

Appeal Decision

Site visit made on 26 September 2016

by Alison Roland BSc DipTP MRTPI

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

Decision date: 25 October 2016

Appeal Ref: APP/N2739/W/16/3150623

Manor Grange Equestrian, Cobcroft Lane, Cridling Stubbs, Selby, WF11 0AZ.

- 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 Mrs J Senior against the decision of Selby District Council.
 - The application Ref: 2016/0120/FUL, dated 24 April 2015, was refused by notice dated 21 April 2016.
 - The development proposed is replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are (1) whether the proposal amounts to inappropriate development in the Green Belt (GB) and if so, 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 and (2) whether an affordable housing contribution is necessary to render the development acceptable.

Reasons

3. Paragraph 89 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the GB is inappropriate, but goes on to list certain exceptions to this rule. One of these is the replacement of existing buildings, provided the new building is in the same use and not materially larger than the one it replaces.
 4. The proposal seeks to replace an existing mobile home on the land with a brick built bungalow. The former benefits from a Certificate of Lawful Use or Development (CLEUD) for residential use pursuant to application Ref: 2013/1022/CPE. The appellant maintains that the mobile home is a building and cites various judicial authority in support of this proposition. In particular, it is argued that in the absence of wheels or a tow bar, it cannot be towed and that the addition of exterior timber decking has imputed a degree of permanence to the structure, as it would need to be removed in order to render it mobile. It is also pointed out that it is connected to mains water, electricity and gas supplies.
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5. Dealing with the latter point first, it is not at all unusual for mobile homes to be connected to mains services and this to a degree might be expected following the grant of the CLEUD for residential use. The absence of wheels or tow bar is also not persuasive since again, it is not uncommon for these to be removed or altered in such circumstances. Moreover, the absence of these structures, whilst they might deny the opportunity of the home being towed in its present condition, would not prohibit its transportation by motor vehicle or trailer and if it were necessary, I have no reason to believe it would not be possible to install them.
6. I also saw at my visit that an extensive area of decking has been laid in front of the mobile home which includes a timber plinth and balustrade around the perimeter. However, this appears to me to be a separate building operation to the siting of the mobile home, despite the fact that it clearly serves it. Moreover, it is very much an ancillary structure, as opposed to forming part of the accommodation, in a similar fashion to the way decking is often laid around the perimeter of a house. Its degree of physical attachment thereto also appears rudimentary, in that it is butted up to the mobile home and I have no evidence before me to demonstrate that it is an integral part of the main structure. The fact it may need to be removed in order to render the unit portable, does not to my mind lend any significant degree of permanence to the mobile home.
7. The appellant maintains that the Council relied on the four year rule when resolving to grant the CLEUD and thus it follows they must have assumed that the mobile home is a building. However, I must come to my own view on the merits of the appeal and I do not consider my discretion is fettered in any way by their rationale at that time.
8. For these reasons, I consider that the mobile home on the appeal site is not a building and would not therefore benefit from the exception in paragraph 89 of the Framework in relation to replacement dwellings. The proposal would thus amount to inappropriate development in the GB as a matter of principle; a harm to which I attach substantial weight.
9. Added to this, the proposed bungalow would be significantly larger than the existing mobile home, despite being in broadly the same position. This would have an appreciably greater impact on the openness of the GB than the existing mobile home and this adds to the harm by reason of inappropriateness. I do not accept the appellant's calculations to the contrary in this regard, because they are largely based on floor space and not volume, which does not give a true reflection of the bulk and massing of the mobile home compared with the proposed dwelling. For example, I do not consider that the surface area of the decking could reasonably be taken into account, as whilst it might amount to a building operation in its own right, it does not have a meaningful volume other than the limited space beneath it.
10. In relation to the second main issue, Policy SP9 of the Selby District Core Strategy (2013) (CS) requires that on all market housing sites of less than 10 dwellings, a commuted sum will be sought towards affordable housing provision. The appellant states that he is willing to enter into a planning obligation to meet this requirement, although none has been submitted with the appeal. However in this particular case, the proposal is for a dwelling to replace an existing residential unit and there is thus no net gain in market housing provision. Accordingly, I conclude that the requirements of Policy SP9 do not apply and an affordable

housing contribution is not necessary to render the development acceptable. In addition, following the judgement in *R (West Berkshire District Council and Reading Borough Council) v. Secretary of State for Communities and Local Government* [2016] EWCA), the Government has amended its Planning Practice Guidance to the effect that affordable housing contributions should not normally be sought on schemes of less than 10 dwellings.

11. The appellant raises a number of other considerations which should be taken into account, including the intention to remove two other mobile homes which exist on the site and the potential benefit this could have to the openness of the GB. Neither of these benefit from planning permission or a CLEUD, although the appellant maintains that one of them could be demonstrated lawful if an application were made. However, given the ambiguity over their status, there can be no certainty that they would otherwise remain on site as permanent structures and I thus attach limited weight to this issue.
12. I appreciate that the proposed bungalow would be of a superior design and materials to the present mobile home and from a purely aesthetic standpoint, this would represent a small improvement to the appearance of the site. From a qualitative standpoint, it would also offer a more robust construction with superior insulation. I attribute some weight to these two factors. I also accept that there are limited public views into the site, but the impact of a development on the openness of the GB is not a function of its visibility and I afford limited weight to this point. It is also claimed the Council are unable to demonstrate a five year supply of land for housing. Either way, as the proposal is to replace an existing residential unit, it would make no contribution thereto and hence this is not a positive factor in the overall planning balance.

Overall Planning Balance and Conclusion

13. Overall, I find that the proposal would amount to inappropriate development in the GB as a matter of principle and I attach substantial weight to this harm in accordance with the advice at paragraph 88 of the Framework. Added to this harm would be the harm caused by the loss of openness to the GB consequent upon the replacement of the mobile home with a larger building. The proposal would thus conflict with Policy SP3 of the CS, as well as the advice in the Framework, both of which seek to resist inappropriate development in the GB. Whilst I have found in relation to the second main issue that an affordable housing contribution would be unnecessary, this is a neutral or absence of harm factor, as opposed to a positive factor in the overall planning balance.
14. For the appeal to succeed, the combined weight of the other considerations raised must be sufficient to clearly outweigh the totality of harm identified. Overall, I conclude that the other considerations raised by the appellant, even taken together, would not clearly outweigh the harm identified. It follows that the very special circumstances necessary to justify the development do not exist. The appeal therefore fails.

ALISON ROLAND

INSPECTOR