshire ST11 9EG

- 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 D Barker against the decision of Staffordshire Moorlands District Council.
- The application Ref is SMD/2023/0366.
- The development proposed is described as 'retrospective application for the erection of replacement domestic outbuilding'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As suggested by the description of the development above, at the time of my visit, the outbuilding was in situ. I have therefore dealt with the appeal on the basis.

Main Issues

3. The main issues are:

   - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
   - The effect of the proposal on the openness of the Green Belt; 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

Inappropriate development

4. The site is located within the Green Belt. Policy SS10 of the Staffordshire Moorlands Local Plan (LP) seeks to maintain the Green Belt and sets out that strict control will be exercised over inappropriate development, allowing only for exceptions as defined by Government policy. The Framework indicates that the construction of new buildings in the Green Belt should be regarded

as inappropriate unless it falls within the list of exceptions set out in paragraph 154.

5. The exception identified a paragraph 154(d) of the Framework is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Whilst the parties agree that the appeal building is larger than the previous, there is disagreement as to the extent and whether such an increase is 'materially larger'. In addition, the parties disagree about whether the appeal building is in the same use as the one it replaced.

6. In the absence of a definition of 'materially larger' within LP Policy SS10 or the Framework, quantitative measurements are useful to make such an assessment. However, scale, bulk, massing, and height is also relevant to such an assessment. In this respect, whilst the length of the appeal building is comparable, its depth is greater, most notably where the projecting gable feature is positioned which is more than double the depth of the previous building. The larger floor area, together with its greater overall height, amounts to a considerable increase in the bulk and massing of the appeal building above that of the building it replaced. Accordingly, I take the view that even if I were to agree with the appellant that the appeal building is in the same use, it cannot reasonably be anything other than materially larger than the building it replaced.

7. It has not been suggested that the appeal building is appropriate development when considered against any of the other listed exceptions at paragraph 154 of the Framework, and there is nothing before me that would lead me to disagree.

8. I therefore conclude, the appeal proposal is inappropriate development in the Green Belt and would conflict with LP Policy SS10 and the Framework.

Openness

9. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

10. The appeal building is located at the rear of the dwelling within a garden. On approach from either direction, the building is only glimpsed above the roadside hedge. As such, views from outside of the site are limited. Nevertheless, the introduction of a building that is larger than the one it has replaced would spatially reduce, and be moderately harmful to, the openness of the Green Belt.

11. On this issue, I conclude that the proposal would result in a loss of openness in the Green Belt which conflicts with paragraph 142 of the Framework.

Other considerations

12. The appellant sets out a possible fall-back position, namely the reduction in height of the building so that it would be permitted development (PD). The consideration of a fall-back position, including what could be erected under permitted development, is a well-established principle. However, for a fall-

back position to weigh heavily in favour of a proposal there shall normally be a real prospect of a closely comparable form of development occurring.

13. Buildings incidental to the enjoyment of a dwellinghouse are permitted under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) subject to limitations. As the building is within 2 metres (m) of the boundary, its height must not exceed 2.5m for it to be within such limitations. According to the measurements on the appeal plans, the appeal building is 3.57m in height. As such a 1.07m reduction is required if it is to be within the permitted development limitations which would involve the removal of the pitched roof.

14. The appeal building has been constructed and there is a reasonable likelihood that the appellant would reduce its height to limit the prospect of enforcement proceedings. Furthermore, there is nothing before me that demonstrates that the building would not be functional if its height did not exceed 2.5m, such as through insufficient head room. For these reasons, I am satisfied that there is a real prospect that the building would be reduced in height to bring it in line with the provisions of the GPDO if I was minded to dismiss this appeal. This amounts to a fallback position.

15. The fallback scheme would have a noticeably smaller volume than the appeal building due to its significantly lower height and flat roof. Being lower, it would be better screened by the existing hedgerow that adjoins the highway than the appeal building. I recognise that the flat roofed design of the fallback scheme would not reflect the traditional character of the existing dwelling, unlike the appeal building. Nonetheless, the limited visibility would ensure that it would not be harmful to the character and appearance of the area.

16. Taking such factors into consideration, I find that the appeal building would have a marginally greater impact on the spatial and visual dimensions of the openness of the Green Belt than the proposed two storey extension. Accordingly, the fallback position is not a closely comparable form of development to the appeal building and, thus, the weight that I can give to it is limited.

17. The position of the building away from the road and limited visual effect on the street scene, it subservient scale when compared to the house, the acceptability of its design within the residential curtilage and the lack of harm to the living conditions of neighbours are neutral factors. As such they do not weigh in favour of the proposal.

Green belt balance

18. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. I have also found harm to openness.

19. Paragraph 152 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very

special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.

20. The other identified consideration is of limited weight in favour of the proposal. Consequently, such a consideration, along with all other matters identified in the evidence, does not clearly outweigh the identified harm to the Green Belt, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

21. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

22. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR