

Appeal Decision

Site visit made on 22 December 2016

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 11 January 2017

Appeal Ref: APP/P3420/D/16/3160700

Lower Mill House, Furnace Lane, Madeley, Newcastle-under-Lyme CW3 9EU

- 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 P Carnall against the decision of Newcastle-under-Lyme Borough Council.
 - The application Ref 16/00489/FUL was refused by notice dated 15 August 2016.
 - The development proposed is the erection of an extension and refurbishment to existing dwelling including the demolition of existing garage and erection of the proposed new carport.
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Decision

1. The appeal is dismissed.

Main issues

2. The site is within the Green Belt. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt;
 - the effect of the development sought on the openness of the Green Belt and the purposes for including land within it; and
 - if it is inappropriate development, 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 is inappropriate development

3. The National Planning Policy Framework (the Framework) makes clear that subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Several exceptions to this are listed in paragraph 89 of the Framework including the extension or alteration of a building that does not result in disproportionate additions over and above the size of the original building. A further exception is a new building that is in the same use and is not materially larger than the one it replaces.
 4. The corresponding list in criterion iv) Policy S3 of the Newcastle-under-Lyme Local Plan (LP) differs to the Framework in that it refers to a dwelling rather
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- than a building. As such, it is not fully consistent with national policy and so I give greater weight to the Framework for the purpose of this appeal.
5. The term 'original building' is defined by the Glossary to the Framework as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. LP Policy S3 and the Framework do not define the terms 'disproportionate' and 'materially larger'. Whether or not a proposal should be regarded as such is therefore a matter of planning judgement.
 6. At the application stage, the appellant estimated the size of the original building to be 643.25 cubic metres. With reference to historical maps, the appeal evidence, however, indicates that the original building occupied a larger footprint than previously thought and that part of the footprint was removed, probably after 1951, to make way from the 2-storey flat roof extension that is now in place. Few details of the built form that might have previously occupied the footprint are available. On the assumption that it comprised a single storey building with a lean-to roof, the appellant states that it could have amounted to some 77.35 cubic metres. If it was in place as at 1 July 1948, as seems likely, it would increase the size of the original building to about 720.6 cubic metres.
 7. The Council has queried whether the basement of the building should be included in the calculations, as the appellant proposes, because it is subterranean and thus has little effect on the openness of the Green Belt. However, the Framework and the development plan policies before me make no such a distinction. Therefore, the basement should be included as part of the building for the purpose of assessing its size.
 8. Adding both the existing and proposed extensions would, according to the appellant, amount to an increase of 68% in the volume of the original building based on the appeal evidence. If floor area is used as an alternative measure, the appellant states that the proportional increase to the original building would be about 69%. Either way, I consider that an increase of this magnitude would significantly and disproportionately enlarge the original building.
 9. The appellant considers that other considerations should be taken into account in the assessment such as design and the effect of development on openness, visual amenity and Green Belt purposes. However, the test of proportionality, as it is expressed in national policy, is confined to whether or not the sum total of any existing and proposed extensions to the original building would be disproportionate. It is therefore essentially a numerical exercise that compares the size of the completed building, as proposed, with the original building.
 10. The detached garage situated towards the site's main entrance is also proposed to be demolished and removed with a new carport with a storage room above introduced closer to the main house. Based on the appellant's figures, the carport would be more than double the height of the garage to be replaced and occupy a significantly enlarged footprint. On that basis, I consider that the new carport would be materially larger than the garage to be replaced.
 11. On the first main issue, I therefore conclude that the appeal scheme is inappropriate development that is, by definition, harmful to the Green Belt. Accordingly, the proposal conflicts with LP Policy S3 and the Framework.

Effect on openness of the Green Belt and the purposes for including land within it

12. Openness is one of the essential characteristics of the Green Belt, which generally means the absence of buildings or development and is epitomised by a lack of buildings. By introducing additional built form, as proposed, the openness of the Green Belt would be reduced. That reduction would be significant in this case as the finished dwelling would be much larger than the existing building, as would be the new carport compared to the garage to be replaced. Although the proposed carport would be partly open at ground floor level, it would be a permanent structure and would present a largely solid feature even if a vehicle did not occupy part of it. Consequently, the proposed design would not fully compensate for the loss of openness that would result from the introduction of a larger building than the one to be replaced.
13. The five purposes of the Green Belt are set out in paragraph 80 of the Framework and one of them is to assist in safeguarding the countryside from encroachment. None of the other purposes would be transgressed. While the new house extension would include a small infringement into an undeveloped area, it would closely relate to the existing building. The new carport would be on land where there is no building, but it would be closer to the main house than the garage to be removed. In both cases, there would be no significant encroachment into open land. Overall, there would be no greater impact on this Green Belt purpose. Nevertheless, the proposal would materially erode the openness of the Green Belt, in conflict with the Framework.

