
Appeal Decision

Site visit made on 26 June 2017

by Helen Heward BSc (Hons) MRTPI

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

Decision date: 13th July 2017

Appeal Ref: APP/P4415/W/16/3159675

The Granary, Norwood Lock, Rotherham Road, Killamarsh, Sheffield, South Yorkshire, S21 2DS

- 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 Mrs G Hughes against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref 2016/0674, dated 17 May 2016, was refused by notice dated 10 August 2016.
 - The development proposed is described as a "*medical store for the use/storage of medical equipment i.e.: mobility scooter /wheel chair/ oxygen cylinders etc. Exercise equipment*".
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Procedural and preliminary matters

1. In the banner heading I have used the appellant's description of the site as "The Granary" and of the building as a "medical store". The appeal is retrospective. An appeal under s174 of the Town and Country Planning Act 1990¹ was dismissed and the enforcement notice upheld. Another appeal in relation to a subsequent refusal against the retention of the building for agricultural use was also dismissed on 22 October 2014².

Decision

2. The appeal is dismissed.

Main Issues

3. The site is located within a Green Belt (GB) therefore the main issues are (i) whether the development is inappropriate development within the GB, and (ii) if the development 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 it.

Reasons

Inappropriate development

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

¹ APP/P4415/C/12/2178617, APP/P4415/C/12/2180210

² APP/P4415/A/14/2222632

5. Paragraph 87 of the National Planning Policy Framework (2012) (Framework) advises that inappropriate development is by definition harmful to the GB and should not be approved except in very special circumstances. New buildings within the GB should be considered inappropriate unless they fall within specific exceptions listed at paragraphs 89 and 90. There is no provision within these paragraphs for buildings for essential medical needs.
6. The sixth bullet point of paragraph 89 provides for limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the GB and the purposes of including land within it than the existing development.
7. The appellant submits that former development structures had a greater impact on the openness of the site but provides no evidence to measure or otherwise quantify the former pond, gazebo, bridge, pagoda and hardstanding.
8. My attention is drawn to APP/P4415/C/12/2178617. I find paragraphs 29 and 30 most helpful on the issue of size and intrusiveness:

"In this instance, there are 2 pitched roof buildings a little over 6m and 12m wide, and 5.5m and 6m deep respectively, set side by side. They are built in stone and slate, with both having garage and pedestrian doors. They occupy a different if overlapping area to the pond. Both individually and collectively they are materially larger and more obtrusive than the essentially ornamental features of the pond, gazebo and pagoda and cannot possibly be regarded as 'replacement' buildings in the sense intended in paragraph 89 of the NPPF. The construction of each of them was thus inappropriate for this purpose..."

"The garages are a substantial extension of the built form across the land and are especially obtrusive, particularly the larger of the two, when seen from a number of viewpoints on the nearby public footpaths. My comments in relation to their inappropriateness, as compared to the previous ornamental structures, are equally relevant here. Their additional height, width, bulk and mass give them a substantially greater and more harmful visual impact on what is or was an essentially rural and largely open setting".

9. The appeal I am considering relates to the smaller of the two buildings referred to in paragraph 29. The current application documents confirm that its dimensions are approximately 5.5m x 6m maximum height of 3.5m. Therefore it would appear to be the same size as when considered previously and I find no significant new evidence that would lead me to reach any other conclusion.
10. Moreover the sixth bullet point of paragraph 89 specifically provides for the partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the GB and the purposes of including land within it than the existing development. There is no provision for consideration of the impact of former development that no longer exists.
11. The fundamental aim of GBs is to prevent urban sprawl by keeping land permanently open. One of their most important characteristics is their openness and any new building, by definition, would result in a degree of loss of openness.

12. The Court of Appeal in *Turner v SSCLG & East Dorset Council*³ recognised that the question of visual impact is implicitly part of the concept of openness of the GB and that the visual dimension of the GB is an important part of the point of designating land as GB. The absence of visual intrusion does not in itself mean that there is no impact on the openness of the GB as a result and this does not mean that the openness of the GB has no visual dimension (paragraph 25).
13. On my visit I observed that the openness of this countryside location within the GB is generally characterised by an absence of built form. The appeal building is associated with a group of buildings, including three dwellings and large areas of hardstanding, which make a noticeable intrusion. Although within the group, the appeal building stands alone and is clearly seen from a public right of way passing close by the site. It maybe that it does not extend the physical footprint of the site, but in the available views I found that the building is obtrusive, adds to the overall quantum of three dimensional built form and increases visual intrusion into the GB. In these ways the appeal building results in a moderate loss of openness and a visual encroachment into the countryside contrary to one of the five main purposes of GB set out in paragraph 80 of the Framework. As such it does not amount to the type of development provided for in the sixth bullet point of paragraph 89.
14. I conclude that the building is inappropriate development within the GB and results in an encroachment into the countryside and a moderate loss of openness. It is contrary to advice in the Framework and Policy CS4 of the Rotherham Core Strategy, 2014, which seek to protect the GB from inappropriate development. I attach substantial weight to these harms.

Very special circumstances

Medical needs

15. I have read a letter from Dr S Shaw which advises that the appellant (who occupies The Granary) has a severe medical condition. I have had regard to this information and it is not necessary that I repeat it in detail here. Although the appellant has a life-long requirement for a supply of oxygen, this evidence does not say that the building is required as a medical store for their needs.
16. The grounds of appeal inform me that storage of oxygen canisters requires a large area. On my visit I observed approximately six oxygen canisters. They appeared to take up an area of approximately no more than 0.5m² and would have been much less than 1m tall. They took up a very small area of the building. The Granary has three bedrooms, a kitchen and sitting room, and I observed that there was ample space to keep the amount of oxygen canisters that I had seen. It maybe that at times more is stored, but on the evidence before me I conclude that the building is not essential for the storage of oxygen for the appellant.
17. I saw several pieces of mobility and similar equipment in the medical store, but they could be stored in a much smaller space, and some could be stacked. In any event items such as a shower chair, raised toilet seat, and a commode would need to be in the dwelling frequently, if not all the time, when needed. The dwelling is quite spacious. The appellant has a downstairs bedroom and bathroom and I noted that one of two upstairs bedrooms appeared to be used

³ *John Turner v SSCLG and East Dorset Council* [2016] EWCA Civ 466

for clothes storage and ironing. I am not persuaded that it would not be possible to store essential medical items in the dwelling without impeding the appellant's ability to move around the dwelling.

18. Changes in levels and a raised threshold would present a difficulty for someone to enter and leave the dwelling on a mobility scooter or wheel chair. But I am not persuaded that a mobility scooter and wheel chair would need a building of the size of the medical store. There is nothing to say that a scooter could not be kept outside of the dwelling. If a wheel chair was required then it appeared to me that one could be accommodated within the downstairs of the dwelling.
19. On the day I visited, the medical store also contained a work bench, tools, some domestic appliances and other items such as a Xmas tree. The Council offers to consider an extension to the dwelling for storage in lieu of the permitted extension. There is little evidence to say that this could not be provided in a form or construction that would not cause harmful dust to the occupier's health, such as a pre-assembled shed.
20. I am not persuaded that the building is essential as a medical store for the needs of the appellant.

Fall-back

21. An application for an extension to The Granary was considered under a different policy for extensions to existing buildings and does not represent a precedent. The officer report and subsequent planning permission⁴ regarding this extension do not amount to evidence that The Granary has become a separate dwelling. Nor is it for me to make a judgement in this appeal regarding an assertion of the lawful use of The Granary as an independent dwelling. I attach very little weight to an argument that a fall back position exists by virtue of development rights under the General Permitted Development Order 2015, Schedule 2 Part 1 Class E for development within the curtilage.
22. Therefore, very special circumstances do not exist.

Conclusions

23. The building does not fall within the sixth bullet point of paragraph 89 and is inappropriate development within the GB. It results in an encroachment into the countryside and a moderate loss of openness. It is contrary to advice in the Framework and Policy CS4 of the Rotherham Core Strategy, 2014, which seek to protect the GB from inappropriate development. I attach substantial weight to these harms.
24. At most I give limited weight to the considerations cited in support of the proposal and conclude that they do not amount to very special circumstances and do not clearly outweigh the harms that the building causes to the GB. Therefore, and having regard to all other matters before me, I conclude that the appeal should be dismissed.

Helen Heward

PLANNING INSPECTOR

⁴ RB2015/0625