
Appeal Decisions

Site visit made on 29 March 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 19 April 2017

Appeal Ref: APP/P1940/W/16/3165747

The Farmhouse, Finches Avenue, Redheath WD3 4LN

- 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 Dr G H Loadman against the decision of Three Rivers District Council.
 - The application Ref 16/1902/FUL, dated 8 September 2016, was refused by notice dated 14 November 2016.
 - The development proposed is the proposed sub-division of a dwelling and annex to 2 separate dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description of the proposal from the planning application form. The Council altered this on the decision notice. The original description does not refer to the act of development proposed which is a material change of use.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt including the consideration of the effect upon openness for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - If the proposal would be 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.

Reasons

Inappropriate development and openness

4. The appeal site includes a single storey annex which is an outbuilding detached from the large dwelling. These buildings and some other outbuildings are positioned towards the northern part of the large plot. The boundaries around the perimeter of the site are defined with dense vegetation. The driveway through the site divides the garden into 2. Apart from the tennis court on the
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left hand side of the driveway when approaching the buildings, this garden is level and largely laid to lawn. The annex is restricted by planning condition and cannot be occupied or used "at any time other than incidental to the enjoyment of and ancillary to", the 'Farmhouse'.

5. The tennis court with high mesh fencing and lighting columns are also included within the proposed 'curtilage' as shown on the submitted plan as is a small garden shelter. Part of the garden to the rear of the annex and a gravelled area in front are also within the land that would be separated off for use by the occupants of the proposed dwelling.
6. The proposal would involve no physical changes to the existing annex. Paragraph 90 of the National Planning Policy Framework (the Framework) sets out some forms of development that are not inappropriate in the Green Belt provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. This includes re-use of buildings which are of permanent and substantial construction such as the annex in this case.
7. Core Strategy (CS)¹ Policy CP11 and Local Plan (LP)² Policy DM2 closely follow the wording of the previous advice within Planning Policy Guidance 2 "Green Belts" which has been replaced by the Framework. Given the inconsistency between these policies and the Framework they are out of date in the context of paragraph 215 of the Framework. In these circumstances, paragraph 14 of the Framework requires me to consider whether specific policies in the Framework (including Green Belt policies) indicate that development should be restricted. Accordingly, I have considered the question of whether the appeal proposal is inappropriate development within the Green Belt with regard to the policies set out in the Framework.
8. The only physical changes proposed would be the removal of the fencing around the tennis court and its surface. A small garden shelter or summerhouse may also be removed. The replacement of the tennis court surface with grass would make no difference to the openness of the area. The removal of the fencing and light columns would reduce the amount of built structures although these do not take up much volume and the fence can be seen through which helps to minimise its visual significance. The removal of the small summerhouse would also make a small reduction of built structures.
9. Internally, the building includes a large lounge as well as 2 rooms of similar size, shown respectively as a bedroom and a dining room. These rooms could potentially both be used as bedrooms and I consider that the building could provide modest but comfortable family accommodation.
10. The creation of a dwelling separate from the 'Farmhouse' would lead to a separate household occupying the annex and using land associated with it. In the normal course of things where the annex and the main house are used by on an incidental basis, items would be shared between occupants who would be in the same household. If one item is required due to the sharing of the site and its facilities, 2 or more of the same item may be required when the incidental link is lost. I am thinking in these terms about washing lines, garden furniture, play equipment, external refuse bins and other varied domestic

¹ Three Rivers District Council Local Development Framework, Core Strategy, adopted 17 October 2011

² Three Rivers District Council Local Plan, Development Management Policies, Local Development Document, adopted July 2013

articles. Although when not in use some of these items could be stored in the existing garage which is also within the proposed garden, when outside these would take up space and would therefore contribute to a reduction of the openness of the site. I consider that it is highly likely that the use as proposed would result in increased activity and domestic paraphernalia on the site.

11. Independent occupiers of the annex are also likely to want privacy within their garden which is closely associated with the main house reflecting its current status. Part of the garden would otherwise be in full view of the driveway to what would become a separate property and part would be seen from the rear garden of the original dwelling. Fencing off with solid, more visually impenetrable structures than the existing tennis court mesh fencing would affect the openness of the site. Permitted development rights can be removed by the imposition of planning conditions, but I do not consider that it would be reasonable to do so for means of enclosure such as solid fencing. The Planning Practice Guidance is clear in stating that such conditions should only be used in exceptional circumstances and based on evidence before me, I do not consider that such circumstances exist in this case. The enclosure of the garden with growing hedges to provide privacy could not reasonably be prevented and would also bring about a loss of openness. The appellant points out that permitted development rights could already be used to fence off areas but this is less likely to be required if there is no need to preserve privacy when the whole of the grounds within the appeal site are used by the same household.
12. The annex at the moment may be occupied by people in association with the 'Farmhouse' who may all own their own vehicles. However, as well as the size and number of bedrooms limiting the use, this building is also limited by reason of the planning condition to incidental use only. I counted 3 cars (not including mine) close to the annex at the time of my visit as well as another close to the main dwelling. Private vehicle ownership can vary considerably between different individuals and households. However, generally speaking it is more likely that a new household unconnected to the occupants of the 'Farmhouse' would result in more vehicles overall on the site. More vehicles would take up space around the separate dwelling and would also therefore reduce the openness around the building.
13. I consider that a further household and consequent intensification of use within the appeal site would cause a loss of openness because of these physical manifestations some of which may be transient but still noticeable. The degree of loss of openness would be partly dependent upon the particular attitude and lifestyles of the individuals involved and I have to consider the general situation. Even if a small loss of openness is caused it would undermine an essential characteristic of the Green Belt which is its openness and permanence. This would not safeguard the countryside from encroachment which is one of the purposes of the Green Belt.
14. The same building has been the subject of previous proposals. The last of these proposed the same development and the appeal was dismissed³. The Inspector in that case had similar concerns in relation to this issue and also referred to demands from a new household to extend the building to provide additional accommodation. I agree that this could also be a possibility and if that did occur it would contribute to a further loss of openness. An appeal

³ APP/P1940/W/15/3006479

decision prior to that was also dismissed for other reasons although that was before the publication of the Framework and also proposed an extension to the annex. That case is less comparable to the current proposal and has less weight in my consideration of the appeal.

15. I consider that the proposal would result in some loss of openness and would therefore be inappropriate development within the Green Belt. This would by definition be harmful to the Green Belt and should not be approved except in very special circumstances. I attribute substantial weight to this harm as required by paragraph 88 of the Framework.

Other considerations

16. The appellant suggests that the annex is a part of the Farmhouse and should be considered with respect to LP Policy DM1. In particular, section 'b' of the policy relating to the subdivision of dwellings is referred to. The annex is physically detached from the 'Farmhouse' but is closely related to it. The separating out of the annex and 'Farmhouse' would have a similar effect as a subdivision of a single building. Consequently LP Policy DM1 can be applied to these circumstances in my opinion. The proposed new dwelling could be occupied independently with separation from the main house and with sufficient space to provide for the requirements of a separate household. This could be achieved in a manner that would not be harmful to the mutual living conditions of the Farmhouse and the annex or to the character and appearance of the area. The lack of harm in these respects is however a neutral matter that neither weighs in favour nor against the proposal. In these respects the aims of LP Policy DM1 are generally met although full compliance is subject to consideration of other development policies.
17. Small dwellings may well be in demand within the area although the information provided does not demonstrate the scale of any particular need. Based upon the evidence provided in this case I can only give very limited weight to the social benefits of the additional dwelling.

Conclusion

18. In conclusion I have identified that the proposal would be inappropriate development in the Green belt as defined by the Framework and this has substantial weight. As explained above, I give very limited weight to the social benefits of the proposal which do not clearly outweigh the harm that I have identified in relation to the Green Belt. Accordingly, very special circumstances do not exist and the proposal does not comply with the Framework, with CS Policy CP11 or LP Policy DM2. Due to the non-compliance with these CS and LP policies, the proposal also does not comply with LP Policy DM1.
19. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Andy Harwood

INSPECTOR