

Appeal Decision

Site visit made on 18 June 2019

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Appeal Ref: APP/N4720/W/19/3226385

Charville House, Hobberley Lane, Shadwell, Leeds LS17 8JQ

- 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 and Mrs Taylor against the decision of Leeds City Council.
 - The application Ref 18/06763/FU, dated 23 October 2018, was refused by notice dated 21 January 2019.
 - The development proposed is a detached, self-build bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would amount to inappropriate development within the Green Belt; whether there would be any other harm to the Green Belt; the effect on the environmental objectives of the Framework; and whether the harm by reason 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 the development.

Reasons

Inappropriateness and any other harm

3. The proposal lies within the Green Belt. Policy N33 of the Unitary Development Plan 2006 (UDP) advises that except in very special circumstances, approval will only be given in the Green Belt for specified developments. The National Planning Policy Framework (the Framework) advises that new buildings should be regarded as inappropriate unless they represent an exception set out in paragraph 145. It is accepted by the appellants that the proposal is not a development specified within policy N33 or paragraph 145 of the Framework and it would therefore represent inappropriate development in the Green Belt.
 4. The dwelling would have four bedrooms and although designed with low eaves, it would have a significant amount of accommodation at first floor level. Given its size and as it would be built on land that is predominantly undeveloped, it would reduce the openness of the Green Belt. Although the presence of development in the vicinity would reduce the perceived harm to openness compared to a similar structure set in isolation, it would nevertheless result in
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harm and would be contrary to the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open.

5. The appellant makes reference to UDP policy GB2 which relates to infilling within villages that are washed over by the Green Belt. This property lies outside the defined village of Shadwell. The policy is not therefore relevant. The development would however be contrary to UDP policy GB1(i) which advises that development control within the Green Belt will be exercised to keep land permanently open.
6. As the development would be contained within garden land and between existing developments, the level of encroachment into the countryside would be limited and the wider visual impact of the dwelling reduced. Given the scale of the house proposed however and the need to remove existing vegetation to create the access, it would result in harm to the character and appearance of the area. Although I accept that this impact would be limited by the particular circumstances of the site and the new planting proposed, this adds to the conflict with the environmental objectives of the Framework associated with the harm to the Green Belt.
7. This is not a remote or isolated location and the new house would be only a short distance from the nearby village and the services of other settlements, including those of Leeds. However, given its position and the nature of the road that serves it, it is likely that most journeys would be by private vehicles which would add to the overall environmental concerns.

Other considerations

8. Details have been provided with regard to the particular personal circumstances of the appellants. A purpose built, wheel chair accessible house with a full range of facilities, at ground floor level, would clearly substantially improve the living conditions of the appellants. I have no doubt that such facilities are essential to ensure that the appellants are able to enjoy a satisfactory quality of life.
9. I am particularly mindful of the requirements of Section 149(1) and (3) of The Equality Act 2010 and the need to remove or minimise disadvantages and to take steps to meet the needs of persons who have a relevant protected characteristic. This requirement is also supported by Planning Practice Guidance which is clear that accessible and adaptable housing enables people to live more independently, while also saving on health and social costs in the future. It is better to build accessible housing from the outset rather than have to make adaptations at a later stage – both in terms of cost and with regard to people being able to remain safe and independent in their homes. I therefore afford considerable weight to the benefits of improving the living conditions of the appellants given their particular circumstances.
10. The existing property is a large house with large grounds. The appellants advise that its configuration, room sizes and door openings mean that it is very difficult to manoeuvre and turn a wheelchair around the house. It has a number of small rooms on the ground floor and all bedrooms are upstairs. Significant remodelling would be needed to provide open space on the ground floor, including structural changes and support. It is suggested that extending the house would have the same issues, as the remainder of the house would

still be unworkable and a large proportion of it would be unused and inaccessible. The appellants advise that it would not be viable to remodel the existing house.

11. Whilst I have no doubt that the appellants have considered all options with regard to the provision of improved and accessible accommodation, the evidence provided with regard to the potential to re-model or extend the property is limited. Although it may require considerable investment, I am unclear why remodelling and/or extending the property could not result in a full range of accessible facilities at ground floor level. Whilst access to the first floor would not be possible when using a wheel chair, this would also be the case with the three first floor bedrooms of the house proposed. I am not satisfied that the cost of building a new dwelling would be less than the works required to extend the property to allow a fully accessible and integrated living room, bathroom, kitchen and bedroom. I accept however that building a new dwelling would provide greater opportunities to secure funding.
12. Even if I were to accept that a new dwelling represented the only practical option, I would not be satisfied that a house of the scale proposed would be necessary. A much more modest dwelling, of more limited height, would appear to offer all the necessary accommodation with a much lesser impact on the openness of the Green Belt. Overall, there is undoubtedly the potential for other developments that would meet the specific health and care requirements of the appellants without the scale of the harm that would result to the Green Belt.
13. Evidence has been provided with regard to the price of a bungalow in the area that may be suitable for occupation with adaptations. I am advised that the overall costs would be prohibitive. I have not however been provided with details of the current value of the existing house to allow such a comparison.
14. The property search identifies a lack of other suitable alternatives. Given the particular requirements, I accept that the availability of alternative purpose built or adaptable properties is likely to be extremely limited and also logistically difficult. This provides weight in favour of seeking alternative provision within the appeal site. I acknowledge also the social benefits to the appellants of remaining within the existing area given their long association with it and acknowledge the benefits of the appellants remaining within their own private property rather than relying on alternative residential care provision.
15. It is suggested that the new dwelling would allow the release of the existing property to the open market and that occupation by a family would make better use of it and would contribute to housing supply generally. The Council indicate that they are not currently able to demonstrate a five year supply of housing sites. The Framework sets out a presumption in favour of sustainable development but paragraph 11(d)(i) is clear that this does not apply to inappropriate development in the Green Belt. However, although the Green Belt policies must be taken into account, this proposal would make a small contribution to housing supply. Given the housing supply position, this provides significant weight in its favour.

16. The residents of both properties would contribute to the life of the nearby local communities. I note also the lack of objection from the adjacent neighbours. There would also be economic advantages from the construction of the new house. The residents of both properties would contribute to the economy by their own economic activity and their use of the local shops and services.
17. The appellants have provided an undertaking that would restrict the use of the property to persons with a disability, suggesting that this would work in a similar fashion to an agricultural workers tie. If the house were to remain occupied into the future by a person with a disability, this would provide more weight in its favour than an open market dwelling given the suggested shortfall in such provision. However, even if I found the undertaking to meet the tests of the Framework, the increased benefits would provide only limited further weight in favour of it overall.
18. The Framework at paragraph 56 sets out the tests that such undertakings must meet. I am not satisfied that it would make the development acceptable in planning terms and as such, it would not satisfy part (a). As the reason for accepting the development would not persist, as it is likely that the particular personal circumstance of future occupants would not be entirely similar to those of the appellants, I am also not satisfied that it would satisfy part (c) as the impact of the restriction would not fairly and reasonably relate in scale and kind to the development. As the restriction would not add significant weight in favour of the proposal, it is not a matter on which my decision would turn in any event.
19. Reference has been made to an appeal for an extra care development within the Green Belt in West Malling, Kent (APP/H2265/W/18/3202040). Whilst I acknowledge that there are some similarities with the principle of this development, it is not directly comparable and I have considered this proposal on its own merits.
20. The appellants advise that the property benefits from permitted development rights and as such, a substantial, single storey building could be erected within the garden which would have a similar impact to the appeal proposal. I have no reason to believe that such a building would be built if this appeal were to fail. In any event, it would be unlikely to have as great a scale and impact as the house proposed or a similar impact on openness overall. I am not satisfied that the potential to carry out works as permitted development provides significant weight in favour of the proposal in these particular circumstances.

Conclusions

21. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This proposal represents inappropriate development and would reduce the openness of the Green Belt. The Framework is clear that substantial weight should be given to any harm to the Green Belt. The proposal would also result in harm to the character and appearance of the area and the environmental objectives of the Framework.
22. There are a number of considerations that weigh in favour of the proposal. The principle benefits relate to the future living conditions of the appellants. Planning Practice Guidance supports accessible and adaptable housing and

- seeks a positive approach to schemes that address an identified need. The weight I afford the provision of this specialist accommodation is however reduced because it has not been clearly demonstrated that the existing house could not be adapted or extended; or a more suitable smaller property built. However, I nevertheless afford considerable weight in favour of the provision of such accommodation, given the particular circumstances of the appellants.
23. Given the housing position and despite this not being a highly accessible location, I afford significant weight to the provision of a new dwelling. However, even if I accept the benefits that would result from the inclusion of the undertaking, this would add only very limited additional weight. There would be a range of other social and economic benefits to the proposal which also provide weight in its favour.
24. I have taken all the considerations put forward into account and have had due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and those that do not. Although I afford considerable weight to the social benefits associated with the health and living conditions of the appellants; and significant weight to the provision of a new dwelling, I find that taken together with the other social and economic benefits, these would not clearly outweigh the harm that would result from inappropriateness, the reduction in openness and the other environmental harm that I have identified.
25. As very special circumstances only exist if the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, I must conclude that very special circumstances do not exist. The proposal therefore conflicts with UDP policy N33 and the specific policies relating to the Green Belt within the Framework.
26. I am mindful of the Human Rights Act 1998 which enshrines in law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. Having regard to the legitimate and well-established planning policy aims to protect Green Belts, I am satisfied that the refusal of planning permission was proportionate and necessary. Although I have fully considered the particular circumstances of the appellants, dismissing this appeal does not violate their rights. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR