
Appeal Decision

Site visit made on 1 August 2017

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 14th August 2017

Appeal Ref: APP/W3005/W/17/3173802

26 Main Rd, Jacksdale, Nottinghamshire, NG16 5JW

- 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 Ms Jacqueline Curtis against the decision of Ashfield District Council.
 - The application Ref V/2016/0621, dated 23 August 2016, was refused by notice dated 18 November 2016.
 - The development proposed is described as “propose to re-site the historic garage and create a decked area for use in summer months for the community”.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposed decking area has already been installed and the appeal is therefore partly retrospective in nature.

Main Issues

3. The main issues are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (‘the Framework’) and development plan policy;
 - (b) The effect of the proposal on the openness of the Green Belt; and
 - (c) If the proposal 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 the development.

Reasons

Inappropriate development in Green Belt

4. The appeal site comprises an area of land to the rear of the Jacksdale Social Club. It is former railway land that was previously banked and overgrown. The levelling and clearing of the site was consented under a previous permission (ref V/2016/0354). The development proposes the retention of an area of decking, and the construction of a new garage on this land.

5. Paragraph 89 of the National Planning Policy Framework states that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions. One such exception is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.
6. Whilst the site once contained a garage, no details of this structure have been provided and the Council state that it was demolished some time ago. In this regard, the appellant states that the garage had to be removed when the landscaping of the site took place. As the garage had already been removed, there was no building to replace in this case. Accordingly, the development would not comply with the relevant exception at paragraph 89 of the Framework.
7. Part of the site was formerly occupied by a railway line, although this closed some time ago. In this regard, I have been provided with an aerial photograph of the site from 2013 that shows the site covered in vegetation. The former railway line is not visible in this photograph, and it appears to have blended into the landscape in the process of time.
8. Furthermore, a material change of use (in this case to a beer garden) is not included in the list at paragraph 90 of the Framework of other forms of development that are also not inappropriate in Green Belt.
9. Accordingly, I conclude that the proposal would be inappropriate development in the Green Belt, which Paragraph 87 of the Framework states is harmful by definition and should not be approved except in very special circumstances. The proposal would also be contrary Policies EV1 and ST1 of the Ashfield Local Plan Review (2002) which seek, amongst other things, to protect the Green Belt.
10. An interested party has questioned whether the Local Plan is current. Whilst the Local Plan was adopted some time ago, Policies EV1 and ST1 are consistent with the Framework insofar as they relate to this development. In any case, the Green Belt status of the land is not in dispute and national Green Belt policy, as set out in the Framework, therefore applies.

Openness

11. The decking area and proposed garage would introduce additional built footprint and volume onto land that was previously open. Moreover, the chairs and tables that occupy the decking area have an additional impact on openness. The development would therefore result in a reduction in openness to this part of the Green Belt. The Framework advises at Paragraph 79 that openness is an essential characteristic of Green Belts, and the appeal proposal would therefore cause harm in this regard.
12. I conclude that the appeal proposal would fail to preserve the openness of the Green Belt. This would further harm the objectives of the Green Belt to which the Government attaches significant importance.

Other considerations

13. An application (ref V/2015/0626) was previously submitted in 2015 to level the site and change its use to a beer garden. This was withdrawn after the Council advised that a change of use would not be acceptable. A subsequent

application (ref V/2016/0354) for an engineering operation to level the site was approved in 2016. The appellant contends that the Council's previous advice to apply solely for an engineering operation has removed the opportunity to balance the improvement of the land against the harm to the Green Belt. They state that the previous improvements to the land should be considered in this case.

14. There is only limited evidence before me regarding the previous condition of the land, and it is therefore difficult to judge the extent of any benefit that has been secured. In any case, the levelling of the land had already been undertaken following a previous permission. It cannot therefore be considered against the harm to the Green Belt in this case.
15. The appellant states that the outdoor area is needed in summer months to sustain the business, which is an important community facility. However, no evidence has been provided regarding the operational benefit that the decking and outdoor area provides to the business. Moreover, the beer garden is fenced off and appears to be only available to customers. These factors limit the weight I can attach to these considerations.
16. Additional landscaping is proposed, and this could be secured by condition. However, additional planting would provide only a limited benefit in terms of enhancing the appearance of the site, and in the creation of new habitat.
17. The urban boundary runs along the southern and eastern edges, and part of the northern edge, of the appeal site. However, the Green Belt status of the land is not in dispute, and the position of the urban boundary does not serve to justify the development in my view.
18. Whilst the railings around the decking area do not block views of the building, they are positioned on raised land. The decking area is also occupied by tables and chairs that serve to limit any visual permeability afforded by the railings.
19. Any natural surveillance provided by the decking area over the park would be limited to the times the decking was in use. In addition, the distance from the decking to the skate park, and other areas of the park, is significant. Accordingly, this consideration represents only a modest benefit in my view.
20. The proposed garage would provide a secure place to park a vehicle. However, that would be a private rather than a public benefit.

Other Matter

21. An interested party states that a nearby development for 8 dwelling was recently approved on allotment land. However, the full details of that case are not before me. In any event, I have determined the appeal on its own merits.

Conclusion

22. The proposal would constitute inappropriate development in Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. Even when taken together, the other considerations in this case do not clearly outweigh the harm to the Green Belt and the harm to the character and appearance of the area. Consequently, the very special circumstances necessary to justify the development do not exist. The development would therefore be contrary to

Policies EV1 and ST1 of the Ashfield Local Plan Review (2002), and guidance contained in the Framework.

23. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR