
Appeal Decision

Site visit made on 24 April 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/M2372/W/17/3167544

Duke of York House, Johnson Road, Waterside BB3 3NS

- 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 M Jackson against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/16/0656, dated 21 April 2016, was refused by notice dated 30 August 2016.
 - The development is described as "Lower existing stone wall to road frontage to aid visibility and formation of a vehicle turning area to allow vehicles to exit in forward gear".
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Decision

1. The appeal is dismissed.

Procedural matter

2. I saw that the patch of ground indicated for use as a vehicle turning area was in use for the parking of a vehicle at the time of my site visit, and I have thus treated the appeal as a retrospective one insofar as it relates to this element of the development.

Main Issues

3. The appeal site is within the Green Belt. Accordingly, I consider the main issues in this appeal to be firstly, whether the appeal scheme constitutes inappropriate development in the Green Belt for the purposes of national and local policy; and secondly, if the appeal scheme 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

Site, surroundings and appeal development

4. The appeal site is part of a broadly flat field adjacent to Duke of York House, bordered by banked earth topped with post and wire fencing, and a stone wall to the road. To one side of the field there is the driveway at the side of Duke of York House, and to the other open and undulating grassland separating it from the short terraces of houses further along the road. To the rear there is banked earth and undulating terrain. In the wider environs of the site
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development is dispersed, with some buildings lining the road, and other, predominantly agricultural structures more sporadically located in the largely open fields. The appeal development is as described in the banner heading, and has introduced a gravelled surface for use in connection with Duke of York House in the front corner of the field adjacent to that property.

Whether or not inappropriate development

5. The National Planning Policy Framework (the Framework) establishes that the Government attaches great importance to Green Belts and that their essential characteristics are their openness and their permanence. For the purposes of Green Belt policy, the concept of 'openness' comprises both spatial and visual characteristics. In effect this means that with limited exceptions land within Green Belts should remain, on the whole, free from development. Paragraph 80 of the Framework identifies the five purposes of Green Belts which include their assistance in safeguarding the countryside from encroachment. With limited exceptions development within the Green Belt is to be considered inappropriate. Policy 3 of the Blackburn with Darwen Local Plan Part 2: Site Allocations and Development Management Policies (adopted December 2015) (the Local Plan Part 2) establishes this restrictive approach to development in the Green Belt at the local level.
6. The appeal site, whilst in the same ownership as Duke of York House, is not part of the grounds of that building, and appears to have been in agricultural use previously. I note that the appellant has previously removed spoil and levelled the field¹, and that its historical use may have been as part of a sand quarry. However, the wider field, following the operations carried out as part of its levelling, has retained its openness, and through blending with its open environs has not undermined any of the purposes of the Green Belt.
7. In contrast the appeal development has introduced a use, and related surfacing treatment of a domestic character. I am aware that the appellant considers that the appeal development does not constitute a building; nevertheless, it is a material change of use that extends the domestic character of the land around Duke of York House. Whilst I note that the appellant considers the site to be within a village, given the wide gap between Duke of York House and other buildings located beyond the field which includes the appeal site, the appeal development does not read as infill. Moreover, the introduction of surfacing to accommodate the parking and turning of cars has eroded the openness of the site, to a greater extent than the extant authorised use of its surrounding field, and this would be exacerbated at times when cars would be parked on the surface.
8. Furthermore, whilst the appeal development is of a minimum size necessary to complete a forward gear manoeuvre out of the existing access, its domestic character and use constitute a clear encroachment into the countryside, and thus has a considerably more harmful effect on the purposes of including land in the Green Belt than the existing authorised use of the site. As a consequence, due to the appeal development's harmful effects to openness and conflict with the Green Belt's purposes, I consider that the appeal development does not meet the exception given in paragraph 89, bullet 6 of the Framework, in relation to partial or complete redevelopment of previously developed sites,

¹ Under the terms of planning permission Council reference 10/14/0655

or any other exceptions given in the Framework or Policy 3 of the Local Plan Part 2.

9. The appeal development thus constitutes inappropriate development in the Green Belt for the purposes of national and local policy; and the Framework makes it clear that inappropriate development is, by definition, harmful to Green Belt and should not be approved except in very special circumstances.

