



Appeal Decision

Site visit made 22 October 2019 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/P2935/W/19/3235070

Clontibret, Allendale Road, Hexham, NE46 2NH

- 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 Andrew Herdman (APS (UK) Limited) against the decision of Northumberland County Council.
 - The application Ref 19/00980/FUL, dated 22 March 2019, was refused by notice dated 10 July 2019.
 - The development proposed is construction of one detached dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for Costs

3. An application for costs was made by the appellant against the Council. The application is attached as a separate decision.

Main Issues

4. The appeal site is located within the Green Belt as defined by the Tynedale District Local Plan. The appellant has disputed whether the site should be considered to fall within the Green Belt on account of the fact that the site is part of the garden of the dwelling known as Clontibret. However, the fact that land may be within a garden does not exclude it from the Green Belt; it is common for dwellings, groups of buildings or even small settlements to be “washed over” by the Green Belt and the Council has provided an extract of the Local Plan proposals map which clearly shows the site within the Green Belt. Thus, it is clear that the land, including the dwelling and its garden fall within the Green Belt and I must consider the appeal on that basis.
5. In view of the above, the main issues are:
 - Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the ‘Framework’) and development plan policy;

- The effect of the proposed development on the character and appearance of the surrounding area; and
- if the development is inappropriate, if 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 required to justify the development.

Reasons for the Recommendation

Whether the Proposal Would Amount to Inappropriate Development

6. Paragraph 145 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One exception is the limited infilling in villages. Similarly, Policy NE7 of the Tynedale District Local Plan (2000) (the 'LP') follows the same path. Whilst the LP is of some vintage, its policies in relation to the Green Belt remain broadly consistent with those of the Framework such that full weight can be afforded to them.
7. The term "village" is not defined in the Framework, nor is it specifically defined by the Development Plan. For planning purposes, a judgement needs to be made having regard to particular facts and circumstances in each case. The appeal site is located amongst a small group of properties which are accessed from Allendale Road to the west of Hexham. The plan¹ provided by the Council shows this group of properties are outside of the built-up area and separated from the town by agricultural fields. This group of houses is not considered to be within the settlement of Hexham, rather they form one of a few small clusters of properties spread along Allendale Road to the west of the town. It is apparent to me that this group of properties aptly demonstrate the characteristics of a sporadic group of buildings outside of a built-up area of a town or village. It is a collection of residential properties with no obvious services or facilities or features one would normally associate with a village such as a church. I do not consider that the location could reasonably be classed as a village or settlement.
8. My view on that is reinforced by the status of the land in the development plan. Policy GD1 of the Tynedale Local Development Framework Core Strategy (2007) (the CS) categorises settlements according to their size and the services within them, starting with the main towns through to smaller villages. The policy states that anything outside the defined towns or villages is classed as open countryside for the purposes of the CS, including sporadic groups of buildings. In my view, that would clearly apply to the collection of dwellings in the vicinity of the appeal site which should be considered to within the open countryside in planning policy terms. Whilst the appellant claims the policies of the CS are no longer consistent with the Framework I find nothing inherently inconsistent with the principle of setting a settlement hierarchy to guide development based on the suitability of different settlements and locations for further development and am satisfied that significant weight can be given to the settlement strategy outlined in policy GD1, notwithstanding the age of the CS.

¹ Green Belt Plan with Application Site Identified

9. There is no definition of the word “infill” in the LP or the Framework. However, it is reasonable to consider the term to relate to the development of a gap in an otherwise built up frontage. The proposal would not conform to that pattern but would amount to the development of the garden of an existing dwelling in a corner location. It would not be surrounded by other built development but would be adjacent to Shaw’s Lane to the west, beyond which is agricultural land, and an access lane to the north. Rather than filling in an obvious gap between Clontibret and Pantiles, it would extend the built footprint outwards into a prominent location adjacent to Shaw’s Lane. As such, having regard to the location and position of the site, the proposal would not amount to infilling within the village and it would fall outside of the scope of paragraph 145(e).
10. The appellant contends that if it is considered that the appeal site is outside the settlement boundaries of Hexham, then as a residential garden curtilage it must be classed as previously developed land. They have cited the Dartford judgement² in support of this assertion. Another exception stated in the Framework is -

‘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;

or not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.’

It is therefore imperative to consider the impact of the proposal on openness of the Green Belt for this exception to apply.

11. The essential characteristics of Green Belts are their openness and their permanence. Openness has both a visual and spatial quality. The appellant contends that the effect on openness would be limited due to the fact that the site is bounded on each side by residential properties. However, the proposed development would occupy a floor space area which is presently undeveloped garden thereby reducing openness in this part of the Green Belt. The dimensions and scale of the two-storey dwelling would be substantial and that would reduce openness in a physical sense, given the lack of any current built development on the site, and in a visual sense, on account of the visibility from Shaw’s Lane and surrounding vantage points.
12. Given the nature of proposed development, future occupants of the new dwelling are likely to require an outdoor area for residential use in connection with the dwelling-house. The proposed 5-bedroom dwelling would increase domesticity and spread of paraphernalia such as washing line, waste containers, outdoor furniture, and the parking of additional vehicles within the site. Taken together these factors would have spatial and visual effect on openness. I find the proposed development would have a materially harmful effect upon openness and would conflict with Policies NE7 and NE8 of the LP and the Framework.
13. It follows that the development would not meet the exceptions listed at paragraphs 145(e) or (g) of the Framework, or any other of the listed

² Dartford BC v SSCLG [2017] EWCA Civ 141

exceptions, and would amount to inappropriate development within the Green Belt.

Character and Appearance

14. The appeal site is an undeveloped residential garden within the curtilage of Clontibret. The proposal is for a two storey, L-shaped dwelling. The surrounding area is predominantly two storey and detached featuring an array of large properties set within substantial grounds. The Council acknowledge that the dwelling would be a contemporary design and considered it would be appropriate to its surroundings given the diverse style of dwellings in the area. In effect, the second reason for refusal relates not to the design of the dwelling but to the alleged encroachment into the countryside. Safeguarding the countryside from encroachment is a key aim of the Green Belt, as set out at paragraph 134 of the Framework. As set out above, for the purposes of the development plan, the site is within the open countryside, albeit that it is part of the garden of an existing property. As with Green Belt designations, areas defined as countryside for planning purposes are not devoid of residential properties.
15. The area is rural in character and the special qualities of the landscape that provide the immediate context for the site comprise the open rolling countryside. Whilst I recognise that the land is already part of the garden of the adjacent property, the low-density nature of the surrounding housing, set within substantial gardens, is appropriate to the rural context.
16. In contrast, the proposed dwelling would intensify the urban character of the area at a sensitive juncture on the edge between the small collection of homes and surrounding countryside. I have noted that the development would not represent infill but would extend the built footprint of development towards Shaw's Lane in a prominent location. In that sense, the proposal would represent the encroachment of built development in the countryside because it would bring substantial new buildings closer to the rolling fields to the west.
17. The nature of the development proposed would dramatically change the appearance of the site and how it is perceived in the landscape from public views. Residential development of the site would appear conspicuous and incongruous in this setting and it would have a negative impact upon the quality of the area. The development would have an incongruous effect on the landscape due to the siting and location of the dwelling. I find that the proposed development would have a harmful effect on the character and appearance of the surrounding area and would be in conflict with objectives of Policies GD2 and H32 of the LP, Policies GD1, BE1, NE1 and H1 of the CS which I find to be broadly consistent with the sustainable development aims and objectives of the Framework.

Other considerations

18. The proposal would provide social and economic benefits although these would be limited in scale. As it is a single dwelling, the contribution it would make in these respects would be limited and carry moderate weight in favour.
19. The appellant also argues that the Council in considering other planning applications surrounding the appeal site have considered these applications to be within the built-up area of Hexham. Council decisions are a matter for the

authority and it is necessary to consider the merits of the appeal proposal. For the reasons given above, it is clear that the site falls outside of the defined settlement of Hexham for the purposes of the development plan and reference to other development is not a matter that adds weight in favour of the proposal.

Planning balance

20. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is given to any harm to the Green Belt. 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.
21. The proposed development would constitute inappropriate development within the Green Belt and would also have a harmful effect on the openness of the Green Belt. I am required to attach substantial weight to any harm to the Green Belt, in accordance with paragraph 144 of the Framework. The development would also result in encroachment of built development into the countryside, in conflict with a key purpose for designating land inside the Green Belt, which is a serious planning objection. The development conflicts with local and national planning policies referred to above.
22. The development would provide limited economic and social benefits and would make a modest contribution to the housing stock. However, it is clear that the benefits put forward do not outweigh the harm that I have identified. As such, the very special circumstances needed to justify the development within the Green Belt do not exist.
23. The appellant has argued that the Framework's tilted balance should also be engaged as the local planning policies referred to in the reasons for refusal by the Council are out-of-date. However, as I have said elsewhere, the policies referred to by the Council which are most important for determining this appeal are all broadly consistent with the aims of the Framework. Even if that were not the case, footnote 6 to paragraph 11 of the Framework makes clear that the tilted balance does not apply if the application of the policies of the Framework that protect areas or assets of particular importance would provide a clear reason for refusing the development proposed. That footnote expressly applies to the Green Belt and, in the absence of very special circumstances, the Framework would indicate that planning permission should not be granted.
24. In view of the above, the proposal would be contrary to the relevant policies of the development plan and the aims of the Framework with regard to development within the Green Belt.

Conclusion and Recommendation

25. For the reasons given above and having had regard to evidence before me, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

26. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be dismissed.

Chris Preston

INSPECTOR

Costs Decision

Site visit made on 22 October 2019 by Ifeanyi Chukwujekwu BSc MSc MIEMA
CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

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

Decision date: 25 November 2019

Costs application in relation to Appeal Ref: APP/P2935/W/19/3235070 Clontibret, Allendale Road, Hexham, NE46 2NH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Andrew Herdman (APS (UK) Limited) for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for the erection of a detached dwelling.
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Decision

1. The application for an award of costs is refused.

Summary of the Application and the Council's Response

2. The application, and the Council's response were submitted in writing and the cases will be familiar to the parties. Consequently, the following is a brief summary of the respective positions.
3. The applicant contends that the application was unreasonably refused thereby causing unnecessary and wasted expense in making an appeal. A full award of costs is sought on the basis that the Council had misinterpreted relevant planning policy and relied on policies that were no longer consistent with the policies of the Framework. It is argued that the development should have been approved taking account of the current aims of national planning policy and that the Council acted inconsistently in respect of other decisions. It is also suggested that the Council failed to take into account the potential fall-back position of permitted development rights or the fact that no objections were submitted in respect of the application. The applicant contends that the Council were set on refusing permission from the outset.
4. The Council maintains that is properly considered the proposal against local and national planning policy and that the reasons were fully explained and set out in the committee report.

Reasons

5. Government guidance on the award of costs is set out in the Planning Practice Guidance (PPG). Paragraph 030 of that guidance notes that a party may have costs awarded against them in relation to appeal proceedings if they have behaved unreasonably and that behaviour has led another party to incur unnecessary expense. Those two matters are pre-requisites for an award; if there has been no unreasonable behaviour or no wasted expense an award will not be justified.

6. There was a dispute over the whether the site was located in the Green Belt and whether it was within the countryside for the purposes of local and national planning policy. The appellant appeared to contend that the site should not be considered as Green Belt land on account of the fact that it formed part of the garden of an existing dwelling. For the reasons set out in the associated report, the fact that the site was garden land did not exclude it from the Green Belt or the definition of countryside in planning policy terms.
7. It appears to me that much of the basis of the applicant's costs claim stems from that misunderstanding. The Council fully explained its reasoning within the committee report and it the approach to considering development within the Green Belt in local policy was consistent with up to date national planning policy, notwithstanding the age of the development plan.
8. The written representations suggest all relevant information was considered by the Council when deciding the application. The refusal reason was clear and sufficient evidence was submitted to support the Council's stance. I concurred with that position for reasons set out in the associated report. The evidence presented does not show unnecessary delay during the application process. The Council did not unnecessarily prevent development given the conflict with national and local policy. Nor do I accept that the Council had a pre-conceived stance to refuse the application; it merely considered it against relevant policy. The applicant's points relating to permitted development fall-back have not been made out and no permitted development rights exist for the erection of a detached dwelling or a structure of comparable height and scale.
9. The applicant has not shown that the Council behaved unreasonably in refusing to grant planning permission. It follows that there are no grounds for an award of costs based on unnecessary and wasted expense as set out in the Planning Practice Guidance. A full or partial award is unjustified.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

10. Having considered the submitted evidence and the Appeal Planning Officer's report, for all the above reasons, I too concur that this application should be refused.

Chris Preston

INSPECTOR