
Appeal Decision

Site visit made on 21 March 2016

by Rachel Walmsley BSc MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 April 2016

Appeal Ref: APP/Y3425/W/16/3142034

Fox Earths, Spot Acre, Stone ST15 8RN

- 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 Miss Jill Bratt, Arden Investments against the decision of Stafford Borough Council.
 - The application Ref 15/21955/FUL, dated 12 June 2015, was refused by notice dated 9 September 2015.
 - The development proposed is re-siting of existing ancillary lodge and new vehicular access.
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Decision

1. The appeal is dismissed.

Procedural matter

2. For the purposes of clarification, the description of development on the planning application form describes the proposed development as the re-siting of an existing lodge. However, the proposal involves the demolition of the existing lodge and the construction of a new dwelling in a different position on the site. Furthermore, the form and scale of the new dwelling would be materially different from the existing building. A new vehicular access is proposed which would include space for vehicles to park.
3. On 22 October 2014 the Council granted approval for the re-siting of an ancillary lodge (planning reference 14/20038/FUL). The same development is the subject of this appeal, with the exception that the proposed development proposes a new vehicular access with car parking which the Council considers would result in the dwelling no longer being ancillary to the main house. Notwithstanding this, the development before me for consideration is the proposed re-siting of an existing ancillary lodge and new vehicular access. I will determine the appeal on this basis. The permission granted in 2014 is an extant permission and therefore represents a fall-back position which is a relevant material consideration within this appeal and which I shall take into account in my determination.

Main Issues

4. The main issues raised by this appeal are:
 - (i) whether the proposal would be inappropriate development in the Green Belt;

- (ii) the effect of the proposal on the openness of the Green Belt; and,
- (iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

- 5. The appeal site concerns a grassed area which is part of the garden to an existing house (Fox Earths). Within the grounds of the house is an outbuilding; a vacant lodge.

Whether or not the proposal is inappropriate development in the Green Belt

- 6. By virtue of the existing outbuilding being demolished and a new house being built to replace it, I am satisfied that the new dwelling would qualify as a replacement building.
- 7. The appeal site is within the Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, is one of the listed exceptions.
- 8. The existing outbuilding is the basis for comparison for the purposes of the consideration of the exception in paragraph 89 of the Framework. The new dwelling would retain the outbuilding's residential use. However, the new dwelling would be materially larger than that which it would replace. As a result the new dwelling would not comply with the exceptions listed in paragraph 89 of the Framework.
- 9. Paragraph 90 of the Framework lists other forms of development which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within the Green Belt. Engineering operations is one of the listed exceptions. The proposed vehicular access and area for car parking would constitute engineering operations. My conclusions on the next issue, the effect of the proposal on the Green Belt and openness, will determine whether or not the development would be inappropriate.

Effect on the openness of the Green Belt

- 10. The Framework (paragraph 79) indicates that openness is an essential characteristic of the Green Belt.
- 11. With regards to the new dwelling and in terms of footprint and volume, the total amount of building to be removed would be less than that of the proposed dwelling. Furthermore, the new dwelling would occupy an existing open space which is laid to grass and therefore would result in built development where there is presently none. The footprint of the dwelling, together with its bulk, would lead to a loss of openness and therefore would result in inappropriate development within the Green Belt.

12. The hardstanding around the new dwelling and to the front of the house for vehicular access and parking would alter the grassed open land to hard surfacing. In addition there would be associated activity such as the movement of vehicles in and out of the driveway. Furthermore, a new access would separate vehicular activities along the lane, from a single access to the main house to two access points. This in turn would distribute vehicular movements along the lane and encroach on the area's openness. Whilst I note that the Council's Highways Officer had no objections to the access, I do not consider that, in light of the points raised, the vehicular access and parking area would preserve Green Belt openness. Whilst the effects would be moderate, on the basis that the fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open, the hardstanding would be inappropriate in the Green Belt.
13. As part of the proposal to create a new access, a section of hedge adjoining the road would be removed. The section of hedge to be removed would be small, relative to the length of the hedge along the road and to the gap in the hedge further down the road which provides access to the main house. I do not consider that the loss of the hedge would lead to any material loss of Green Belt openness.
14. In the above respects I conclude that on the basis that the fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open, the new dwelling and hardstanding would be sufficient to result in the development being inappropriate in the Green Belt, reducing its openness. Paragraph 88 of the Framework states that in considering a planning application, substantial weight should be given to any harm to the Green Belt. The proposed development, by definition, would be harmful to the Green Belt and substantial weight must be given to this harm.

Other considerations

Extant permission

15. The extant planning permission (ref 14/20038/FUL) for a new dwelling is an implementable permission. This carries significant weight in my determination of this appeal. The dwelling within the extant permission is in the same position and of the same design, form and scale as the development which is the subject of this appeal.
16. I have found that a new dwelling in the location proposed would lead to the loss of openness and therefore would result in inappropriate development harmful to the Green Belt. However, given that the extant permission concerns a dwelling of the same form, design and scale, this form of development already has planning permission. Either way, therefore, a new dwelling within the Green Belt could be developed; if the appeal proposal fails, there is nothing within the evidence before me to suggest that the extant permission for the dwelling would not be implemented. I attach significant weight to this consideration.
17. The material difference between the extant permission and the current proposal is the access to the dwelling. The extant permission includes a pedestrian and vehicular access that is shared with the main dwelling on the site. The footpath would occupy a less visible part of the site than the proposed vehicular access as it would be set well within the site and behind an

existing hedge. Whilst the grassed garden would be occupied by hardstanding for the footpath, when compared with the proposed vehicular driveway, the area of grass occupied with hardstanding would be less. Furthermore, as the vehicular access would be shared with the main house, the vehicular activity would be limited to one part of the site, compared with the development proposed which would create a second access onto the road. In all, therefore, I have found that the pedestrian and vehicular access in the fallback position would have a limited effect on openness and therefore would be inappropriate development of moderate harm to the Green Belt. I attach considerable weight to this matter.

18. The fallback position is therefore a consideration which attracts very great weight. There is nothing before me that suggests that the extant permission would not be implemented and therefore a dwelling built in the Green Belt. I have found that the proposed hardstanding in the fallback position would have less effect on the openness to the Green Belt than the proposed development. This is an advantage which I give significant weight to.

The need for a separate access

19. The appellant suggests that a separate access is required to enable prospective residents to park their car adjacent to their home and avoid them walking through the grounds of the main house. I recognise that both matters imply a degree of inconvenience for prospective residents. However, I do not consider that a shared pedestrian and vehicular access with the main house would be sufficiently inconvenient to render the new dwelling unworkable. I give significant weight to this consideration.

Former accesses and parking

20. I note that when the main house, Fox Earths, was in use as a nursing home, there were two access points and a large car park. This development would have pre-dated current planning policy on the Green Belt. Furthermore, since the property was in use as a nursing home, the rear access has been stopped up and returned to garden. It is within this context that I assess the proposed development against. Consequently I consider that the former site layout that pre-dated current Green Belt planning policy has little bearing on my consideration of the current proposal. I give limited weight to this consideration.

Very special circumstances

21. Paragraph 87 of the Framework states that inappropriate development, by definition, is harmful to the Green Belt and should not be approved except in very special circumstances.
22. I have concluded that the new dwelling and associated hardstanding would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also concluded that the proposal would harm the openness of the Green Belt. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt.
23. I consider that the substantial weight given to the harm arising from inappropriate development and its effect on the openness of the Green Belt is not clearly outweighed by the other considerations. There is a lack of need identified for the new access. Furthermore, the significant weight of the

fallback position which would improve the openness of the Green Belt does not clearly outweigh the harm arising from the proposed development. This does not amount, therefore, to the very special circumstances necessary to justify the proposal.

Other matter

24. The Council suggests that the new vehicular access would result in the new dwelling no longer being ancillary to the main house, as was approved under planning application 14/20038/FUL. I am not convinced that, on the basis of the access alone, the proposal would no longer be ancillary accommodation. Without further details on the intended use of the dwelling, I remain of the view that the development would remain ancillary accommodation. Notwithstanding this, as the matter of ancillary accommodation does not have a bearing on my assessment of the proposal and its effect on the openness of the Green Belt, it is not necessary for me to consider this matter any further in the determination of this appeal.

Conclusion

25. The proposed development would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition there would be a loss of openness.
26. The harm arising from inappropriate development and its effect on the openness of the Green Belt is not clearly outweighed by other considerations. Consequently the very special circumstances necessary to justify the development do not exist. For the reasons given, the overall conclusion is therefore that the appeal is dismissed.

R Walmsley

INSPECTOR