Other considerations

14. The Framework makes clear that substantial weight is given to any harm to the Green Belt and that inappropriate development should not be approved except in very special circumstances. 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.
15. The appellant has drawn my attention to a potential fallback option in which various built additions could be made to the existing dwelling as permitted development (PD), which he states would not require planning permission. A plan that accompanies the application mainly shows single storey extensions on three sides of the dwelling and a two-storey rear addition. The appellant has signaled his intent to the Council to enlarge the main house through the exercise of PD rights if planning permission were to be withheld in this case. That option appears to be a genuine fall back position and it is a material consideration to be carefully weighed in the planning balance.
16. However, I am not persuaded on the evidence before me that there is a realistic prospect of all of the elements of the PD scheme outlined by the appellant being implemented. Specifically, there is insufficient evidence to clearly demonstrate that all of the works indicated by the appellant would be covered by PD rights. The Council raises concern that elements of the scheme may not qualify as PD and from my inspection of the plans I share that opinion. A lawful development certificate for those works could provide greater certainty as it is a legally binding decision, on application or appeal.
17. Compared to the proposal before me, the appellant considers that the PD scheme would have a greater harmful impact on the Green Belt and on the

character and appearance of the host building. I agree that a PD scheme could have significant effects and that the new built form would also be evident from several public vantage points. However, it is not certain that the full extent of development under PD, as shown by the appellant and upon which his opinion is largely based, would necessarily come to pass. Without greater certainty, I am unable to conclude that the effects of the PD scheme would give rise to the level of harm that the appellant suggests. As it stands, I attach only moderate weight to this consideration.

18. The appellant has offered to accept a condition if permission were to be granted that removes some PD rights, the effect of which would require the Council's approval to any further enlargement of the house or the introduction of extra outbuildings within its curtilage. However, a condition removing PD rights would only take effect once the permission is implemented. PD rights could be exercised beforehand, thus adding to the proposed development. A mechanism to withdraw some PD rights when the permission is issued by, for example, a legal agreement, is not before me. Therefore, I give no weight to the potential withdrawal of some PD rights.
19. Lower Mill House stands within an open rural setting and there is a spacious feel around the site, which would remain with the new built form in place. I share the Council's opinion that the appeal scheme is well designed and would not adversely affect the Area of Landscape Improvement within which the site is located. The proposal would therefore comply with LP Policy S3 (criterion vi) in this regard and the Framework insofar as it encourages high quality design. However, high quality design should always be sought from all development and so I am unable to attach more than moderate weight to this consideration.
20. The existing garage, which contributes little positively to the character and appearance of the area and the setting of Lower Mill House would be removed and along with it the asbestos that forms part of its construction. However, there may be ways to address these matters beyond introducing a sizeable carport, as proposed. Therefore, I attach limited weight to this consideration.
21. The development would result in a larger house with additional living accommodation and a new carport with storage that would enhance the living conditions of the appellant and his family and relatives. The finished dwelling would better suit the needs of the appellant, who is the Managing Director of a local business employing a significant number of people with plans for further expansion. However, there is nothing before me to demonstrate that these benefits and needs could only be met in the manner proposed. Therefore, I attach only modest weight to this consideration.

Conclusion

22. Overall, I conclude that the harm caused by the inappropriateness of the development, its effect on openness, and the conflict with the Framework and a development plan policy, carry substantial weight. The development would not conflict with the purposes for including land within the Green Belt, which neither weighs for or against the scheme. The other considerations carry only up to moderate weight in support of the appeal.

23. On balance, there are no considerations sufficient to clearly outweigh the harm to the Green Belt and so there are no very special circumstances to justify the development. Accordingly, the appeal is dismissed.

Gary Deane

INSPECTOR