



Appeal Decision

Site visit made on 2 June 2020

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2020

Appeal Ref: APP/K3415/W/20/3246273

Building adj. Rock Cottage, Batesway, Rugeley, Staffordshire WS15 4LA

- 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 S Maritza against the decision of Lichfield District Council.
 - The application Ref 19/00267/COU, dated 19 February 2019, was refused by notice dated 20 August 2019.
 - The development proposed is change of use of existing outbuilding to form 1no four bedroom dwellinghouse.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Maritza against Lichfield District Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have taken the description of development from the Council's decision notice. I note that the appellant has stated that this was amended without their consent, but I have been supplied with correspondence from the Council that amended the description and gave the appellant the opportunity to make any objection. No objection was forthcoming, and I am therefore satisfied that the amended description accurately describes the development and the interests of both parties have not been prejudiced.

Main Issues

4. The main issues in this appeal are:-
 - Whether or not the proposed development is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the policies in the Development Plan;
 - The effect of the proposed development on the openness of the Green Belt;
 - Whether the proposed development would be in a sustainable location;
 - The effect on the Cannock Chase Special Area of Conservation; and,
 - If the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly

outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

5. Paragraph 146 of the Framework states that the re-use of buildings should not be regarded as inappropriate development in the Green Belt provided they are of permanent and substantial construction; they preserve its openness; and do not conflict with the purposes of including land within it.
6. On the basis of the evidence before me, and having visited the site, I am satisfied that it would be technically possible to carry out additional works to enable its occupation as residential accommodation. However, this alone is not sufficient for the development to comply with the Framework as the fact that something can be repaired or additional materials be used to supplement the existing does not mean that in itself, that the said works are limited. For compliance to be achieved the decision maker must be satisfied that the building is of permanent and substantial construction and the amount of works required are not so substantial as to be tantamount to the construction of a new building.
7. It is a matter of legitimate planning judgement as to where a line is drawn between conversion and rebuild, with the test focussing on substance and not form. Having regard to this case, local and national planning policy, submitted evidence and my site visit, it is my view that the works required to alter the building to residential accommodation would be of such a magnitude to constitute a rebuild, given the status of the original structure.
8. To my mind, the works proposed, when considered collectively, would be so extensive that from a practical perspective, go well beyond what could be considered repair and would amount to a rebuild, with limited assistance from the existing structure.
9. In terms of its impact on openness, the overall footprint of the development would not be materially altered but would result in the regular comings and goings of vehicles and an area of private amenity space that would doubtless include residential paraphernalia. However, I am satisfied this would not be highly prominent in the landscape and that the harm to the openness of the Green Belt would be limited.
10. In light of the above, I conclude that the existing structure is not of permanent and substantial construction and the scheme would be tantamount to the construction of a new building. The proposal would therefore be inappropriate development in the Green Belt and would fail to comply with Paragraph 146 of the Framework which seeks, amongst other matters, to restrict inappropriate development and preserve the openness of the Green Belt, as well as Policies NR2, BE1 and Core Policy 2 of the Lichfield District Local Plan Strategy (2015) (the LP), which amongst other matters require development to respect the vernacular of existing buildings and expect development in the Green Belt to retain its character and openness, and follow the Green Belt guidance set out in the Framework.

Sustainable location

11. The site is located outside of a settlement boundary as set out in the LP. There are exceptions to Local Plan policy outside of settlements. As set out in Core Policy 1, the site is not allocated as a rural exception site, being outside of a settlement boundary, Core Policy 6 sets out a number of exceptions, including affordable housing and conversions. The appeal proposal does not meet any of these exceptions, and is not a conversion or change of use, as demonstrated previously. I have not been provided with evidence to suggest that the scheme is to meet a local need, and is also therefore contrary to Policies Rural 1 and Rural 2.
12. As a result, the proposed development does not fall within the settlement boundary and does not accord with any of the exceptions set out in the Local Plan and therefore does not comply with these policies.

Effect on Cannock Chase SAC

13. The reason for refusal set out in the Council's decision notice stated that the development would impact on the Special Area of Conservation (SAC). However, since the refusal, a Unilateral Undertaking has been completed, which the Council would accept, subject to review. Therefore, I am satisfied that there is no longer conflict with Policies CP13 and NR7 of LP

Other Considerations

14. I have noted the comments of the appellant in relation to previous approvals in 2012 and 2013. With regard to the 2012 approval, from the evidence in front of me, the conditions were never discharged, and as such the permission has lapsed. I can therefore attach no weight to that argument.
15. With regard to the 2013 permission, I concur with the Council in that not all conditions were discharged, and that the appellant has misinterpreted the letter in question. I am satisfied that the conditions outstanding went to the heart of the approval, with such a significant matter as materials still not discharged. Again, I consider that the permission has lapsed as any works were unlawful and can attach no weight to the argument that the approval remains extant.
16. With regard to the fallback position of reinstating the roof, based on the evidence in front of me, permitted development rights would not apply to the appeal property given the curtilage layouts demonstrated. Again, I attach no weight to this argument.
17. The considerations of this case forwarded by the appellant above, as well as including the reuse of an existing building, and the overall improvements to the Green Belt, do not clearly outweigh the harm to the Green Belt. As a result, the very special circumstances necessary to justify the development do not exist and therefore the development is contrary to local planning policy as set out in the reasons above, and Green Belt policy as set out in the Framework.

Other Matters

18. I have noted the concerns of the appellant regarding the inconsistencies of the Council, given previous approvals. However, these approvals were given under a previous local planning policy regime, and this development has been

assessed under current planning policy and the Council and myself have determined the proposals on its own merits in light of local and national planning policy.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR