

Appeal Decision

Site visit made on 1 November 2016

by Andrew Dale BA (Hons) MA MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/Z4718/C/16/3150499

Crow Hill, Carrs Road, Marsden, Huddersfield HD7 6JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Eve Wood against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 11 March 2016 under ref. DEV/SJH/SG/D23-1162.
 - The breach of planning control as alleged in the notice is "Without planning permission:- The unauthorised erection of a building."
 - The requirements of the notice are to wholly demolish the building and remove all resultant debris from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended falls to be considered.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background and matters of clarification

2. Crow Hill is a country house estate set out on the edge of Marsden and is run by the appellant as a wedding venue and holiday business. The main building at Crow Hill is a fine house dating from the Victorian period. As clarified at my site visit, other buildings available for hire include the West Wing to Crow Hill, The Lodge, a single-storey cottage set on higher ground and a large marquee.
 3. The appeal and the enforcement notice concern what is, in effect, a service building for the wedding venue and holiday business. This wooden building has been erected in the grounds of Crow Hill roughly halfway between the main building and Carrs Road which passes on lower ground to the west. The site falls within the Green Belt and the Marsden Conservation Area.
 4. Reading the planning history, I see that two retrospective planning applications were made for the erection of a wooden storage/administration building. The former one (ref. 2015/91867) was withdrawn. The Council declined to
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determine the second one (ref. 2016/91219) which was submitted after the enforcement notice had been issued. The appellant expresses some reservations about the conduct of the Council prior to the appeal and queries the fees that have been demanded by the Council. However, if the appellant is dissatisfied with the actions of the Council, those concerns can be addressed by separate means if necessary. My focus must be on the ground (a) appeal which involves assessing whether planning permission ought to be granted for what is alleged in the enforcement notice. The documents from those two previous planning applications submitted with the appeal have been taken into account in that regard.

The appeal on ground (a) and the deemed planning application

5. Taking into account all I have seen and read, I consider that the main issues raised by this appeal are:
 - (i) Whether the development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
 - (ii) The effect of the development upon the openness of the Green Belt;
 - (iii) The effect of the development upon the character and appearance of the Marsden Conservation Area and the visual amenity of the area;
 - (iv) Whether there are other considerations weighing in favour of the development; and
 - (v) 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.
6. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan includes the Kirklees Unitary Development Plan (UDP). The Framework is a material consideration in planning decisions.

Whether the development is inappropriate development in the Green Belt for the purposes of the Framework

7. Paragraph 89 of the Framework explains that the construction of new buildings should be regarded as inappropriate in the Green Belt. One relevant exception to this is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Another exception – the extension or alteration of a building – is of no assistance to the appellant as no existing building has been extended or altered as such.
8. The appellant contends that the building has replaced two similar timber buildings previously within the same site location. In order to qualify under the relevant Framework exception, the building must accord with all three of its components: it must take the place of another building; it must be in the same use; and it must not be materially larger than the building it replaces. The replacement of two or several buildings by one building can be considered.

9. In a letter to the Council dated 15 April 2016 setting out the circumstances surrounding the second application, the appellant states that the building replaced an original building in place in 1998 together with a smaller timber building behind this structure and only just removed. There are photographs of the larger building but they are not dated and no indication is given of when it was removed from the site. If it was removed from the site in 1998 or at some point thereafter well before January 2015 when work started on the appeal building, it is difficult to make the basic claim that the scheme has involved the replacement of an existing building insofar as that larger pre-existing building is concerned. The Council's aerial photographs from 2006, 2009 and 2012 provide no evidence of the larger building.
10. The two former timber buildings appear to have been used for storage purposes according to the written representations before me. If they were last used for storage purposes that were ancillary to and in support of the wedding venue and holiday business at Crow Hill, they can be considered to have been broadly in the same use as the appeal building.
11. Even if the larger pre-existing building is accepted in principle for replacement purposes, the evidence presented for the appellant falls well short of demonstrating that the appeal building is not materially larger than the two structures (as combined) it replaced.
12. The appeal building is a sizeable timber-clad structure which is sited on a plinth, with raised platforms to the front and rear and retaining walls to the front and one side. There is no dispute between the parties that the main structure is about 11 m long by 8 m wide. According to drawing no. A1 its pitched roof is about 4 m in height at the ridge, measured from plinth level.
13. The smaller pre-existing timber building that was most recently removed was about 4 m wide by 3 m deep. No measurements have been provided for the larger pre-existing timber building and it is difficult to assess the precise size of this structure from the photographs alone. It did appear to be quite narrow and it did possess a low and shallow sloping roof. At a best guess that favours the appellant, let us say it was 3 m wide by 11 m long. The combined footprint of the two former buildings would thus reach only about 50% of the footprint of the appeal building. This added to its obviously greater height, more dominant roof, raised platforms and retaining structures indicates to me that the appeal building is materially larger than the one it replaced, even when the two former buildings are considered together as one.
14. The relevant exception in the Framework concerning the replacement of a building in the Green Belt is not satisfied. As such, the development is inappropriate development in the Green Belt for the purposes of the Framework. Paragraph 88 of the Framework says that substantial weight should be given to any harm to the Green Belt.