Other Considerations

10. The appeal development, through facilitating a turning area for cars parked at the side of Duke of York House would enable cars exiting that driveway to do so in a forward gear. I saw onsite that emerging visibility to the left was constrained to a considerable degree by the existing stone wall and the bend in the road. I note the evidence submitted by the appellant which demonstrates the improvements in emerging visibility that could be achieved as a result of exiting the site in forward gear, and the comments of the Local Highway Authority which welcomed the ability of drivers to do so. The appeal development also affords additional parking space for Duke of York House and its annexe.
11. As a result of these matters I am aware that the appellant considers that the appeal development constitutes a significant enhancement to highway safety; however, I have been supplied with no accident data relating to the environs of the site. Moreover, whilst I note the appellant's comments that planning permission² exists for erection of a wall to the front of the property, which they consider would improve the safety of the front aspect of the site for their children, this was not implemented at the time of my site visit. As a consequence, I consider that the existing forecourt of the property could allow opportunities for parking, which could avoid the necessity for reversing manoeuvres into the road close to its bend.
12. I note that the side of the property is used to facilitate wheelchair access to Duke of York House and its annexe; and that larger community vehicles use the access from time-to-time to pick up the occupant at the site who uses a wheelchair; however, I have not been supplied with any substantive evidence regarding the frequency of these movements to and from the site, or whether alternative wheelchair access could be provided to the property. Moreover, the side of the property could be accessed from a vehicle parking on the forecourt. These considerations, taken together, lead me to the view that the contribution of the appeal development to improved highway safety, additional parking at the site and more convenient wheelchair accessibility weigh in its favour to a moderate degree.
13. I saw that there is an existing electric vehicle charging point adjacent to the appeal site. The appeal development could facilitate movement of this so that the access would be unobstructed for other vehicles whilst electric vehicles were charging. Given the limited number of vehicle movements usually related to a domestic use of this scale, and a lack of substantive evidence regarding the use of the access by any other vehicles, this is a matter that weighs in favour of the development only to a modest degree. As a charging point exists at the site, its relocation would not have any positive effects in terms of

² Council reference 10/13/0534

environmental sustainability, and as a consequence, this matter would have only a neutral effect on the overall planning balance.

14. I note the appellant's references³ to other planning permissions in the Green Belt. However, beyond the reference numbers of these permissions and a photograph of one of the sites, I have been supplied with little substantive detail regarding the material considerations that may have weighed in their favour at application stage. Moreover, each development proposal needs to be assessed on its own planning merits. Consequently, these other permissions do not establish a precedent for the appeal development and thus have only a neutral effect on the planning balance.
15. I saw at my site visit that the roof of the car parked on the site was clearly visible over the top of the boundary wall. Nevertheless, I note that the appellant considers that the appeal development has not had, and would not have an adverse impact on the character and appearance of the area. However, this would be merely indicative of an absence of harm in these regards, as opposed to a positive benefit of the scheme, and would thus have a neutral effect on the overall planning balance.

Green Belt Balance

16. The Framework establishes that, by definition, inappropriate development is harmful to the Green Belt. Paragraph 88 states that substantial weight should be given to any harm to the Green Belt, and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome.
17. In the current case, for the reasons given above, the other considerations advanced in favour of the appeal development do not, individually or cumulatively, clearly outweigh the substantial weight that I attach to the harm caused by the development due to its inappropriateness, its erosion of openness, and conflict with the Green Belt purpose of avoiding encroachment into the countryside.
18. As a result, the appeal development would conflict with the Framework, and Policies 3 and 25 of the Local Plan Part 2. Taken together, and amongst other matters, these policies seek to ensure that development proposals maintain the openness and permanence of the Green Belt and that extensions to residential grounds do not have a detrimental impact on their surroundings.

Other Matters

19. I am mindful of the appellant's comments regarding the weight that the Council gave to the comments of the Local Highway Authority on the scheme, and the weight it may have given to similar comments in relation a previously withdrawn application at the site⁴. However, the weight given to relevant material considerations is always a matter for the decision-taker, and it has not been demonstrated in this instance that this has led to inconsistent decision-taking on the part of the Council. Neither have I been supplied with substantive evidence to suggest that the other permissions in the Green Belt

³ Council references 10/13/0170 and 10/04/1347

⁴ Council ref: 10/15/1487,

referred to by the appellant were determined in a manner inconsistent with the decision that led to this appeal.

Conclusion

20. The proposed development would conflict with the development plan insofar as the relevant policies that have been drawn to my attention are concerned. No material considerations have been advanced that would justify a departure from the development plan in this instance. Thus, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR