



Appeal Decision

Site visit made on 23 September 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/Z4718/D/19/3232787

Hogley Farm, Hogley Lane, Holmfirth HD9 2QA

- 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 A and R Hogley against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/62/90030/W, dated 8 January 2019, was refused by notice dated 24 April 2019.
 - The development proposed is replacement of existing stable block with proposed single storey detached games room.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement of existing stable block with proposed single storey detached games room at Hogley Farm, Hogley Lane, Holmfirth HD9 2QA in accordance with the terms of application reference 2019/62/90030/W, dated 8 January 2019 subject to the following conditions:
 - (1) The development hereby permitted shall begin not later than 3 years from the date of this Decision.
 - (2) The development hereby permitted shall be carried out in accordance with the following plan: 18117D-01-P04.
 - (3) The development shall not be occupied until all the roof-light windows in the building hereby approved have been obscure glazed.
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any Order revoking or re-enacting that Order with or without modification) the obscure glazing shall thereafter be retained.
 - (4) The development hereby approved shall be used solely as ancillary accommodation incidental to the enjoyment of the property known as Hogley Farm, Hogley Lane, Holmfirth HD9 2QA.

Application for costs

2. An application for costs was made by Mr and Mrs A and R Hogley against Kirklees Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies.
- The effect of the development on openness.
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to very special circumstances required to justify the proposal.

Reasons

Inappropriate Development

4. The appeal site accommodates a detached single storey timber stable block that sits on a concrete base to the front of the residential dwelling known as Hogley Farm. To the side and front of the structure is a drystone wall with a retaining wall to the rear which separates the lower ground of the appeal site from the higher ground of the garden associated with the neighbouring dwelling, Highlands. The stables are currently used for the storage of domestic household items.
5. The appeal site is located in the Green Belt. Paragraph 143 of the NPPF states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the NPPF states the construction of new buildings in the Green Belt is inappropriate. It sets out some exceptions, one of which is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would: not have a greater impact on the openness of the Green Belt than the existing development.
6. Policy LP57 of the Kirklees Local Plan 2019 (Local Plan) amongst other things says replacement buildings in the Green Belt are normally acceptable provided the new building is in the same use and not materially larger than the building it is replacing. The development amongst other things must also not result in a greater impact on openness. Policy LP59 of the Local Plan amongst other things says that the redevelopment of brownfield sites is normally acceptable provided in the case of redevelopment, the extent of the existing footprint is not exceeded.
7. The NPPF defines previously developed land as land which is or was occupied by a permanent structure. The Council say the existing building is temporary and therefore that the land is greenfield rather than previously developed land. Both main parties refer to caselaw which establishes 3 tests for considering whether something is a permanent structure. Whilst neighbouring representors state that the stables were originally built as a temporary structure to stable horses, aerial photography indicates that the stables date from sometime before 2009. Whilst they may not form part of the original dwelling, the Council acknowledge that they have been in place for more than 15 years. This along with the fact that the structure is bolted down to a brick and concrete base suggests it has not been moved. Even if assembled in a single day, and capable

of being dismantled in a similar timeframe, on site assembly would have been required on site given that it is not unsubstantial in size. It is also served by water and electricity.

8. On the basis of the evidence before me, along with my observations on site, I am of the view that the stables can be reasonably considered to be a permanent structure. The land is therefore previously developed land and as such whether the proposal would be inappropriate development is dependent upon whether there would be a greater impact on openness.

Openness

9. Paragraph 133 of the NPPF says 'the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence'. The footprint of the existing building is some 46 sqm which would increase to some 53 sqm post development. The proposal would be of a similar height to the existing stables. The proposal would not therefore be materially greater in size than the existing stables. The additional footprint would be accommodated in the gap between the existing structure and the retaining wall behind.
10. There would be very little difference in the overall size of the built form on the site as a result of the proposal. The scheme would not cause material harm to the openness of the Green Belt or impact on one of the purposes of Green Belt in terms of safeguarding the countryside from encroachment.
11. The development would not be inappropriate development and would not harm openness. Very special circumstances are not therefore necessary to justify the development.

Other Matters

12. There is debate between the parties as to whether the piece of land which the development would sit on forms part of the residential curtilage of Hogley Farm and whether the existing building should be treated as an outbuilding of the residential property. However, I would come to the same view whether the site was part of the curtilage or not.
13. The architectural appearance of the proposal would be very similar to the existing stables, timber clad with a sedum roof replacing the existing moss covered roof. The small increase in the footprint of the development would not generate an overly dominant development, despite its location to the front of the property. There would consequently be no harm to the character and appearance of the area.
14. Concern has been raised that the building could be converted to another use in the future. However, any material change of use would require planning permission. To ensure compliance an appropriately worded planning condition restricting use can be imposed.
15. Whilst highway safety concerns have been raised, there has been no objections raised by the Highways Authority and in the absence of any substantial evidence to the contrary I have no reason to disagree. Similarly, given the location of the proposal I have no reason to believe that there would be a harmful impact on existing car parking provision serving Hogley Farm or that the development would generate a need for additional car parking spaces.

There is also little to suggest that the Public Right of Way would be harmed by the scheme.

Conditions

16. In attaching conditions I am mindful of paragraph 55 of the NPPF, which states that they should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects. I have assessed the Council's suggested conditions on this basis.
17. In addition to the standard time limitations for commencement, I have imposed a condition specifying the relevant drawings as this provides certainty. A condition requiring obscure glazing is necessary to protect the living conditions of the residents of neighbouring properties. A condition restricting use to that which is ancillary to Hogley Farm is necessary to prevent the development from being used as an independent dwelling.

Conclusion

18. For the reasons identified and having regard to all other matters, I conclude that the appeal is allowed.

K Ford

INSPECTOR