
Appeal Decision

Site visit made on 30 August 2016

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/C3430/W/16/3149950

Land adj 4 Club Cottages, Club Lane, Coven Heath, Staffordshire WV10 7EY

- 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 Mr Wayne Parkes against the decision of South Staffordshire Council.
 - The application Ref 15/01003/COU, dated 17 November 2015, was refused by notice dated 13 January 2016.
 - The development proposed is the incorporation of land into the residential curtilage of 4 Club Cottages, WV10 7EY and use of land as garden land serving 4 Club Cottages.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. No policies from the development plan were cited in the Council's refusal notice. I have approached the appeal on this basis.

Main Issues

3. These are:
 - (i) whether the proposal would be inappropriate development in the Green Belt; and,
 - (ii) 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

Whether the proposal would be inappropriate development in the Green Belt

4. The site is within the Green Belt. The emphasis in the National Planning Policy Framework (the Framework) is that development within the Green Belt is inappropriate unless it meets the exceptions listed in paragraphs 89 and 90 of the Framework. The proposed development involves incorporating the site into the existing domestic garden to No 4 Club Cottages for use as garden space. This development would not meet the exceptions listed in the Framework and therefore by definition, would be inappropriate development within the Green
-

Belt. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt.

Effect on openness of the Green Belt

5. The Framework (paragraph 79) indicates that openness is an essential characteristic of the Green Belt. Openness derives from an absence of built form. Lawn or planting associated with the proposed garden would have no discernible effect on the openness of the Green Belt. However, domestic paraphernalia such as play equipment or garden sheds would reduce the openness of the Green Belt. While such items are not currently proposed within the garden, my consideration of the proposal takes into account future as well as current occupiers. Once the site becomes garden land, any such structures could be erected at any time, with implications for impact on openness.
6. The appellant has suggested that permitted development rights for garden buildings could be removed by condition. However, the advice within the Planning Practice Guidance (PPG)¹ is that conditions for this purpose should only be used in exceptional circumstances. In this case, removing permitted development rights to make development within the Green Belt acceptable in planning policy terms does not equate to an exceptional circumstance. Furthermore, removing permitted development rights would not prohibit the erection of items such as trampolines, kennels and other such structures which could be reasonably expected within a domestic garden and which would impact on the openness of the Green Belt.
7. Paragraph 80 of the Framework sets out the purposes of the Green Belt. These are to check the unrestricted sprawl of large built up areas; prevent towns merging; assist in safeguarding the countryside from encroachment; preserve historic towns; and to assist in urban regeneration. Given the position of the site next to but separated from the adjoining grazing land, the proposed garden would not encroach into the countryside, nor would it lead to the unrestricted sprawl of the built up area. None of the other purposes of the Green Belt would be significantly affected.
8. Nevertheless, the proposal would impact on the openness of the Green Belt by contributing to its erosion. I therefore conclude on this issue that the proposal would be harmful to the openness of the Green Belt. Therefore, it would be contrary to a fundamental aim of Green Belt Policy as set out in the Framework.

Other considerations

9. Paragraph 87 of the Framework notes that inappropriate development should not be approved except in very special circumstances. Paragraph 88 of the Framework states 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.
10. I note that the appeal site is effectively indistinguishable from land to the east given that it is laid to lawn. Whilst I have no doubt that the use of the site would complement that to the east, this does not overcome the harm found to

¹ Paragraph 017 Reference ID: 21a-017-20140306

the openness of the Green Belt as a result of domestic paraphernalia. This consideration therefore does not carry any weight.

11. The work done to tidy the site and clear it of debris and vermin is welcomed and I give this some positive weight in my decision. However, the Framework explains that the essential characteristics of Green Belts are their openness and permanence, which are not necessarily related to the condition, use or appearance of the land in question. The weight I can give to this consideration overall, therefore, is limited.
12. The evidence before me suggests that the land has previously been in use as garden land. I note, however, that the use of the land as garden did not benefit from planning permission. Consequently no planning assessment of the land as garden would have been made and therefore, by implication, does not imply that a garden use is acceptable. Notwithstanding this, the proposal before me is for the change of use from agricultural land to garden and it is on this basis that I have considered this appeal. I attach no weight to this consideration.
13. The appellant suggests that paraphernalia associated with the use of the land for horticultural purposes could be equally harmful to the openness of the Green Belt. However, in view of the appeal site being less than 0.4 hectares, the Council's consent would be required to erect structures on the land and therefore would be subject to an assessment of their impact on the landscape. This consideration, therefore, does not carry any weight.
14. I note that the appellant considers that the land would be impractical for any form of agricultural use, other than horticulture. I have not been presented with an assessment of alternative uses to know if this is the case. Notwithstanding this, I do not consider that the use of the land for horticulture weighs in favour of the proposed use of the land as garden. I cannot, therefore, attach weight to this consideration.
15. The appellant also considers that the existing visual characteristics of the land would be replicated if the change of use was granted. However, in light of my observations above, if the change of use was granted, domestic paraphernalia would reduce the openness of the Green Belt. This consideration, therefore, carries no weight.

Very special circumstances

16. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
17. I have concluded that the proposed development would be inappropriate development and would be harmful to the openness of the Green Belt. Substantial weight must be given to this harm.
18. I have found that the 'tidying up' of the site carries limited weight, however, it does not outweigh the substantial weight which I give to the harm identified. This does not amount, therefore, to the very special circumstances necessary to justify the development.

Conclusion

19. For the reasons given above, the overall conclusion is that the appeal is dismissed.

R Walmsley

INSPECTOR