



Appeal Decision

Site visit made on 7 January 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th June 2020

Appeal Ref: APP/Z3635/W/19/3237690

Clock Bungalow, 191 Ashford Road, Haleham TW18 1RS

- 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 James Butler against the decision of Spelthorne Borough Council.
 - The application Ref 19/00716/FUL, dated 14 May 2019, was refused by notice dated 17 July 2019.
 - The development proposed is change of use of land to extended residential curtilage for Clock Bungalow, 191 Ashford Road.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land to extend residential curtilage at Clock Bungalow, 191 Ashford Road, Haleham, TW18 1RS in accordance with the terms of the application, Ref 19/00716/FUL, dated 14 May 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: CBL-0219-179-LO1, 0219-179-SP01.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no extensions or other form of enlargement to the area of the extended residential curtilage as shown in red on plan reference CBL-0219179-SP101, nor erection of porches, outbuildings, hardstandings, storage tanks, gates, fences, walls or other means of enclosure, shall take place within the area edged red.

Application for costs

2. An application for costs was made by Mr James Butler against Spelthorne Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt, including any effect on openness, having regard to the National

Planning Policy Framework (the Framework) and any relevant development plan policies.

- If the proposal were found to be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would or would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

4. Clock Bungalow is a detached bungalow situated within a small cluster of properties accessed from a drive onto Ashford Road and is within the Green Belt. The property has an open area to the front. The proposal is to change the use of this open area to extend the residential curtilage at the front of Clock Bungalow.

Whether the proposal would be inappropriate development in the Green Belt

5. Paragraph 143 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The meaning of inappropriate development is contained in paragraphs 145, 146 and 147 of the Framework. Certain forms of development are identified within those paragraphs which are deemed not inappropriate.
6. Paragraph 146 identifies some such 'not inappropriate' forms of development, and this includes, at part e, material changes in the use of land provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. In this connection, outdoor sport and recreation, cemeteries and burial grounds are cited as examples. These examples are expressly preceded by the words "such as...". In my view, this particular list is, therefore, not intended to be exhaustive. I can see no apparent reason why a change of use to a domestic garden, which is essentially what is proposed in the present appeal, should fall outside this category of material changes in the use of land.
7. As set out above, in order to be considered not inappropriate development under the paragraph 146 exceptions, proposals must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
8. Similarly, Saved Policy GB1 Of the Spelthorne Borough Local Plan 2001 (LP) states that development will not be permitted in the Green Belt which would conflict with the purposes of the Green Belt and maintaining openness.
9. The appellant is firm in stating that no physical development is proposed as part of this application and is not intended for the future. Moreover, the appellant has suggested that a condition removing permitted development rights could be attached to the permission in order to protect against any potential future harm to the Green Belt by way of structures and other features constructed with the benefit of such rights.
10. For these reasons, I consider that the openness of the Green Belt would be protected in these regards and would not be eroded by the proposal. Furthermore, in respect of the visual element of openness, the site is also tucked away from public view thus further reducing any possible effect in this regard.

11. Paragraph 134 of the Framework lists the five purposes of the Green Belt; to check the unrestricted sprawl of large built-up areas, to prevent neighbouring towns merging into one another, to assist in safeguarding the countryside from encroachment, to preserve the setting and special character of historic towns and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
12. The setting of the appeal site, along a lane and off of the main road, creates a significant sense of containment which gives the appeal site a clear physical and visual association with the adjacent built development. As a consequence of these physical characteristics and its relationship to its wider surroundings, the proposal would not represent an encroachment upon the countryside. Accordingly, due to the nature of the proposal and its small scale, I do not consider it would conflict with any of the purposes outlined above.
13. For the reasons set out above, I consider that the proposal would therefore fall within the exceptions detailed under paragraph 146 (e) of the Framework. The proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. Accordingly, the proposal would not represent inappropriate development within the Green Belt.
14. As such, the proposal would accord with the aims of national policy set out within the Framework and with Saved Policy GB1 of the LP insofar as they seek to prevent development which would conflict with the purposes of the Green Belt and which would not maintain the openness of the Green Belt. Accordingly, and subject to the other matters set out below, very special circumstances would not be required to justify the development.

Other Matters

15. It is implicit in the application that the appellant has the aim of improving the living conditions of the occupiers of the dwelling by enhancing the property. These aims are also outlined in a letter in support of the proposal which was submitted by a neighbouring resident. I also consider that including the land within the residential curtilage of Clock Bungalow would potentially ensure that the land is properly maintained in future. At the time of my visit the site appeared muddy in character and I consider that improvements to the open character of the land would be an associated benefit of the proposal.
16. I note the concerns raised by neighbouring residents in respect of the need to maintain a right of access over the land. Whilst I have not been presented with any detailed evidence in this respect the appellant states clearly, and indeed notes on the application plans, that any lawful rights of access would not be extinguished.

Conditions

17. In the interests of precision and clarity I have undertaken some minor refinement to the suggested wording of the conditions proposed by the Council.
18. In addition to the standard commencement condition, one that requires the development to be undertaken in accordance with the approved plans is necessary in the interests of certainty. A condition which removes permitted development rights has been suggested by the parties and, in order to safeguard the openness of the Green Belt, I have duly imposed it.

19. The Council has suggested a condition requiring details of a scheme of the means of enclosure of the land to be submitted to them and be approved in writing. However, the appellant is clear that no means of enclosure are proposed, and, indeed, no such development forms part of the scheme before me. As such, I do not consider this condition necessary and have not imposed it.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

L J O'Brien

INSPECTOR