
Appeal Decision

Site visit made on 10 January 2017

by Mike Fox BA (Hons) DipTP MRTPI

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

Decision date: 8 February 2017

Appeal Ref: APP/F0114/D/16/3161169

2 Brook Cottages, The Batch, Chew Magna, Bristol, BS40 8RJ

- 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 and Mrs Marcus and Emma Hassell against the decision of Bath and North East Somerset Council.
 - The application Ref 16/03972/FUL, dated 4 August 2016, was refused by notice dated 6 October 2016.
 - The development proposed is erection of open sided garden structure and raised deck area.
-

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 19 January 2017.

Decision

1. The appeal is dismissed.

Procedural matters

2. There is agreement between the main parties that the proposal is sympathetic and in keeping with the surrounding Conservation Area, in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and this is therefore not considered to be an issue which I need to address in relation to this appeal.

Main Issues

3. The main issues are firstly, (a) whether the appeal development, which has already been erected, constitutes inappropriate development in the Green Belt, (b) its effect on the openness of the Green Belt and on the character and appearance of the area, and (c) 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; and secondly, the effect of the appeal development on the living conditions of the occupiers of the neighbouring property 'Rose Cottage', with particular reference to privacy and outlook.

Reasons

4. The appeal property occupies a largely open site within the village of Chew Magna and lies within the Green Belt. There are several outbuildings which are

located close to the house at the western end of the site. The appeal structure is located at the opposite, eastern edge of the site, away from the existing buildings. It is directly adjacent to a boundary wall shared with the neighbouring property 'Rose Cottage'. This dwelling is situated in very close proximity to this wall.

5. In terms of whether the appeal structure constitutes inappropriate development in the Green Belt, paragraph 89 of *the Framework*¹ sets out a number of exceptions to the national policy stance that the construction of new buildings is inappropriate in the Green Belt. One of these exceptions relates to extensions or alterations to a building, which it could be argued would apply to the proposal; however, in relation to this form of development, paragraph 89 refers to the need for any extensions not to result in disproportionate additions over and above the size of the original building.
6. Even if the appeal development could be regarded as fitting within this category, despite its distance between the existing house, I note that the Council states that there has already been a 38% increase in the total volume of the original dwelling house, and the appeal development is calculated as cumulatively increasing this to 48%. This calculation is not disputed by the Appellant.
7. The Council's Supplementary Planning Document (SPD) 'Existing Dwellings in the Green Belt' sets out the parameters for assessing whether proposals for extensions or outbuildings would be inappropriate in the Green Belt. The SPD states that such developments which exceed about a third of the original dwelling are more likely to be considered disproportionate with the property and therefore harmful.
8. On the basis of these considerations in relation to national and development plan policy, I conclude that the appeal development would amount to inappropriate development in the Green Belt.
9. Turning to the effect of the appeal development on the openness of the Green Belt, although the appeal site is within a village setting, there are open views through the site to the undeveloped parts of the Green Belt beyond. The significant cumulative increase resulting from the appeal development amounts to a loss of openness. However, the location of the appeal development is some distance from the other buildings on the Appellant's plot. Being situated in a hitherto open area, its location amounts to a second reason for concluding that the development impacts on the openness of the Green Belt. It is a feature which affects open views of the Green Belt from across the appeal site. I therefore conclude on the second issue that the effect of the appeal development on the openness of the Green belt causes additional harm to the Green Belt, contrary to both *the Framework* and Local Plan policy GB.2.
10. I now turn to consider whether, in the light of my conclusion that it is inappropriate development which impacts on the openness of the Green Belt, 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. I am not aware, however, of any such considerations.

¹ DCLG: National Planning Policy Framework (*the Framework*); March 2012.

11. The final issue relates to the effect of the appeal development on the living conditions of the occupiers of the neighbouring property 'Rose Cottage', with particular reference to privacy and outlook, and disturbance. The appeal development, through its height, function and proximity to the curtilage of Rose Cottage, including close proximity to habitable windows which it directly faces, results in loss of outlook and privacy for the occupiers of this property as well as potential disturbance caused by activity in association with the appeal development.
12. As such it is contrary to Local Plan policy D2, which states that proposed development should not cause significant harm to the amenities (living conditions) of existing occupiers by reason of increased overlooking, noise or other disturbance. The appeal development is also contrary to *the Framework*, which states, as one of its core principles (paragraph 17[4]), that planning should always seek to secure a good standard of amenity (living conditions) for all existing and future occupants of land and buildings.
13. The Appellant has stated that if the appeal development were sited 2 m away from the boundary with Rose Cottage, then it would meet permitted development tests, and that the design and external materials used are of a high quality. In response to the first argument, I have to determine the appeal development before me and it would not be appropriate for me to comment further. In response to the second point, whilst I agree with the Appellant that the design and external materials are of a high quality, these do not amount to the very special circumstances necessary to justify the development.

Conclusion

14. On the basis of my observation and the information before me, I have found that the appeal development constitutes inappropriate development in the Green Belt; that it affects the openness of the Green Belt; that there are no very special circumstances necessary to justify the development; and that the appeal development results in loss of outlook and privacy for the occupiers of the neighbouring property at Rose Cottage. The appeal development is therefore contrary to national policy and the development plan. For the reasons given above and having regard to all other matters, I conclude that the appeal should fail.

Mike Fox

INSPECTOR