
Appeal Decision

Site visit made on 12 December 2016

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 12th January 2017

Appeal Ref: APP/P3420/W/16/3157650

114 Mow Cop Road, Mow Cop, Stoke-on-Trent ST7 4NF

- 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 & Mrs K Spencer against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 16/00389/FUL, dated 3 May 2016, was refused by notice dated 20 July 2016.
 - The development proposed is demolition of the existing dwelling and construction of a replacement dwelling (re-submission of 15/00393/FUL).
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's decision notice states that the references of the plans that were considered in the assessment of the application were KS1 Rev D and KS3. However, the appellant states that the references of the plans that accompanied the application were KS1 Rev E, KS2 Rev A and KS3 Rev A. I note that these are the plans that the Council states in one of its suggested conditions that the development should be carried out in accordance with. My consideration of this case and determination of this appeal is therefore based upon the plans that the appellant states accompanied the application.

Main Issues

3. The main issues are;
 - whether the use of the building as a house has been abandoned;
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework ('the Framework') and development plan policy;
 - 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.

Reasons

Has the use of the building as a house been abandoned?

4. The appeal property is a building that was occupied as a dwelling. It is common ground between the parties that the criteria to be used in determining whether the use of a building has been abandoned are; a) the period of non-
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- use, b) the physical condition of the building, c) whether there has been any other use, and d) the owner's intentions. I agree with this position.
5. In terms of the appellant's intentions (criterion d), he inherited the house from a relative. In 1983 planning permission was applied for and obtained for a replacement dwelling. However, due to lack of finances he was unable to implement the permission. Since then he has maintained the property to the extent that it is secure and watertight. He maintains that he has always intended to live on the site, either by repairing the building, or preferably, by replacing it. On the basis of the evidence before me, I consider that there was therefore no intention to abandon the use.
 6. In relation to the condition of the property (criterion b), whilst the former cottage attached to the end of the existing cottage has been demolished, the existing cottage appears to be structurally sound, its windows are in place and it is secure and watertight. Therefore although internally it requires modernisation and refurbishment before it is habitable, its physical condition, in itself, is not strong evidence that abandonment has occurred. With regard to whether the building has been put to other uses (criterion c), there is no material evidence of this.
 7. In relation to the period of non-use (criterion a), the house has been empty since 1977 which is a considerable length of time. In 2011 Council Tax ceased to be levied on the property as it was unfit for habitation. However, on the basis of allowed appeal decisions to which I have been referred, where periods of disuse of up to 41 years have occurred without the buildings having been found to be abandoned, I find that the length of vacancy, in itself, is inconclusive in determining whether abandonment occurred.
 8. Taking all these matters into account, I find, on the overall balance of considerations, that the use of the building as a dwelling house has not been abandoned.

Inappropriate development

9. The dwelling is located in the Green Belt. Paragraph 89 of the Framework advises that the replacement of a building in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces is not inappropriate development. Policy S3 of the Newcastle-under-Lyme Local Plan 2011 is consistent with this approach, insofar as it relates to the replacement of a dwelling house. Having regard to the nature of the proposed development and paragraph 215 of the Framework, I therefore attach significant weight to this policy.
10. As I have found that residential use of the building has not been abandoned, the proposed development would be in the same use as the existing building. The question which then arises, is whether the proposed replacement dwelling would be materially larger? It is to this matter that I now turn. The Framework and policy S3 do not quantify what is meant by materially larger. It is therefore a matter of planning judgement based upon a comparison of existing and proposed development.
11. The former cottage attached to the eastern end of the existing cottage, shown on the submitted 'plans and elevations' drawing, has been demolished with only its rear wall remaining. I have therefore treated the building that would be replaced as the existing cottage shown on this drawing. This building is a modest two storey dwelling with a front door that opens directly into one of two

ground floor rooms. The plans do not show the internal layout of the building and it was not possible to view the first floor due to the staircase being in poor condition. However, on the basis of the windows serving the property the first floor appears also to consist of only two rooms. To the rear, are two small single room back additions and a single storey garage linked to the existing cottage by the remaining rear wall of the demolished former cottage.

