
Appeal Decision

Site visit made on 8 August 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 23 August 2017

Appeal Ref: APP/U4610/W/17/3169085
18 Treedale Close, Coventry CV4 9HQ

- 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 Mike Kemp against the decision of Coventry City Council.
 - The application Ref FUL/2015/4326, dated 20 December 2015, was refused by notice dated 5 September 2016.
 - The development proposed is change of use for woodland to domestic garden.
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Decision

1. The appeal is dismissed.

Procedural matter

2. At the time of my site visit the piece of land subject of the appeal had already been incorporated into the garden of No 18 and was edged by fencing around two metres in height along its north and west boundaries. The ground of this area was covered in artificial turf. The Council consider the fencing can be erected under permitted development rights and as I have no reason to disagree I need not consider it further.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
 - the effect of the proposal on the ancient woodland, local nature reserve and local wildlife site;
 - if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development?

4. The development effectively involves the enlargement of the garden to incorporate a small area of woodland. The area of land it relates to is

designated as Green Belt. The Council, in their officer's report, considered the development was not inappropriate development in the Green Belt, stating *"The NPPF and Policy GE6 of the Development Plan do allow for limited extension on an existing dwelling. It is considered that the development constitutes a limited extension to the curtilage of an existing dwelling and therefore it is not inappropriate development in this regard."* I consider this is an incorrect interpretation of national policy as the Framework does not make any reference to an extension to the curtilage of a dwelling equating to an extension to a dwelling itself. I sought comments from both parties on this matter and, in response, the Council suggested that the development does not fall into any of the categories of development that can be considered not inappropriate.

5. I agree that an extension to the curtilage or a change of use, such as that subject of this appeal, are not identified in the Framework as forms of development that can be considered not inappropriate. Therefore the development is inappropriate. I note that the explanatory test to Policy GE6 of the Coventry Development Plan (CDP) advises that changes of use may be appropriate if they preserve openness and visual amenities, but as this is not consistent with the Framework I can give little weight to this policy in this respect.
6. Paragraphs 87 and 88 of the Framework say that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm to the Green Belt. They add that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Also Policy GE6 states that inappropriate development will not be allowed in the Green Belt unless justified by very special circumstances. This reflects the Framework and so, in this regard, I can give it significant weight.
7. It is therefore necessary for me to consider whether any other harm is caused by the proposal and then balance the other considerations against the totality of that harm.

Openness

8. The enclosure of the land by a solid fence, which is around two metres in height, does have an effect on the openness of the Green Belt, albeit it is limited by virtue of the small size of the area concerned. Nonetheless, even this small impact on openness weighs against the development, and is in addition to the inappropriateness of the proposal in principle.

Ancient woodland, local nature reserve and local wildlife site

9. The undisturbed floor of the ancient woodland, local nature reserve and local wildlife site beyond the appeal site appears rich with vegetation which, with the soil, provides an irreplaceable habitat for a wide range of species. However by fencing off a part of this, and by surfacing the area with artificial turf, the development has changed the nature of this land to a sterile, domesticated space which, aside from a retained oak tree, provides little in the way of comparable habitat or biodiversity value. As such the proposal adversely impacts upon nature conservation and therefore conflicts with Policy GE11 of the CDP which seeks the protection of local nature reserves. It also contrasts with the advice in paragraph 118 of the Framework which says development

should aim to conserve and enhance biodiversity and, in particular reference to this appeal, should not result in the loss or deterioration of ancient woodland. However the small scale of the development means the effect is not substantial so I attach only limited weight to this harm.

Other consideration

10. I note the land subject of the appeal was sold to the appellant by the Council and that he has a contractual obligation to fence it. Nonetheless this is unrelated to the use of the land in planning terms. As such I give this little weight.

Planning Balance and Overall Conclusion

11. I consider that the development causes significant harm to the Green Belt by way of its inappropriateness and so, as advised by the Framework, substantial weight should be given to this harm. I also consider that the development harms openness and the biodiversity of the ancient woodland, local nature reserve and local wildlife site, albeit the weight I give to these harms is limited. Balanced against that is the other consideration identified above. I conclude that the weight of this consideration does not clearly outweigh the harms and therefore there are no very special circumstances to justify the proposal. Consequently, the development conflicts with Policy GE6 and the Framework which both aim to protect the Green Belt from inappropriate development.
12. Therefore, for the reasons given above, and taking account of all other matters, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR