The Planning Inspectorate

Appeal Decision

Site visit made on 14 October 2019

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 4th November 2019

Appeal Ref: APP/R2330/W/19/3234557
Fir Trees, Sough Lane, Guide BB1 2LR

- 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 W Jones against the decision of Hyndburn Borough Council.
- The application Ref 11/19/0203, dated 16 May 2019, was refused by notice dated 31 July 2019.
- The development proposed is extension to, and change of use of, amenity block to form 1 dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:

   - Whether or not the proposal is inappropriate development in the Green Belt for the purposes of the development plan and the *National Planning Policy Framework* (the Framework);
   - The effect of the proposal on the openness of the Green Belt;
   - The effect of the proposal on the provision of gypsy and traveller sites; and
   - 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 it.

Reasons

Background

3. The appeal site forms part of a residential caravan site for an extended gypsy family that was granted permanent permission[1] in 2016 following a permission for its use for a temporary period. The permission is for 6 caravans, 2 amenity blocks and an area of hardstanding. A condition restricts use/occupancy of the site to named individuals who are all connected to the Jones Family. A further condition requires that when it ceases to be used by the said individuals the use shall cease and the land should be restored to its former condition.

[1] Appeal Reference APP/R2330/A/14/2212033

4. I observed that the site is divided into two halves, each of which has a number of caravans and an amenity block. The appeal relates to the amenity block on the northern part of the site which the appellant states is used solely by himself and his family. It is proposed to extend the amenity block to provide two bedrooms and create a dwelling. Although it is not intended to alter their gypsy lifestyle, it is stated that this is to provide greater privacy for the appellant's two sons for their education.

Whether inappropriate development and openness

5. The appeal site is located in the Green Belt. Policy BD1 of the *Hyndburn Core Strategy (adopted January 2003)* (HCS) says that the overall extent of the Green Belt will be maintained. Policy DM34 of the *Development Management Development Plan Document (adopted January 2018)* (DMDPD) sets out the forms of development that may be acceptable in the Green Belt and Countryside Area. This indicates that extensions to buildings will be permitted where the proposal would result in an increase of no more than 50% of the volume of the original building and where it would not have a detrimental impact on the original building or the wider area in terms of its scale, design and materials.

6. In addition, the policy states that the conversion of existing buildings for residential use will be permitted where a traditional building exists of permanent and substantial construction and is capable of being converted without substantial extensions. It further indicates that extensions to buildings to be converted will only be permitted where these do not impact upon the traditional form and character of the original building, and are designed sensitively to the rural setting.

7. Paragraphs 145 and 146 of the Framework set out the forms of development that are not inappropriate within the Green Belt. These include: the extension and alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and the re-use of buildings provided that they are of permanent and substantial construction and the proposal would preserve the openness of the Green Belt and the purposes of including land within it.

8. It is not disputed by the parties that the building is of a permanent and substantial construction. However, the Council have highlighted that Policy DM34 only permits the conversion of traditional buildings. The appellant has argued that the Framework does not place such restrictions on the type of buildings that may be converted. I note that the DMDPD was only adopted in January 2018. Consequently, the appropriateness of this policy and its conformity with the Framework, have only recently been tested at examination. Whilst I accept that the Framework has been revised twice since the DMDPD was adopted (in July 2018 and February 2019), neither revision made any alteration to the specific wording of this part of the Framework. As such, the conclusion that the policy is in conformity with the Framework has not altered.

9. The policy does not give any definition as to what constitutes a "traditional" building. Some guidance is provided in paragraph 9.10 of the accompanying text which says that the buildings should be "of sufficient architectural quality to warrant conversion". It also states that modern agricultural buildings such as those with portal frame structures or those that use materials such as

concrete, that detract from the quality of the environment, will not be considered suitable for conversion.

10. The Council's evidence for this appeal indicates that a traditional building would be constructed with solid wall construction techniques using lime mortars on soft foundations of clay. However, I see no justification in the policy or the accompanying text for this quite restrictive set of criteria, as defining what makes a "traditional" building or one of "sufficient architectural quality".

11. The amenity block is a brick built building with a dual pitch tile roof. Although a modern building it has a traditional form and uses traditional materials. I observed that other buildings and dwellings in the area varied in age, type, design and utilised a wide range of materials. Thus, whilst the design of the amenity block is simple and functional, it is not out of character with other buildings in the vicinity. Overall, I consider it is a building that is suitable for conversion.

12. In order to re-use the building for this purpose an extension to it is required. The Framework does not define what constitutes a disproportionate addition but Policy DM34 states that it should be no more than 50% of the volume of the original building. The volume of the existing and resulting building is disputed between the parties. Given these disputed figures I have determined the appeal on the basis of the plans before me, and what I saw on my site visit.

13. The proposed extension would run the full length of the current amenity block and would increase the depth as well as slightly increasing the height of it. Overall, given the scale and mass of the resulting building compared to that which exists at present, I am satisfied that the proposal would not represent a disproportionate addition to it. Moreover, the proposal would retain the traditional form of the existing building and would incorporate existing features such as small bay windows. As such, the dwelling would retain a similar character to the existing building.

14. Paragraph 146 of the Framework states that the re-use of buildings is only permitted provided they preserve the openness of the Green Belt and the purposes of including land within it. Whilst the change of use of the building would not in itself impact upon the openness of the Green Belt, the proposed extension would increase the footprint and mass of the building. Whilst this would lead to a reduction in openness, the loss would be a small one.

15. In deeming that extensions and alterations to buildings that are not disproportionate to the original building are not inappropriate, the Framework allows for a reduction in openness in such circumstances. Given that I have concluded that the extension would not be disproportionate, I consider this is one of the cases where the Framework would allow the slight reduction in openness. Therefore, I am satisfied that significant harm to the openness of the Green Belt would not be caused by the scheme.

16. It is no part of the Council's case that the proposal would be detrimental to any of the purposes for including land within the Green Belt. As the scheme would be contained within the existing gypsy and traveller site I see no reason to conclude any differently in this regard.

17. Consequently, I consider that the proposal would not be inappropriate development in the Green Belt. Accordingly, it would not conflict with Policies BD1 of the HCS or DM34 of the DMDPD or with the Framework.

Provision of gypsy and traveller sites

18. Conditions on the existing permission restrict the use of the site to that of a gypsy and traveller site and specifically for an extended gypsy family. Whilst I have not been provided with any information on the need for gypsy and traveller sites within the area, Policy H3 of the HCS seeks to protect existing permanent sites which are authorised for gypsy and traveller use.

19. The appellant has indicated that despite creating a dwelling, he does not intend to give up the gypsy lifestyle and I appreciate that not all gypsies have an aversion to bricks and mortar. It is also stated that the proposal would not impact on how the rest of the site is used, that all of the family members named in the personal condition on the permission live on the site and that the appeal scheme would not prevent the occupation of the site by any of them. It is also stated that all other family members will continue to use the other amenity block as they do at present.

20. However, the red line boundary covers not only the amenity block but a considerable part of the northern half of the site and would prevent access to the part of the site that lies to the north of the red line boundary.

21. The appellant has suggested conditions, similar to those on the permission for the site, could be applied to this proposal if it were to be permitted. It is suggested that these would ensure the building continued to be used solely by those gypsies and travellers already permitted to use the site and that when it ceased to be used for such purposes the building would be removed and the land restored to its former condition.

22. I need to consider whether such conditions restricting the occupancy of the proposed dwelling and the area contained within the red line boundary meets the tests for conditions set out in paragraph 55 of the Framework. The *Planning Practice Guide* (PPG) advises that it is rarely appropriate to limit the benefits of a planning permission to a particular person or group of people, and that doing so is only merited on an exceptional basis.

23. Whilst some gypsies may not have an aversion to bricks and mortar, it forms no part of national or local policy to make provision for gypsy and traveller families in permanent dwellings. Instead the aim of policy is to increase the number of caravan sites for gypsies and travellers. As a result, there is no justification to limit the occupation of the proposed dwelling to gypsies and travellers and no exceptional grounds for imposing an occupancy condition. Doing so would be contrary to the principle in the PPG that planning permission usually runs with the land. Therefore, I consider repeating the conditions that apply to the site to this proposal would be unreasonable and unnecessary.

24. As such, although I acknowledge the intentions of the appellant with regards to the use of this building and the area within the red line boundary, if I were to approve the appeal scheme, I would be allowing an unrestricted dwelling on the site. Together with the area marked by the red line boundary this would result in the loss of part of an existing gypsy and traveller site which would be contrary to Policy H3 of the HCS.

Other Matters

25. The appellant has stated that he has a growing family and that the provision of two bedrooms would provide greater privacy for them at a time when their education requires it. I have not been provided with any details regarding what stage in their education the children are currently at. Whilst I appreciate that children may require a place of relative peace and quiet for educational purposes such as completing homework and revising for exams, it is unclear why bedrooms are required for this purpose.

26. Moreover, given that it is stated that the amenity block is used solely by the appellant and his family, the availability of this space as well as the appellant's caravan(s) would provide options to be able to provide a private place to enable studying to take place. In addition, it is likely that the dwelling would remain long after current personal circumstances cease to be material.

27. Although the appellant has made no reference to this, under Article 8 of the European Convention on Human Rights, everyone has the right to respect for his private and family life, his home and correspondence. This brings with it a positive obligation to facilitate the gypsy way of life.

28. In addition, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Since the appeal is made, and the proposed occupiers of the dwelling are ethnic gypsies, they are persons who share a protected characteristic for the purposes of the PSED.

29. However, even though I am dismissing the appeal, this would not have any adverse effect on the occupancy or use of the current site, nor would it deprive the appellant of his current home.

Planning Balance and Conclusion.

30. Although I have found that the proposal would not be inappropriate development in the Green Belt, it would result in the loss of part of an existing gypsy and traveller site contrary to Policy H3 of the HCS, and there are no material considerations to outweigh the harm the proposal would cause.

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

Alison Partington

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