12. The proposed two storey replacement house would be a larger dwelling than the existing cottage. It would have a gable projecting from its rear elevation, three bedrooms, with an en-suite to the master bedroom, an entrance hallway, landing and an integral garage. Whilst features such as an en-suite bathroom and integral garage are desirable, they are not necessary to provide an acceptable standard of accommodation.
13. The existing building is set into the slope of the site. As a result, whilst from the front it is clear that it is a two storey dwelling, from the rear it looks as if it is a single storey property. On the basis of the submitted plans, the front elevation of the proposed replacement dwelling would be significantly taller than the existing dwelling. However, from the rear, due to the building being set further down into the site, it would appear to be of a similar height.
14. The appellant's view is that the replacement dwelling would have a similar footprint to the existing building and garage. However, in my view, in this instance, volume is a more useful means of comparison than footprint. This is because it enables the different heights of the existing and proposed buildings to be taken into account. The Council states that the proposed house would have double the volume of the existing cottage. This has not been refuted by the appellant. On the basis of what I have read and seen, I agree with the Council's assessment. In my judgement, a doubling of volume would be a considerable increase in size that would clearly result in a replacement dwelling that would be materially larger than the one it would replace.
15. Reference has been made to three appeal decisions where Inspectors found that replacement dwellings in the Green Belt with less than a 50% increase in footprint would not be materially larger than the dwelling that they would replace. In two of the cases there would also have been some increase in height. However, it is an established principle that each application is assessed on its merits. These appeals related to existing and proposed dwellings of different dimensions to those before me, in other local planning authority areas. The Inspectors in these appeals would have exercised their judgement on the basis of the development plan policies that applied in these areas and the evidence in relation to these cases. I have similarly exercised my judgement in this appeal in relation to the policies and evidence before me. For the reasons given above, I have found that the proposed replacement dwelling would be materially larger than the houses it would replace. Consequently, reference to these decisions has not altered my findings in relation to this issue.
16. As a result, the proposed development would be contrary to paragraph 89 of the Framework and policy S3 of the Local Plan. The proposal therefore represents inappropriate development and such development would, by definition, be harmful to the Green Belt as described in paragraph 87 of the Framework.

Other considerations

17. I have found the proposal would be harmful to the Green Belt. It is therefore necessary to consider the grounds put forward by the appellant in order to determine whether there are any material considerations which would amount to very special circumstances that would outweigh this harm.

Housing land supply

18. The Council has less than a five year supply of housing land. A replacement dwelling would not result in an increase in housing in the Borough. Nevertheless, as the cottage has been vacant for many years and is uninhabitable in its present state, the replacement house would help address the need for housing by making available a modern dwelling that would be ready to live in. However, as the proposal would only result in a single dwelling becoming available, I only attach limited weight to this consideration in favour of the proposal.

Improvement in visual amenity

19. The proposal would result in a dwelling in poor condition being replaced with a new, attractively designed house. As a result, it would improve the visual amenity of the area this is a consideration in favour of the proposal to which I attach some weight.

Economy

20. The proposed development would create some employment and to a limited extent support local economic growth during the construction period. However, as this benefit would be short lived, I attach limited weight to this consideration in favour of the appeal.

Overall conclusions: The planning balance

21. The proposed development would cause harm by reason of inappropriateness. Paragraph 88 of the Framework advises that substantial weight should be given to such harm. Clearly, therefore the degree of harm caused would be significant. I find that the other considerations put forward by the appellant do not clearly outweigh the harm identified and the very special circumstances necessary to justify the development do not exist. As such the proposal would be contrary to Green Belt policy contained within the Framework and policy S3 of the Local Plan.
22. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five-year supply of deliverable housing sites. Policy S3 states that, within the Green Belt, there is a presumption against development unless it is one of several specified types. It therefore has the effect of restricting the locations where housing may be developed. As a result, it affects and constrains the supply of housing land. Consequently, it should be regarded as a relevant policy for the supply of housing in this case. However, the Government attaches great importance to Green Belts and because it is consistent with the Framework I give policy S3 significant weight.
23. In circumstances where relevant policies are out-of-date, the Framework indicates that permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that I have found that there are no very special circumstances, Green Belt policy provides that to be the case here. Overall, therefore, the proposal does not represent sustainable development.

It is contrary to Local Plan and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector