
Appeal Decision

Site visit made on 24 January 2017

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 1st February 2017

Appeal Ref: APP/P3420/W/16/3161957

Hazelwood Barn, Balterley Green Road, Newcastle under Lyme, CW2 5QE

- 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 T Threadgold against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 16/00640/COU, dated 27 July 2016, was refused by notice dated 26 September 2016.
 - The development is extension of previously approved domestic curtilage by inclusion of ancillary land involving change of use, with changes to previously approved boundary treatments.
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Decision

1. The appeal is allowed and planning permission is granted for extension of previously approved domestic curtilage by inclusion of ancillary land involving change of use, with changes to previously approved boundary treatments at Hazelwood Barn, Balterley Green Road, Newcastle Under Lyme, CW2 5QE in accordance with the terms of the application, Ref 16/00640/COU, dated 27 July 2016, and the plans submitted with it.

Procedural Matters

2. The development which is the subject of this appeal has already been carried out. Retrospective permission is therefore sought.
3. Notwithstanding the description of development in the banner heading above, there is a dispute between the parties as to whether a change of use in the land has taken place. I have considered this as part of my reasoning below.

Main Issues

4. The main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework (Framework); and
 - If the development 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 it.
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Reasons

Whether inappropriate

5. The appeal dwelling is a converted barn that previously formed part of the adjacent Pear Tree Lake Farm complex. The rear garden that serves the dwelling is partly laid to lawn and the remainder has a gravel surface. The access to the dwelling is located at the rear of the site and part of the gravelled area therefore forms the main driveway and parking area for vehicles. There is also a paved patio area next to the dwelling. There is a brick built boundary wall that extends along the western site boundary and separates the appeal site from the neighbouring farm. The extended part of the garden that is the subject of this appeal runs along the western boundary and forms part of the gravelled area. Close to the appeal dwelling it forms part of the patio/garden area and the part closer to the site access is being used as a car parking area. The appeal site is within the Green Belt.
6. Policy S3 of the Council's Local Plan (Adopted October 2003) seeks to ensure that within the Green Belt there is a presumption against any development in the Green Belt. The policy goes on to list specific policy exceptions to this, none of which are directly relevant to the appeal scheme before me.
7. Paragraph 89 of the Framework state that the construction of new buildings should be regarded as inappropriate in the Green Belt. Paragraphs 89 and 90 then go on to list specific exceptions to this. Whilst I note the appellant's reference to the exception regarding the extension or alteration of a building, the construction of a boundary wall does not amount to the construction of a building and this exception is not therefore relevant to the appeal scheme. However, paragraph 90 states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The exceptions listed include engineering operations. The Framework does not list change of use as an exception to inappropriate development in the Green Belt.
8. As the relevant local policy does not specifically list engineering operations as an exception, I will determine this issue with regard to National policy in line with paragraph 215 of the Framework.
9. Notwithstanding the description of the development used on the original application, there is a dispute between the parties as to whether a change of use has taken place. As previously described, the area of land which is the subject of this appeal is being used partly as a courtyard garden area and partly as a parking area for vehicles. Ariel photographs have been submitted by the appellant that show that a building previously occupied this part of the site. It is stated that the building was used as a domestic garage in connection with the neighbouring farm and that after it was demolished the land was used for parking vehicles.
10. During the site visit I was able to observe that several cars and horse trailers were parked on the land adjacent to the shared boundary with the appeal site and next to the area of land that is the subject of this appeal. I consider that this area is also within reasonable walking distance of the main farmhouse. Additionally, the occupant of the farm house has confirmed in writing that the area of land was previously used to park vehicles prior to it being sold to the appellant and incorporated into his garden.

11. Whilst I appreciate that the site boundary line did not include the additional garden area and previous applications may have shown it as being outside the domestic curtilage of the farmhouse, those plans were submitted for different purposes and do not specifically identify what the actual use of the land was at that time.
12. Based on the evidence before me, I am satisfied that the area of land which forms part of the appeal scheme had a functional domestic relationship with the main farmhouse and was used for parking vehicles. As a consequence of the appeal scheme, the land will still be used for the parking of vehicles and will retain a functional domestic relationship with a dwelling, albeit a different one. In practise therefore, what has taken place is a change of ownership of the land. Accordingly, I conclude that the appeal scheme has not resulted in a change of use in the modest area of land affected by the appeal scheme.
13. Turning to the engineering operations that have taken place in the construction of the appeal scheme, a boundary wall has been constructed, gravel has been laid down and there are also several domestic features that have been erected including a shed, planters and a raised pond/water feature. The land therefore has a domestic appearance typical of what one would expect to see within a private garden.
14. The original planning approval for the barn conversion included the construction of a brick boundary wall. The main differences between what was approved and what has been constructed are there is a difference in alignment so that the wall encloses the slightly enlarged garden area and the length of the wall has been slightly extended in place of a section of timber fence that was originally shown on the plans.
15. The boundary wall therefore would have been constructed in any event, it is just slightly different to the approved scheme. The materials used reflect those of the neighbouring farmhouse and the height is necessary in order to effectively screen the occupants of the barn from the comings and goings at the adjacent riding school business in the interests of privacy. For these reasons, any effect of the boundary wall on the openness of the Green Belt is minimal.
16. I accept that the area of land does have a domestic appearance due to the garden features that have been installed. However, based on the evidence before me, prior to its incorporation into the garden of the appeal property it was used to store vehicles and therefore would have had a domestic/urbanised appearance in any event. Whilst the original approval may well have had sufficient parking spaces for the use of the occupants of the barn, there is nothing before me to suggest that the provision of additional spaces in this instance would in itself be harmful. For these reasons, I am satisfied that the appeal development is not significantly harmful to the openness of the Green Belt nor does it conflict with one of the purposes of including land within it.
17. Accordingly, I conclude on this issue that the development is not inappropriate development in the Green Belt as a change of use has not taken place and the engineering operations that have been carried are not harmful to the openness of the Green Belt nor do they conflict with one of the purposes of including land within it. The development therefore does not conflict with policy S3 of the LP nor paragraphs 89 and 90 of the Framework.

Other considerations

18. Given my conclusion on the main issue above, it is not necessary for me to go on to consider this matter.

Conclusion and Conditions

19. For the reasons given above, I have concluded that the appeal scheme is not inappropriate development. This is because, based on the evidence before me, I am satisfied that a change of use has not taken place and whilst engineering operations have occurred, they have not harmed the openness of the Green Belt nor do they conflict with one of the purposes of including land within it.
20. Accordingly, I conclude that the appeal should be allowed.
21. As the development which is the subject of this appeal has already taken place, I am in agreement with the Council that no conditions are necessary.

V Lucas-Gosnold

INSPECTOR