
Appeal Decision

Site visit made on 31 January 2017

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 10TH February 2017

Appeal Ref: APP/A4710/W/16/3162275

Land at junction of Rocks Lane and Union Lane, Ogden, Halifax HX2 8BP.

- 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 David Brown against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref: 16/00122/FUL, dated 29 January 2016, was refused by notice dated 1 June 2016.
 - The development proposed is the change of use of an implement store to a dwelling.
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Preliminary Matters

1. The information submitted with this appeal provides details of the extensive planning history of the site. There is no suggestion in the Council's statement that any development on site currently is unlawful. The planning history clarifies the situation regarding the implementation of planning permissions granted in the past. In this regard circumstances have changed since the appeal which was dismissed in 2012, including by the publication of the National Planning Policy Framework (NPPF). The 2012 appeal was also for the conversion of the building to a dwelling. Since then permission has been granted for the use of the building as an agricultural implements store and this has been substantially implemented. The implements store includes the formation of a door into the building and associated vehicular access and parking areas. Further permissions have included the installation of roof lights in the building which are now extant.

Decision

2. The appeal is allowed and planning permission is granted for the change of use of an implement store to a dwelling at land at the junction of Rocks Lane and Union Lane, Ogden, Halifax HX2 8BP in accordance with the terms of the application, Ref: 16/00122/FUL, dated 29 January 2016, subject to the conditions set out in the schedule attached to this decision.

Main Issue

3. The main issues in the appeal are:
 - (a) Whether the proposal constitutes inappropriate development in the Green Belt, and the effect on the openness and purposes of the Green Belt;
 - (b) The effect on the character of the landscape and the visual impact of the proposal;
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- (c) If the development is inappropriate, whether the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations put forward in favour of the proposal so as to amount to the very special circumstances necessary to justify development (the planning balance).

Reasons

Whether Inappropriate; Openness and Purposes of the Green Belt

4. The Replacement Calderdale Unitary Development Plan (UDP) was adopted in 2006. Policy NE4 deals with the conversion and change of use of buildings in the Green Belt. A number of criteria are set out in the policy. Paragraph 90 of the NPPF, which superseded Planning Policy Guidance 2 (PPG2) in 2012, indicates that certain forms of development are not inappropriate in the Green Belt, including the re-use of buildings provided that the buildings are of permanent and substantial construction. The UDP policy goes further than the simple statement in the NPPF but nonetheless follows the thrust of the NPPF in being permissive of conversions and change of use. UDP Policy also includes the requirement that the building concerned should be of permanent and substantial construction. It is not disputed that that is the case here albeit that this former reservoir is unusual.
5. It seems to me, therefore, that the proposed development meets the basic test of the NPPF in seeking to re-use a building of permanent and substantial construction (as indeed was the case when permission was granted for its current lawful use). Furthermore, because the proposed conversion would not involve external alterations to the building, it is clear that the proposed conversion, of itself, would not be in conflict with any of the criteria of UDP Policy NE4 in relation to the principle of development.
6. There are 5 purposes of the Green Belt as set out in the NPPF. The Council's decision notice takes issue with that purpose which seeks to protect the Green Belt from encroachment. However, the building in its current form exists, and there would be no further proposed external development except the proposed gate and refuse storage area (both of which are minor elements of the scheme). As a result I am not satisfied that it has been demonstrated that this proposal would result in any material encroachment into the countryside. In this regard circumstances have changed since the appeal decision in 2012 in that changes have been made to the building and its curtilage following subsequent planning permissions. For similar reasons I do not consider that there would be any impact on openness because the essential external elements of the proposal already exist.
7. I am therefore satisfied that the proposal can be regarded as being not inappropriate in the Green Belt. In reaching this view I recognise that there are concerns surrounding the potential for domestic paraphernalia to be introduced alongside the proposed development, and I deal with that next.

Character and Visual Impact

8. The appeal site is located in an area designated in the UDP as a Special Landscape Area (SLA). This is a non-statutory designation but reflects the fact that the property is located in attractive countryside. As such I recognise that domestic paraphernalia associated with residential use can detract from the

landscape qualities of a particular location. UDP Policy NE4 seeks to avoid causing undue impact to the character of the countryside, or amenity problems, arising from conversions. The policy fairly points out that there may be scope for any potential impact to be overcome by attaching planning conditions to any permission.