The effect of the development upon the openness of the Green Belt

15. Paragraph 79 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The building is largely screened from public vantage points on Carrs Road and the local public footpaths by mature vegetation within the

grounds of Crow Hill. Nevertheless, openness has a spatial aspect as well as a visual aspect and by reason of its size and height, the appeal building materially reduces the openness of the Green Belt in this location. Substantial weight must therefore be given to the harm to the Green Belt identified here.

Marsden Conservation Area and the visual amenity of the area

16. In line with the comments of the Council's "Conservation and design" section, the Council notes that as the building is secluded from the wider setting of the Marsden Conservation Area, it does not impact on the character or appearance of the conservation area. I see no reason to disagree and I note that neither the Marsden Conservation Area nor any local or national planning policies relating to conserving and enhancing the historic environment were included in the reasons for issuing the enforcement notice.
17. The Council is concerned that the timber building appears at odds with the area when viewed in relation to the surrounding stone buildings. However, the building with its light green coloured timber panels is a visually acceptable structure in itself. It is separated from the stone buildings on the site by mature vegetation. The appearance of the building seems to me to be appropriate to its wooded setting and to suit its function and use as an ancillary service building. The Council's speculation about other possible uses for the building is misplaced especially when a planning condition could be imposed to control the use of the building. I consider that the two former timber buildings were small in scale and innocuous. Whilst the appeal building has not obviously enhanced the visual amenity of the area, it does not detract from the visual amenity of the area for any reason. I find that it complies with UDP Policies BE1 and BE2 and section 7 of the Framework which requires good design.
18. The findings under this main issue are, however, neutral factors which do not weigh in favour of the development.

Other considerations

19. The wedding venue and holiday business at Crow Hill appears to be a notable business in the Marsden area with clients and visitors to Crow Hill making use of other local businesses both in Marsden and the surrounding area. Although the letter of 15 April 2016 explains that the business employs 45 people, the appellant (in an enclosure marked EVE 1) says it employs over 30 staff, many aged between 18 and 25, including students and single parents, who rely on flexible hours.
20. I saw that the building provides a sizeable office in one end, a meeting room for clients and staff and facilities for the staff including a toilet, a kitchen and storage spaces. The argument is put that when the accommodation on site is fully booked the building is essential for staff welfare and that its removal would cause major problems for the business.
21. However, it has not been made clear how the business was carried on at Crow Hill prior to January 2016 when the appeal building was completed. Crow Hill and the West Wing, as I saw and as shown in a brochure submitted by the appellant, contain a considerable number of rooms. It is apparent from the brochure that there was once a sizeable office in the West Wing. There are

other timber buildings behind the marquee and it is not explained why these are unsuitable for storage. Little attempt has been made to provide empirical evidence which would correlate the continued viability of the business with the appeal building. The appeal has not been supported by an independent analysis of the business operations at Crow Hill, for example by a chartered accountant or a business/economic development consultant, which clearly demonstrates the significance of the appeal building. No representations have been received in support from the other local businesses in Marsden mentioned by the appellant and I have seen nothing in support from the business/economic development wing of the Council. It is not clear whether the appellant has discussed other schemes with the Council that would give her the service facilities she desires without conflicting with Green Belt policies.

22. The Framework at paragraph 19 explains that significant weight should be placed on the need to support economic growth through the planning system. The significant weight that would ordinarily be attached to the considerations raised by the appellant is tempered somewhat by the reservations set out in the paragraph above. These other considerations do however attract some weight in the overall planning balance in favour of the development.

Very special circumstances

23. Paragraph 87 of the Framework says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Those 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.
24. I have concluded that the building is inappropriate development which is, by definition, harmful to the Green Belt. I have also found that there is some harm to the openness of the Green Belt. Substantial weight must be given to these harms.
25. Although I have found that the development preserves the character and appearance of the Marsden Conservation Area and does not detract from the visual amenity of the area, these are neutral factors which do not weigh in favour of the project.
26. The other considerations set out above are not of sufficient weight to clearly outweigh the harm to the Green Belt by reason of inappropriateness and the other harm identified. As such, the development cannot be justified on the basis of very special circumstances and there is accordingly conflict with section 9 of the Framework.

Conclusion

27. For these reasons, and having taken into account all other matters raised in the written representations, I conclude that the appeal on ground (a) and the deemed planning application should not succeed. The enforcement notice will be upheld.

Andrew Dale

INSPECTOR