
Appeal Decision

Site visit made on 1 November 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 18th November 2016

Appeal Ref: APP/F4410/W/16/3156281

Virginia House, Selby Road, Askern, Doncaster, DN6 0ET

- 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 Terrance Rathbone against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 16/00791/FUL, dated 14 March 2016, was refused by notice dated 16 May 2016.
 - The development proposed is conversion of former pig breeding unit to detached bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. As the site is located within the Green Belt, the main issues are:
 - (a) 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.
 - (b) The effect on the openness of the Green Belt and the purposes of including land within it.
 - (c) Whether the site is a suitable location for residential development having regard to its location within Flood Zone 2.
 - (d) If the proposal is inappropriate development, whether any harm by reason of inappropriateness, and so any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Policy Background

3. Planning law requires that applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. Saved Policy ENV10 of the adopted Doncaster Unitary Development Plan, 1998 (UDP) permits the conversion of rural buildings within the Green Belt where they are of permanent and substantial construction and are capable of conversion without major or complete reconstruction (criterion a). The policy also has a number of other criteria to be met including whether the proposed conversion respects local building style (criterion b) and that development in the Green Belt would not have a materially greater impact than the present use
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on the openness of the Green Belt and the purposes of including land in it (criterion d).

4. However, the UPD and this policy pre-dates the Framework in respect of criteria a) and b) it is no longer a requirement of national planning policy that that buildings which are to be re-used in the Green Belt are of a bulk, form and general design that are in keeping with their surroundings or that buildings should be capable of re-use without major reconstruction taking place. In this regard, this policy is therefore not fully consistent with the Framework, and as set out within paragraph 215, the weight I can attach to it is limited.
5. The Doncaster Council Core Strategy 2011-2028 was also adopted prior to the Framework, however I note that Policy CS4 in respect of Flood Risk is broadly in line with this and therefore I attach weight to this.
6. Paragraph 14 indicates that where the development plan is out-of date, permission should be granted unless specific policies in the Framework indicate that development should be restricted. Specific reference to Green Belt and locations at risk of flooding is given in the accompanying footnote. For clarity, I have determined the appeal based upon the CS, UDP and the Framework.

Inappropriate Development

7. The Framework establishes that certain forms of development are not inappropriate in the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. This includes the re-use of buildings provided that they are of permanent and substantial construction, are not inappropriate development (paragraph 90). Paragraph 89 of the Framework also identifies the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of original buildings as not being inappropriate development in the Green Belt.
8. The former pig breeding unit is a large building constructed from concrete block work which has been rendered. In determining whether the building is of permanent and substantial construction, and in the absence of any supporting structural survey, the case clearly involves matters of judgement.
9. I saw that the building is in a poor condition, and I observed that parts of the block work walls have historically had supports inserted, visible on the external elevations. I also accept that the development would involve a number of building operations in respect of the alteration and insertion of openings into the building as well as a new roof. There would also be other works necessary to meet Building Regulations.
10. Nonetheless, while the building is dilapidated, it is in-tact, and is clearly of a permanent and substantial construction, with concrete floors, block work walls and a mono-pitched corrugated metal roof. The level of necessary reconstruction or alteration is not a specific test as set out by the Framework.
11. Furthermore, the conversion would be restricted to the existing built footprint of the building, with the exception of the replacement of the roof with a pitched roof which would increase the height of this building and would entail the addition of rendered block work to the side elevations in order to create the pitch. Given the scale of the building, I do not consider that an increase in height at around 1.6m would be disproportionate, rather I consider the works to represent only a modest upwards extension.

12. In accordance with paragraph 89 and 90 of the Framework, my conclusions on the next issue, the effect of the development on Green Belt openness and purposes, will therefore determine whether or not the development is inappropriate.

Green Belt Openness and Purpose

13. To the front and side of the building is a large area of hardstanding, currently used for storage. To the rear are open fields. The appeal site is separated from Virginia House by a large conifer hedge and gates. There is also a separate modern metal barn structure adjacent to the appeal site, in agricultural use.
14. The Framework indicates that openness is an essential characteristic of the Green Belt (paragraph 79). Openness implies the absence of development and, as the re-use of an existing building, I am satisfied that the conversion and very modest extension to the roof of the building itself would have only a neutral effect on openness.
15. I accept that the creation of domestic curtilage would also be necessary as part of any development, however I share the Council's concerns in respect of the impact of this upon Green Belt openness.
16. Despite the fact that the proposed curtilage is an existing area of hardstanding, I consider that it is open and its use for agricultural purposes is visually associated with the countryside. I also consider that there is a clear distinction between this area and the domestic curtilage of Virginia House. While the appellant states that the land is used for outdoor storage and associated domestic use, the Council state that consent has not been granted for the storage of domestic items on agricultural land.
17. The area of proposed curtilage for the dwelling would be subdivided from the wider area of hardstanding by timber fences and gates and would be gravelled and landscaped to create a private garden as well as providing parking for 4 cars. I therefore find that the creation of a separate garden area would therefore visually transform the open hardstanding in to a more formalised and domesticated area. This would represent encroachment and would cause harm to openness.
18. I am also mindful that the use of the land for purposes ancillary to the dwelling could also involve the requirement for other domestic paraphernalia such as sheds, bin storage, outdoor seating areas, lighting, and children's play equipment. This would not be fully controlled by the removal of permitted development rights. While there may be a fallback position in respect of the ability to erect new boundaries, this alone would not be as intensive as the transformation of this land for full domestic use.
19. Furthermore, the appellant notes that the curtilage created would be inward looking towards the existing property rather than into undeveloped Green Belt land. This is reflected by the red line site plan (Drawing No 15.004.2 Rev A). However, I note that to the rear elevation a number of new openings are proposed, including a doorway leading from the utility room and patio doors within the family room.
20. While this land does not form part of the proposed development, in practice, once established, I consider it likely that there would be a related (and not unreasonable) demand to use this area of land as a private garden which would be difficult for the Council to resist. The use of the rear area as domestic

curtilage would be materially harmful to openness and would encroach into the countryside.

21. I recognise that there is other built development in the area and that the appeal site is well screened. However, I find that the development would give rise to an urbanising impact which would not, in my view, preserve the existing levels of Green Belt openness, nor would it safeguard the countryside from encroachment, one of the purposes of including land in the Green Belt, as identified in paragraphs 79 and 80 of the Framework. The proposal would also fail when considered against criterion d) of saved policy ENV10 of the UDP, which reflects the Framework in respect of protecting openness and purpose.
22. I therefore conclude that the development would be inappropriate, and in accordance with paragraph 88 of the Framework, I give substantial weight to that harm.

Flood Risk

23. One of the Government's core planning principles is to take full account of flood risk (paragraph 17). Paragraph 100 of the Framework also states that inappropriate development in areas of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Paragraph 103 of the Framework relates to site specific Flood Risk Assessments (FRA) and states that development should only be considered appropriate in areas of flooding where it can be demonstrated that development is appropriately flood resilient and resistant.
24. The appeal site is located in flood zone 2 (medium risk). Paragraph 104 of the framework indicates that applications for changes of use should not be subject to the Sequential or Exceptions Tests, but should still meet the requirements for a site-specific FRA. CS Policy CS4 also states that any development within flood risk areas will be supported where it provides a fit-for-purpose site specific FRA and meets with a number of other criteria in respect of flood safety.
25. I have found that the building is of permanent and substantial construction in respect of the specific Green Belt test, and while I consider that the development would be likely to entail a degree of re-building and alteration, I am minded to accept that the proposals would comprise of a change of use on this basis. The Sequential Test would therefore not apply.
26. I have had sight of a FRA for the site which demonstrates that future users of the development will not be placed in danger from flood hazards throughout its lifetime. However, it is not clear to me whether this was submitted as part of the original application, as parties have provided conflicting advice on this matter. Nonetheless, the Council are clear that their concern was focused on the lack of Sequential Test. Moreover, I am mindful that both parties accept that any such flood mitigation measures could reasonably be secured through a planning condition and on the basis of the evidence available I have no reason disagree.
27. I therefore conclude that the development would not require the Sequential Test, and that, subject to condition, the development would be appropriate in an area at risk of flooding. This would be in accordance with CS Policy CS4 which seeks to manage flood risk and ensure development would be safe from

flooding. The proposals would also meet with paragraphs 17, 100, 103 and 104 of the Framework.

Other Considerations

28. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be attached to that harm. Very special circumstances to justify such development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (paragraphs 87 and 88).
29. I have already found that substantial weight must be given to the harm to the Green Belt by reason of inappropriateness of the development.
30. The proposals comprise of the re-use of an existing building, and the development would be acceptable in respect of flood risk. I also note that there would be accessibility to Askern, although distances and details of services and facilities have not been provided. However, these benefits would only be moderate and thus I do not consider that these factors clearly outweigh the totality of harm that I have identified.
31. I therefore conclude that the very special circumstances necessary to justify the development do not exist.

Other Matters

32. It has been put to me that the use of adjacent land for a residential caravan site for one gypsy family, granted on appeal¹, is relevant. Here, the Inspector found that the development was inappropriate in the Green Belt, however it was concluded that a number of material considerations outweigh the identified harm and were found to amount to the very special circumstances necessary to justify the development, whereas I have found that these do not exist.

Conclusion

33. Given the conflict with those policies of the Framework identified above, the proposals cannot therefore be considered sustainable development for which the Framework presumes in favour. For these reasons, and having regard to all other matters raised, the appeal should be dismissed.

C Searson
INSPECTOR

¹ APP/F4410/A/12/2173157