9. UDP Policy NE12, which deals specifically with the SLA, indicates that development which would have an adverse effect on landscape quality will not be permitted. This policy too recognises that it may be necessary to remove permitted development rights (which can be ensured by imposing appropriate planning conditions) to achieve the policy objectives.
10. In this case, as I have noted, the building exists and no external alterations are proposed. Were the development to proceed there would be the potential for the introduction of domestic accoutrements, such as sheds and other garden buildings. But as noted above, the majority of these matters can be addressed through the imposition of conditions. The parking of vehicles on site is another matter expressed as a concern. However, I bear in mind here that there are bound to be comings and goings associated with the existing lawful uses on site, as well as parking on the land.
11. In my judgement this is a case where the potential for material harm to the character and visual quality of the locality can be controlled by conditions. The restriction of permitted development rights would preclude the introduction of extraneous structures in the SLA, and bespoke conditions could control other matters. Hence it is my judgement that there would be no undue harm to the character and appearance of the locality.

The Planning Balance

12. The proposed development is not inappropriate in principle and therefore it is not necessary to find very special circumstances for permission to be granted. But it is still necessary to conclude that there are no material considerations which indicate that planning permission should be withheld. As I have indicated earlier it is my judgement that the proposal would not cause unacceptable harm subject to the imposition of appropriate planning conditions. I do not find conflict with the UDP Policies cited by the Council, or with the provisions of the NPPF.

Conditions

13. The Council has suggested conditions be imposed which identify the approved plans, includes the provision of an electric vehicle charging point, provides for the installation of high speed broadband, and implements a landscaping scheme. These would be in addition to the restriction of permitted development rights noted earlier. In order that the development meets sustainable objectives and relates satisfactorily to its surroundings I agree that such conditions are reasonable and necessary. For similar reasons and following consultation with the main parties I also consider that it is necessary to impose a condition which would require agreement to be reached on the restriction of domestic accoutrements permitted externally at the site prior to occupation of the dwelling. Where appropriate I have amended the wording to improve precision of the conditions.

Other Matters

14. I have given full consideration to the comments made by interested parties. The matters of enforcement at the site are not before me and I must make my decision on the merits of this case alone. The site has a number of mature trees which are protected by a Tree Preservation Order. However there is no suggestion that any of these trees would be at risk from the development. There are scattered dwellings in the locality, but these are well spread out. There is nothing before me which suggests that the proposed development would have any unacceptable impact on the living conditions of the residents of those dwellings.

Overall Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Title – Scheme as Proposed, Rev D, dated May '16.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that order) no development falling within class A, B, C, D, E, F and G of Part 1 of Schedule 2 of the said order shall be carried out without the prior written permission of the local planning authority.
- 4) The dwelling hereby permitted shall not be occupied until a scheme has been agreed in writing by the local planning authority which identifies that part of the site which shall remain free of domestic paraphernalia at all times. The scheme shall be implemented as approved and shall be retained thereafter.
- 5) Before first occupation and in connection with any garage, driveway, vehicle hardstanding or car-port hereby approved for construction within the boundary of a dwelling, there shall be installed in an appropriate location a suitable facility to permit the recharge of an electrical battery powered vehicle that may be used in connection with that dwelling. Unless otherwise required by the location the installation(s) shall comply with IEE regulations and BSEN 62196-1 for a mode 3 system.

- 6) Prior to the first occupation of the development hereby permitted, measures to facilitate the provision of high speed broadband for the dwelling shall be installed and retained thereafter.
 - 7) The dwelling shall not be occupied until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
 - 8) All planting, seeding or turfing comprised in the proposed details of landscaping identified on the approved plan, shall be carried out in the first planting and seeding season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and shall be so retained thereafter, unless any trees or plants die, are removed or become seriously damaged or diseased. These shall be replaced in the next planting season with others of similar size and species, (unless otherwise agreed in writing by the local planning authority) and these replacements shall be so retained thereafter.
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