



Appeal Decision

Site visit made on 17 September 2019

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 19 September 2019

Appeal Ref: APP/K3415/C/19/3227050

Hammerwich House Farm, Hall Lane, Hammerwich, Burntwood WS7 0JP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr T C Bailye against an enforcement notice issued by Lichfield District Council.
 - The enforcement notice was issued on 26 March 2019.
 - The breach of planning control as alleged in the notice is the erection of an unauthorised outbuilding as shown approximately on the notice plan.
 - The requirements of the notice are demolish the unauthorised outbuilding and remove the resultant materials from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of an outbuilding on land at Hammerwich House Farm, Hall Lane, Hammerwich, Burntwood as referred to in the notice.

Reasons

2. Hammerwich House Farm is located in the Green Belt and the unauthorised outbuilding is a greenhouse situated in its garden area. The Appellant accepts that the greenhouse, with regard to planning policy on Green Belts set out in the National Planning Policy Framework (NPPF), is inappropriate development. Paragraph 143 of the NPPF states that "...inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances". Paragraph 144 of the NPPF states that "'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations". This national policy is reiterated in policy NR2 of the Lichfield District Local Plan Strategy 2015 (LPS).

The main issues in the ground (a) appeal

3. The main issues in the ground (a) appeal are; first, whether the greenhouse causes any other harm, with regard to, principally, the openness and visual amenity of the Green Belt, in addition to that caused by reason of inappropriateness; and second, whether other considerations clearly outweigh the harm caused by the greenhouse such that very special circumstances exist.

The first issue – other harm

4. The garden area is surrounded by a dense hedgerow that screens all but the very top of the steep pitched roof greenhouse in views from the surrounding area and from a nearby public footpath. Furthermore, the greenhouse is set close to a substantial neighbouring building, is attractive in itself, and compliments the landscaped garden. The greenhouse does not therefore have any adverse effect on the visual amenity of the area. Given its location and immediate surroundings the greenhouse does not result in any encroachment into the countryside and the structure has only a negligible effect on the openness of the Green Belt. The greenhouse does not therefore cause any material harm other than by reason of inappropriateness. The greenhouse does, however, conflict with LPS policy NR2 but does not conflict with LPS policy BE1 or LPS Core Policy 3.

The second issue – other considerations

5. Several members of the Hammerwich Mindfulness Group have written in support of the appeal. The group meets once a week at Hammerwich House Farm to participate in gardening activities centred on the greenhouse and the adjacent vegetable plots. Some group members have medical conditions and disabilities and they clearly benefit greatly from the shared gardening activities and from the relaxing environment of the garden and greenhouse. The greenhouse is not therefore of only personal benefit to the Appellant and his family but benefits the wider community and, in particular, those who are in most need. There is no reason to suppose, given the clear commitment of the Appellant's wife, Mrs Harvey-Bailey, that the social and health benefits will not continue into the future.

6. Hammerwich House is a Grade II listed building. If it wasn't a listed building the residential property would benefit from permitted development rights afforded by The Town and Country (General Permitted Development) Order 2015, and the greenhouse could have been built under those permitted development rights without the grant of planning permission. The greenhouse is the only outbuilding that supports the maintenance of the extensive landscaped garden area, which is the immediate and attractive setting of the listed building. The outbuilding therefore contributes to the conservation of that setting. These factors notwithstanding, it is the social and health benefits of the greenhouse, for the Appellant and his family and for vulnerable members of the community, that are the other considerations that clearly outweigh the harm caused by reason of inappropriateness. Very special circumstances exist in this case.

Conclusion

7. The outbuilding causes harm to the Green Belt but only by reason of inappropriateness and that harm is clearly outweighed by other considerations such that very special circumstances exist in this case. The other considerations also justify reaching a conclusion, with regard to paragraph 47 of the NPPF, other than in accordance with the Development Plan. The ground (a) appeal thus succeeds and planning permission has been granted for the erection of an outbuilding on land at Hammerwich House Farm, Hall Lane, Hammerwich, Burntwood. The ground (g) appeal does not therefore need to be considered.

John Braithwaite

Inspector