
Appeal Decision

Site visit made on 8 May 2017

by A J Mageean BA (Hons) BPI PhD MRTPI

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

Decision date: 9th June 2017

Appeal Ref: APP/P3420/W/17/3168898

5 High Street, The Rookery, Kidsgrove ST7 4RW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs F & V Housley against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 16/00738/OUT, dated 31 August 2016, was refused by notice dated 11 November 2016.
 - The development proposed is construction of a new 2 bed bungalow with two bay garage with storage capacity.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with approval sought at this stage for access. Appearance, layout, scale and landscaping are reserved for future consideration. A site plan was submitted with the application and I have had regard to this in determining the appeal.
3. During the course of the appeal a Supreme Court judgement was issued concerning the interpretation of paragraph 49 of the National Planning Policy Framework (the Framework) and its relationship with paragraph 14 of the Framework.¹ Both parties have had the opportunity to comment on the implications of this judgement to the present case which I have taken into consideration in my reasoning.

Main Issues

4. The site falls within the Green Belt. Accordingly the main issues are:
 - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework); and,
 - If the proposal would be inappropriate, whether harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the special circumstances necessary to justify it.

¹ [2017] UKSC 37 on appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin).

Reasons

Whether the proposal would be inappropriate development in the Green Belt

5. Paragraph 89 of the Framework establishes that new buildings within the Green Belt are inappropriate, other than in the case of a limited number of exceptions. One of these exceptions is *limited infilling in villages*.
6. The decision notice also refers to the Newcastle-Under-Lyme Local Plan 2011 Policy S3 (LP). This pre-dates the Framework and is not wholly consistent with it, as it suggests that stricter tests be applied when considering applications for new dwellings. For the purposes of this appeal I attach greater weight to paragraph 89 of the Framework as this is current national policy.
7. The appeal site is located within the settlement known as The Rookery. It forms the south eastern section of the substantial garden area of No 5 High Street which is located behind the frontage development along High Street. The proposed dwelling and detached double garage/implement store would be located directly behind No's 46-50 High Street and accessed via a driveway shared by the host dwelling. The properties to the south west and north east of No 5, which are also located behind the High Street frontage, also have extensive grounds. Whilst the appellants state that these are domestic curtilages, they appear as a large fenced and grassed area to the south west and a wooded area to the north east. As such it is not clear that these areas serve purely domestic purposes. To the rear of No 5 and on the opposite side of High Street are fields.
8. The parties accept that this is a village location, but disagree on whether or not this scheme would represent *limited infilling*. There is no definition of this term in the Framework. However, in my experience, a commonly used definition is that this is small scale development within an otherwise continuous built up frontage. Indeed this interpretation appears to have been applied in the appeal case referred to by the appellants in which a proposed dwelling on an adjacent modestly sized plot fronting onto the High Street was considered to represent limited infilling.²
9. The ribbon development along High Street, which ends a little to the north east of the appeal site, presents a strong and mostly continuous frontage along its north western side, comprising mostly detached properties in modestly sized plots. Behind this frontage the dwelling associated with No 5 High Street, and its neighbours on either side, sit outside this pattern and towards the rear of their extensive plots, away from the road frontage and accessed via long private driveways.
10. Therefore, despite the presence of other properties around the appeal site, this site does not appear as a gap in the built frontage. Indeed development in this location would more accurately be described as backland development rather than infill. Accordingly this proposal would not amount to limited infilling.
11. A fundamental aim of Green Belt policy, as set out in the Framework at paragraph 79, is to prevent urban sprawl by keeping land permanently open. The construction of a dwelling and its associated double garage on this site would result in built development where there is presently none and inevitably lead to a loss of openness. The appellants note that the existing frontage

² APP/P3420/A/14/2222484

development screens the appeal site from almost all public vantage points. Nevertheless, the concept of openness has a spatial as well as a visual aspect, and the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. The proposal would therefore have an adverse physical effect on the openness of the Green Belt which I quantify as moderate.

12. The development would not therefore comply with paragraph 89 of the Framework. It would also conflict with the LP Policy S3. Consequently the proposal would represent inappropriate development which is, by definition, harmful to the Green Belt.

Other considerations

13. The appeal proposal would allow the appellants' younger family to occupy the host dwelling, and provide them with more modestly sized accommodation. This would also enable the division of the extensive garden area between the two properties, thereby creating two more manageable sections. Whilst such personal considerations are not material to this decision, the addition of a unit of accommodation, which would make a limited contribution to the supply of housing in this area, does weigh moderately in favour of the proposal.
14. The appellants point to the fact that no highways, space about dwellings or landscaping concerns have been raised. However these matters are neutral in the overall planning balance.
15. The appellants also refer to the fact that the site as a domestic curtilage enjoys permitted development rights, and as such believe that the principle of building within this plot is established. However, whilst the third bullet point of paragraph 89 of the Framework refers to *extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building*, in other respects new curtilage buildings, particularly those some distance from the dwelling, must also be considered against the exceptions set out in paragraph 89. If they are not considered to fall within these categories they would be inappropriate development. This consideration does not, therefore, have a bearing on my decision.

Conclusion and Planning Balance

16. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. I find that in this case the other considerations outlined above do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
17. It is agreed between the parties that the Council is not able to demonstrate a five year supply of housing land. In accordance with paragraph 49 of the Framework relevant policies for the supply of housing should not be considered as up to date. Paragraph 14 of the Framework is therefore engaged which advocates the presumption in favour of sustainable development. However, paragraph 14 footnote 9 of the Framework states that in these circumstances development restrictions relating to the Green Belt remain in effect. The

presumption in favour of sustainable development therefore does not apply in this case.

18. I conclude that the proposal conflicts with the development plan taken as a whole and with the provisions of the Framework in relation to the protection of the Green Belt. As material considerations do not indicate that this case should be determined other than in accordance with the development plan and the Framework, the appeal is dismissed.

AJ Mageean

INSPECTOR