



Appeal Decision

Site visit made on 24 February 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2020

Appeal Ref: APP/Z4718/D/19/3239902

Mount Pleasant, Burnt Platts Lane, Slaithwaite, Huddersfield HD7 5UZ

- 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 Brady against the decision of Kirklees Metropolitan Council.
 - The application Ref 2019/62/92251/W, dated 4 July 2019, was refused by notice dated 30 August 2019.
 - The development proposed is erection of replacement garage and outbuildings.
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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. This application is attached as a separate Decision.

Procedural Matters

4. The application was described on the application form as being for the erection of replacement garage and outbuildings, as set out in the banner heading above. Without the agreement of the appellant, the Council amended this description and the decision notice describes the proposal as being for the 'erection of detached garage and outbuildings'. It is clear that the proposal involves the erection of a new garage and outbuilding on the site of existing structures. In that sense, the description given by the appellant was accurate. However, the issue of whether the proposal should be considered as an extension to the dwelling or as replacement buildings for the purposes of Green Belt policy is a matter of interpretation and I shall address that in the main issues below.

Main Issues

5. The main issues are as follows:

- i. Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
- ii. The effect of the proposal on the openness of the Green Belt; and
- iii. If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons for the Recommendation

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. Under section c) of that paragraph an extension to a building will not be inappropriate provided that it would not result in disproportionate additions over and above the size of the original building. The Council consider that the proposals in this case should be considered as extensions to the dwelling and that they would be disproportionate in scale. The appellant asserts the scheme should not be assessed against exception c) of the Framework but that the proposals amount to replacement buildings which would fall under exception d). Under that exception, replacement buildings should not be considered as inappropriate if they are in the same use and not materially larger than the buildings they replace.
7. I am aware that case law has determined that domestic outbuildings can sometimes be considered as extensions to dwellinghouses where the structures are closely related to the existing property in terms of location and use¹. That is clearly the case in this instance and the buildings are in close proximity to the house and the proposed use is ancillary to the primary residential use. Consequently, it was not unreasonable for the Council to consider the proposed buildings as domestic adjuncts under exception c), notwithstanding that they would replace existing smaller structures.
8. In terms of exception c), it is clear from the evidence submitted that the dwelling has been extended over the years. The Council states that the property itself has been extended by around 105%. The proposal would represent an increase in volume of approximately 213% compared to the original building as it appears that the existing outbuildings and garage do not form part of the original building. The appellant has not disputed these figures. Neither Policy LP57 of the Kirklees Local Plan (2019) (the LP) or the Framework specify what is meant by disproportionate in percentage terms. However, by any measure a 213% increase would result in a substantial and disproportionate addition over and above the size of the original building.
9. The appellant considers that the proposal complies with exception d) of paragraph 145 of the Framework. In order to meet this exception an assessment is required to establish whether the replacement buildings are in the same use and whether they would be materially larger than the one it replaces. It is clear from the evidence submitted that the new buildings would be of the same use.

¹ Sevenoaks District Council v SSE and Dawe [1997]

10. An assessment of whether a building is materially larger can include matters of footprint, volume, width, height and visual perception. In terms of the size of the replacement buildings, the appellant highlights that, in comparison to the existing outbuildings and garage, the scheme would result in a 28.58% increase in footprint and a 30.32% increase in volume. The appellant states that Councils generally accept an increase of one third when assessing proposals against exception d) of the Framework. However, the appellant has not submitted any examples nor adopted local planning policy or guidance which supports this stance. It is common for Council's to have policies which seek to limit the scale of extensions to that kind of scale but those calculations generally relate to exception c) and consideration of whether a proposal would amount to a disproportionate addition. The question of whether something is 'materially larger' is a different matter and must be considered on the facts of the case. It would be difficult to set a percentage calculation for such an assessment.
11. The new buildings would be undoubtedly more noticeable as a result of the increased scale and massing. The replacement buildings would be bulkier because they would have a greater depth and width, the new outbuilding would also have a higher ridge line. Thus, even if I were to conclude that the scheme should be assessed against exception d) of the Framework, the proposal would be materially larger than the buildings that it would replace.
12. Accordingly, based on the evidence presented, the proposal would be inappropriate development in the Green Belt having regard to Policy LP57 of the LP and the Framework.

Openness

13. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
14. The replacement buildings would be located in a similar position to the existing garage and outbuildings. The supporting text of LP Policy LP57 highlights that any built form impacts on openness regardless of whether it is visible from a public vantage point. Whilst the extent to which something is visible can have an impact when considering the effect on openness, buildings will also have a physical impact in the sense of occupying space or volume that was previously free from development.
15. The existing garage and outbuildings are not visible from Burnt Platts Lane due to the siting of the appeal property. It is not clear from the evidence provided whether the proposed garden room would be visible from Burnt Platts Lane given its increase in height and depth. Nonetheless, I observed on my site visit that, the existing roof of the garage is particularly visible from the highway, Back O'Wall, to the north of the appeal site. Thus, the increase in scale and massing would be apparent from Back O'Wall. Setting aside the degree of visibility, the volume of the proposals would be markedly greater than the existing buildings.
16. Consequently, having regard the physical size of the proposals and their location, the development would have a detrimental effect on the openness of the Green Belt, albeit that the scale would be moderate and limited to the

immediate vicinity. As such, the proposal would conflict with the purposes of Green Belt policy, as stated in the Framework, to keep land permanently open.

Other Considerations

17. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. There are no other considerations advanced in support of the proposal.

Conclusion and Recommendation

18. The Framework identifies that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt. I have concluded that the development constitutes inappropriate development in the Green Belt, which carries substantial weight and additional weight is given to its harm to the openness. As cited above, the proposal conflicts with both local and national planning policy. The appellant has not put forward any other considerations in support of the scheme.
19. Therefore, the very special circumstances necessary to justify the development do not exist and for the reasons given above I recommend that the appeal should be dismissed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

20. 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 24 February 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2020

Costs application in relation to Appeal Ref: APP/Z4718/D/19/3239902 Mount Pleasant, Burnt Platts Lane, Slaithwaite, Huddersfield HD7 5UZ

- 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 and Mrs Brady for a full award of costs against Kirklees Metropolitan Council.
 - The appeal was against the refusal of planning permission for the erection of replacement garage and outbuildings.
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Decision

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

Reasons

2. The application for an award of costs, the Council's response and the applicant's further response were submitted in writing and the content will be familiar to both parties. Consequently, I shall not repeat those submissions in full within this decision. 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.
3. The applicants' case is that the Council incorrectly judged the development as new extensions rather than as replacement buildings. The applicant also claims that the Council changed the description of the development without their agreement and did not accept to a meeting.
4. It is clear from the Officers Report that the Council recognise that the scheme sought to replace the existing garage and outbuildings. I do not consider it to be unreasonable that the Council assessed the scheme against exception c) of paragraph 145 of the Framework as the Courts have found that an existing detached domestic outbuilding could be regarded as part of the dwelling, and therefore, could be regarded as an extension to a dwellinghouse². Therefore, although the proposal did involve the erection of new buildings in place of existing structures, it was not unreasonable for the Council to assess the proposal under paragraph 145 c).

² Sevenoaks District Council v SSE and Dawe [1997]

5. In terms of the Council changing the description of development, as highlighted by the Council, the applicant did not raise this as an issue during the determination of the application. I understand that the Council sent the applicant a letter and erected a site notice which contained the amended description and the applicant did not raise any concerns with the Council. Although the description was altered, ultimately, I am satisfied that the Council understood the development being proposed. In effect, the dispute between the parties was over the interpretation of Green Belt policy, as covered above, rather than a lack of understanding of the nature of exactly what was proposed. Regardless of the precise description given, the planning arguments would have remained and the Council's actions in amending the description did not lead the appellant to incur unnecessary or wasted expense.
6. Based on the available evidence, I consider that a meeting would not have been worthwhile, especially as this was requested after the decision had been issued. The Council articulated their stance by way of email exchange, and I do not see how a meeting would have avoided a need to lodge an appeal.
7. The applicant has not shown that the Council's refusal of planning permission was unreasonable. In the absence of any unreasonable behaviour there are no grounds for an award of costs and a full or partial award is unjustified.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

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

Chris Preston

INSPECTOR