
Appeal Decision

Site visit made on 1 November 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 15 November 2016

Appeal Ref: APP/P1805/W/16/3155754

**Wild Rose Kennels & Cattery, Pitcroft Cottage, Tanners Green Lane,
Wythall, Birmingham, Worcestershire B47 6BA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Len Hitch against the decision of Bromsgrove District Council.
 - The application Ref 15/1052, dated 20 November 2015, was refused by notice dated 20 April 2016.
 - The development proposed is siting of a new two storey house and garage to replace existing kennels and cattery outbuildings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters reserved for later consideration. However, an illustrative site layout was submitted which showed the proposed siting of the dwelling. I have utilised this drawing in these terms.
3. At the site visit it transpired that the 'red line' of the application site was different in the plan considered by the Council to that submitted with the appeal. The former includes only the site of the proposed dwelling and its proposed curtilage while the area around Pitcroft Cottage is outlined in blue. I will therefore use this smaller area as the appeal site. However, this does not prevent requiring the removal of buildings on the 'blue land' should this be found necessary being secured by condition.

Main Issues

4. As the site is within the Green Belt 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 on the openness of the Green Belt;
 - the effect on the character and appearance of the area;
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- would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

5. The appeal site lies to the rear of Pitcroft Cottage which is itself behind the property known as Myrtle Cottage on the northeast side of Tanners Green Lane. Access is to the north of Myrtle Cottage on a track which also forms part of the public rights of way network. Close to Pitcroft Cottage and extending about half way down the garden are a number of single storey outbuildings which were used as kennels and cattery. The site slopes gently up to the northeast and there are number of mature trees both within and around the edge of the garden and on the land to the north. There is also a fenced area within the site.

Inappropriate development

6. Under the terms of Policy DS2 of the Bromsgrove District Council Local Plan 2004 (the BDLP) permission will not be given, except in very special circumstances, for the construction of new buildings in the Green Belt unless one of a list of instances applies. Included within this list is housing where it is in accordance with the special circumstances set out in Policy S9. In any event, proposals should be environmentally and ecologically acceptable and should not damage the visual amenities of the Green Belt. The proposal does not fall within any of the criteria set out in Policy S9.
7. The Framework, in paragraph 89, makes clear that the construction of new buildings is inappropriate in the Green Belt although it sets out a number of exceptions. Included within these exceptions is the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development (exception 6). Give the Framework is a more recent statement of Government policy I will use it in preference to the policies of the BDLP which were based on the now superseded policies set out in PPG2: Green Belts.
8. The Framework sets out in Annex 2 a Glossary of terms including the definition of previously developed land. This includes land which is or was occupied by a permanent structure, including the curtilage of the developed land. It is not disputed that the kennels and cattery buildings are lawful and consequently this area represents previously developed land. The Courts have also held that residential gardens outside built-up areas fall within the definition of previously developed land. I am therefore satisfied that the site represents previously developed land.
9. That being the case the answer to the question of whether the proposal represents inappropriate development turns on whether the proposal would have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.

Openness

10. Openness is the absence of buildings or development. Accompanying the application was a schedule setting out the floor areas of the various outbuildings on the site. This totals approximately 486 m², although this

includes a mobile home for staff of 27 m² which has recently been removed. Mobile homes, or caravans, normally represent uses of land rather than buildings and, in any event, to be taken account a building must exist. I will therefore discount this area. This means that the total floor area of buildings to be demolished would be 459 m².

11. The Design and Access Statement indicates that the new dwelling would have a footprint of approximately 200 m², but as the proposal is for a two storey dwelling the total floor area would be in the order of 400 m², although parts of the building may be single storey as would appear to be the case as shown on the illustrative plan. This would reduce the proposed floor area to some extent.
12. However, openness is not only about floor area. It also involves a consideration of height and volume. The current buildings are all single storey and the proposed building would be two storeys in height. Notwithstanding the consolidation of built development on site, by reason of its height the proposal would have a greater effect on openness than the existing structures, and therefore would be harmful to openness.
13. Insofar as openness as a visual component I will consider that in the next section.

Character and appearance

14. The appeal site lies in a small enclave of development consisting of two dwellings and the kennels/cattery in an otherwise rural area. The existing kennels/cattery buildings are small and, due to the extensive landscaping around the perimeter of the site, do not intrude into the landscape.
15. The construction of a two storey dwelling, with the associated domestic paraphernalia, such as lighting, parking and outdoor sitting and drying areas, would have an urbanising effect on the character and appearance of the area. It would therefore be contrary to the third purpose of the Green Belt of protecting the countryside from encroachment.
16. That being the case the proposal would have a harmful effect on the character and appearance of the area and a greater impact on the openness of the Green Belt and the purposes of including land within it and thus represents inappropriate development. As paragraph 87 of the Framework makes clear, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other considerations

17. The appellant has put forward a number of other considerations in favour of the proposal. Firstly, is the replacement of the existing buildings on site, which I have already considered.
18. Secondly, is that if the appeal were dismissed the appellant indicates that the kennels/cattery would re-open giving rise to traffic movements in the surrounding area. I would accept that there is a reasonable prospect of this occurring, but this would only be a reversion to the previous situation. The reduction of traffic, if permission were to be granted, would have a positive impact on highway safety and on the living conditions of the occupiers of Myrtle

Cottage through a reduction in noise and disturbance. I give these benefits limited weight.

19. Thirdly, the appellant refers to Pitcroft Cottage having been two dwellings prior to 1986 when it was converted into a single dwelling. This may be the case, but consideration of this appeal should be in the current situation, rather than what may have been that in the past.
20. Finally, the appellant has referred to two cases where it considers the Council has granted permission in, what he asserts, are similar circumstances. However, I do not have full details of these cases and as such am unable to give weight in favour from these permissions. In any event each case should be considered on its own merits.

Other matters

21. A local resident has objected to the proposal on the basis that he considers the access is not suitable. I note that no objection was received to the application by the Highway Authority, and, if permitted, the proposal would result in fewer traffic movements than the kennels/cattery thereby enhancing that situation and improving highway safety. I have given weight to that above.
22. Although there are a number of trees on and surrounding the site, I am satisfied that the proposal could be constructed without adversely affecting them. As such Policy C17 of the BDLP which seeks to protect trees would be complied with.

Conclusion

23. The proposal represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt, and paragraph 88 of the Framework indicates that substantial weight should be given to that harm. Insofar as they are of weight the proposal would also be contrary the Green Belt policies of the BDLP. In addition I have concluded that the proposal would adversely affect openness in the Green Belt and that it would be contrary to one of the purposes of the Green Belt. While there would be benefit from the reduction in noise and disturbance on the living conditions of the occupiers of Myrtle Cottage and from the loss of traffic in the area more generally and thus an improvement to highway safety these benefits would only be of limited weight.
24. The Framework reminds that inappropriate development should not be approved except in very special circumstances. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances needed to justify the development do not exist.
25. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR