



Appeal Decision

Site visit made on 24 February 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2020

Appeal Ref: APP/P2935/W/19/3241634

Talstead, Fairmoor, Morpeth, Northumberland NE61 3JL

- 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 & Mrs Michael and Valerie Donaldson against the decision of Northumberland County Council.
 - The application Ref 19/01251/FUL, dated 12 April 2019, was refused by notice dated 10 October 2019.
 - The development proposed is described as 'residential development (use class C3) for one dwelling and the provision of a garage for the existing property'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal in relation to the Green Belt as follows:
 - Whether or not the proposed development is 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 openness of the Green Belt;
 - 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 necessary to justify the proposal.

Reasons

Inappropriate development in the Green Belt

3. The appeal site is a dormer bungalow, Talstead, and its garden, which includes a detached garage to the side and rear of the dwelling. The proposal is to sub-divide the plot and erect a new detached bungalow in the rear garden space, as well as a new double garage in the front garden to serve the existing dwelling.
4. The Northumberland Green Belt around Morpeth was extended by Saved Policy S5 of the 2005 Northumberland County and National Park Joint Structure Plan. It is not disputed that the appeal site lies within the Green Belt and, from the

information before me, I consider that Fairmoor lies outside a defined settlement boundary and is 'washed over' by the Green Belt.

5. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that, other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. Saved Policy C17 of the 2003 Castle Morpeth District Local Plan (the CMDLP) also sets out that the construction of new buildings in the Green Belt will not be permitted other than for a limited number of purposes. In this regard, Policy C17 is consistent with the Framework which at paragraph 145(e) allows for limited infilling in villages.
6. Fairmoor is a small cluster of dwellings of a variety of ages separated from the nearest shops and services which lie a short distance to the south east beyond the main A1 road. The CMDLP defines infill development as the 'infilling of small gaps within an otherwise continuously built up frontage', which in my view is a reasonable interpretation of the term. In this case, the parts of the appeal site where the proposed dwelling and garage would be built are within a domestic garden. When viewed from the public road outside the appeal site, the proposed bungalow would be screened from view by Talstead's existing garage. In my view, the appeal site consequently cannot be regarded as forming a small gap in an otherwise built up frontage.
7. I therefore find that the proposal would not be limited infilling in a village. None of the other exceptions set out either in the Framework or in the development plan apply, and so by definition it would be inappropriate development in the Green Belt. It would conflict with national policy to protect the Green Belt, and would be contrary to CMDLP Policy C17.

Openness

8. Essential characteristics of Green Belts, set out in paragraph 133 of the Framework, are their permanence and openness. Openness is the absence of development, and it has both a spatial and visual aspect to it.
9. The part of the appeal site in which the new dwelling would stand is currently the spacious rear garden of Talstead, while the proposed double garage would occupy part of the existing front garden. Both spaces are currently a mix of lawn, planted beds, and hard surfaced areas. The proposed development would therefore introduce a substantial amount of built development where currently there is none, which would have a significant effect on the spatial openness of the site. As well as the proposed dwelling and garage, there would also be new close-boarded fences and brick walls separating the two parts of the divided plot. These various elements of the proposal would result in a loss of visual openness.
10. Consequently, the combined effect of the proposal would be to cause moderate harm to the openness of the Green Belt in this location.

Other considerations

11. The appellants are in their 80s and wish to continue to live in the area where they have done so for almost 20 years. The proposal would provide them with a new home that would be more suited to their future needs with accommodation on a single level. Their daughter and her family could then

move to live in the existing house and be able to give additional support and care over the coming years. Whilst I am sympathetic to their aspirations, these are circumstances faced by many families and are likely to be of a temporary nature, whereas a new dwelling would be likely to remain for a significant period of time. In any event there was no evidence of any specific or unusual need for personal or medical care presented in support of the proposal appeal. While the appellants have indicated that their health has made it more difficult to manage their garden, there was no substantive evidence to demonstrate that the existing dwelling could not be modified to provide for their needs and those of the family. Although the appellants referred to having been unable to find another bungalow nearby, there was no indication that accommodation could not be found in the locality to meet the family's wider needs, including the appellants' daughter and her family. In this situation, the appellants' personal circumstances are matter to which I can only attach limited weight in my assessment of the appeal proposal.

12. I note that the appellants consider that the way in which the Council handled the application was unreasonable, primarily because of the time that it took to for a decision to be reached. As a consequence, they consider that their Human Rights were adversely affected. However, while I accept that delays may have caused them some inconvenience and stress, planning decisions require decision makers to balance the rights of the individual against wider public interests, as I have done. In any event, the procedures leading to the Council's decision are not matters for me to consider in the context of a s78 appeal, which is confined to a consideration of the planning merits of the proposal.
13. Both parties have drawn my attention to a Court of Appeal judgment relating to a proposed development elsewhere in the Green Belt a few miles from the appeal site¹. However, although the judgment made reference to the Council's definition of 'limited infill development' and it supported an earlier Inspector's interpretation of it, that case was largely concerned with consistency in making planning decisions. It does not, in my view, lend support to the specific arguments of either side relating to the main planning issues in this appeal, and therefore carries limited weight.
14. My attention has also been drawn to other completed or approved residential developments elsewhere within Fairmoor which the appellants consider support their proposal. However, from the very limited information provided it is not clear that these other schemes are comparable to the proposal before me. I therefore give this consideration limited weight.
15. The proposed development would be acceptable in terms of its design, scale and appearance, its provision of amenity space for future occupiers, and no concerns have been raised about a loss or lack of privacy for existing or future residents. There would be no significant impact on highway safety, while there would also be a low risk of harm to protected wildlife species and habitats arising from the proposal. However, a lack of harm in these regards is a neutral factor which does not weigh for or against the proposal.
16. I note also that there were comments received from neighbours which were supportive of the scheme. While these are noted, in themselves they do not represent a benefit of the scheme and therefore carry little weight in my assessment.

¹ R (Tate) v Northumberland County Council and Susan Leffers-Smith [2018] EWCA Civ 1519

Green belt balance

17. I have found that that the proposal would be inappropriate development in the Green Belt. This is by definition harmful, and Paragraph 144 of the Framework establishes I must give this harm substantial weight. In addition, there would be modest harm to the openness of the Green Belt.
18. Notwithstanding the harm identified above, I have had careful regard to the personal circumstances of the appellants in respect of the proposed development, and this matter must carry some limited weight in favour of the proposals. Nevertheless, this and the other considerations raised do not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist.
19. The proposed development conflicts with the Framework and CMDLP Policy C17, which seek to protect the countryside and Green Belt land by resisting inappropriate development.

Conclusion

20. For the reasons given above the appeal is dismissed.

M Cryan

Inspector