The Planning Inspectorate

Appeal Decision

Site visit made on 22 October 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2019

Appeal Ref: APP/H2265/C/18/3214578
Littlefields, Plaxdale Green Road, Stansted, Sevenoaks, Kent TN15 7PE

- 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 Dean Geering against an enforcement notice issued by Tonbridge & Malling Borough Council.
- The enforcement notice, numbered 17/00315/WORKM, was issued on 28 September 2018.
- The breach of planning control as alleged in the notice is without the benefit of planning permission, the erection of an unauthorised raised platform/tree house within the curtilage of Littlefields, Plaxdale Green Road, Stansted, Sevenoaks, Kent TN15 7PE.
- The requirements of the notice are to remove the raised platform/tree house located within the curtilage of the property in its entirety (inclusive of softwood decking on joist framing supported from multiple (tree trunk) columns, railing balustrade, tread staircase to landing with access to deck level and all associated means of attachment to the tree) – as shown hatched on the attached plans (ref BDS1722 Sheets 1 and 2).
- The period for compliance with the requirements is six calendar months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Permission is refused on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

The ground (a) appeal and the deemed application

2. The ground of appeal is that planning permission should be granted.

Main Issues

3. The site is within the garden of Littlefields, a detached dwelling located within the Green Belt. The National Planning Policy Framework (the Framework) sets out the Government's policy in relation to Green Belts. Inappropriate development is, by definition, harmful and should not be approved other than in very special circumstances. Substantial weight is to be given to any harm to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

4. The main issues are therefore:

    - Whether the tree house/raised platform is inappropriate development in the Green Belt;
    - The effect of the development on the character and appearance of the site and surrounding area;
    - If the development is inappropriate, whether any 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 required to justify the development.

Reasons

Whether inappropriate development

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The construction of new buildings should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 145. One such exception is the limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development[1]. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 2007 (CS) states that national Green Belt policy will apply to land within the Green Belt.

6. Previously developed land is defined in Annex 2 of the Framework. It includes land which is occupied by a permanent structure, including the curtilage of the developed land. The definition specifically excludes garden land in built up areas, but can include gardens where they are not in built up areas. I concur with the Council's view that the land is previously developed. The raised platform/tree house can also reasonably be considered to be limited infilling.

7. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect. The raised platform/tree house is a substantial structure, that has increased the amount of built form on the site and resulted in a loss of openness. It therefore has a greater impact on the openness of the Green Belt than the pre-existing buildings.

8. Accordingly, I find that the raised platform/tree house does not fall within the exception set out in paragraph 145 g) of the Framework. There is no evidence that the development meets any of the other exceptions listed in paragraph 145, and therefore it is inappropriate development in the Green Belt, contrary to the guidance in the Framework.

Character and appearance

9. The appeal site is in the open countryside, where there is scattered development surrounded by open fields, hedgerows and small patches of woodland. The land falls away to the rear of the appeal site, giving long views across fields and woodland. The raised platform/treehouse has been built around an oak tree, and the platform is raised above ground level on timber supports. The ground level of this part of the garden is higher than that of the adjacent field.

[1] Paragraph 145 g) of the Framework

10. The raised platform/treehouse is screened from Plaxdale Green Road due to its siting to the rear of the house. However, it is clearly visible in views from the neighbouring fields and public footpath which crosses fields to the side and rear of the appeal site. Due to its height and design, as well as its siting close to the rear boundary of the garden, it appears as a tall and prominent structure. Although the supporting columns are not enclosed and it is seen against the backdrop of the oak tree and other garden planting, it is a substantial structure that is out of scale with the summerhouse to which it is attached. As a result, it is incongruous and visually intrusive in this rural setting.

11. I therefore find that it is significantly harmful to the character and appearance of the site and surrounding area. Consequently, it would be contrary to CS Policies CP1 and CP24, and Policy SQ1 of the Managing Development and the Environment Development Plan Document 2010, insofar as they seek to conserve the distinctive character of the locality and the quality of the countryside. It would also be in conflict with the advice of the Framework.

Other considerations

12. The raised platform/tree house is intended only for private use incidental to the enjoyment of the main dwelling. The appellant states that the structure does not conflict with the purposes of including land in the Green Belt. However, it has resulted in an encroachment of built form into the countryside, and thereby conflicts with the related Green Belt purpose.

Green Belt Balance

13. The raised platform/tree house is inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, it causes a loss to the openness of the Green Belt, and is harmful to the character and appearance of the area. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

14. I give limited weight to its use for private purposes incidental to the enjoyment of the dwelling house, as this does not overcome the harm I have identified. The substantial weight to be given to Green Belt harm, and the harm to the character and appearance of the area, are not clearly outweighed by the considerations put forward by the appellant. The very special circumstances necessary to justify the development do not, therefore, exist. It is therefore in conflict with the Framework and CS Policy CP3 in relation to Green Belt.

Conclusion

15. For the reasons given above and with regard to all other matters raised, I conclude that the appeal on ground (a) should fail and the deemed application should be refused.

N Thomas

INSPECTOR