



Appeal Decision

Site Visit made on 18 December 2020

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Appeal Ref: APP/P2935/W/20/3253623

Apperley Dene, Stocksfield, Northumberland NE43 7SB

- 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 Raymond Hall against the decision of Northumberland County Council.
 - The application Ref 19/01312/FUL, dated 2 May 2019, was refused by notice dated 19 December 2019.
 - The development proposed is described as a dwelling for use by a rural worker ancillary to Apperley Dene based upon the building approved by the certificate of lawful use or development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has clarified that the decision notice incorrectly referred to Policy H28 of the Tynedale District Local Plan 2000 (TLP) rather than saved Policy H18. As this was clear in the planning officer's delegated report and the appellant had the opportunity to comment on it during the course of the appeal I am satisfied no prejudice has arisen.
3. The Northumberland Local Plan (NLP) is still progressing through examination and I have not been provided with any information on whether there are unresolved objections, nor with any copies of the relevant policies. Moreover, the NLP policies do not feature in the Council's refusal reasons. I therefore afford its policies limited weight in this decision.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the proposal is inappropriate, whether the harm 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 proposal.

Reasons

Inappropriateness

5. The building would be constructed within the garden of Apperley Dene, which is identified as being within the Green Belt.
6. Paragraphs 145 and 146 of the Framework state that the construction of new buildings in the Green Belt shall be regarded as inappropriate development, other than for a limited number of exceptions. The appellant contends that the proposal essentially meets all of the Framework paragraph 145 exceptions.
7. TLP Policy NE7 similarly states that within the Green Belt planning permission will only be granted for the construction of new buildings provided it is for a number of listed purposes. However, the redevelopment of previously developed land is not one of the listed purposes and therefore this policy is inconsistent with the Framework for the purposes of this appeal. Consequently, my decision relies on the Framework in this regard.
8. New buildings for forestry are listed as an exception under sub paragraph a) of Framework paragraph 145. However, even if I were to accept that the development is intended to support forestry activity, the building would primarily be intended for residential use and not forestry. Moreover, it would be located within the garden of a residential property. Accordingly, it would not be a building for forestry, so does not meet the exception for this purpose.
9. The development is not a change of use of land or a facility for outdoor sport, outdoor recreation, cemeteries/burial grounds or allotments, so the exception for these purposes under sub paragraph b) of Framework paragraph 145 does not apply.
10. The standalone building would be some distance from the main house and positioned on the opposite side of the walled tennis court which would act as a physical barrier between the two buildings. As such, the proposal would clearly be read as a separate detached building. Therefore, it would amount to the erection of a new building rather than an extension or alteration of an existing building. Accordingly, the exception under sub paragraph c) of Framework paragraph 145 for the extension or alteration of a building does not apply. Furthermore, the proposal is not a replacement of an existing building so the exception under sub paragraph d) of Framework paragraph 145 does not apply.
11. Although Apperley Dene is one of a small cluster of houses, it could not reasonably be regarded as being within a village. Indeed, it is not identified as a village in the CS. In any event, the appeal site is mostly surrounded by spacious gardens and countryside, such that the building would not fill a limited gap between built development. Consequently, the proposal is not limited infilling within a village and therefore the exception for this purpose under sub paragraph e) of Framework paragraph 145 is not met.
12. It is the appellant's intention that the development would be available for low cost rent. However, there is no evidence that it would meet the Framework's definition of affordable rented housing¹. Moreover, there is no appropriate mechanism before me, such as a planning obligation, to secure the development as affordable housing. Furthermore, having regard to the

¹ Framework Annex 2: Glossary

Framework and the Planning Practice Guidance, I do not consider that a planning condition could be used to secure the affordable housing, or require the appellant to enter into a planning obligation to this effect. Consequently, the proposal would not contribute to meeting an identified affordable housing need and therefore the exceptions under sub paragraph f) and the second strand of sub paragraph g) of Framework paragraph 145 are not met.

13. This leaves the first strand of sub paragraph g) of Framework paragraph 145, which allows for the redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt. The Council accepts that the garden in which the building would be located should be regarded as previously developed land as it lies outside of a built up area. Consequently, my conclusion on the next issue below will determine whether the development is inappropriate.

Openness

14. There is no definition of openness in the Framework, but in the Green Belt context it is generally held to refer to the absence of built development. The essential characteristics of Green Belts are their openness and their permanence, and the fundamental aim of Green Belt policy is to keep land permanently open.
15. The site is part of the extensive gardens of Apperley Dene. The building would be located in a corner of the garden where I note that a lawful development certificate (LDC) has been granted for a proposed gymnasium/sunroom/office outbuilding of similar size². In addition, photographs provided by the appellant indicate there were previously some glasshouses and other garden structures in this part of the garden. I also note reference to a historic planning permission for stables, although no details are provided. Irrespective, no building currently exists in this part of the garden, which is bordered by another extensive garden, woodland and open fields beyond. From my observations, the site contributes positively to the overall openness of the Green Belt, notwithstanding it is part of a garden.
16. The single storey building would be relatively well screened by the surrounding boundary treatment, woodland and the topography. However, the roof would likely be visible from the neighbouring property to the south and in a glimpsed view from Lead Lane where it would not be seen in close association to other buildings. In addition, the introduction of a building onto a part of the garden that is currently absent of any built form would have an impact on openness in relation to the spatial dimension. As a consequence, the proposal would result in this part of the Green Belt being less open than it is at present, both visually and spatially. Overall, the development would have a moderate effect on openness.
17. For these reasons, I conclude that the proposal would have a greater impact on the openness of the Green Belt. Thus, the exception at the first strand of sub paragraph g) of Framework paragraph 145 is not met. Accordingly, the proposal would be inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, for the reasons set out above, there would

² LPA ref: 18/02870/CLPROP

be moderate harm to the openness of the Green Belt, which would be at odds with the fundamental aim of Green Belt policy.

Other considerations

18. It has been put to me that the development should be regarded as ancillary accommodation. However, the accommodation would be provided within a self-contained building, not closely related to the existing house, and would comprise two bedrooms, bathrooms, a kitchen/diner and a lounge. As such, the development would provide residential accommodation which would afford those who used it all the facilities required for day-to-day private domestic existence. Furthermore, the intention is that the accommodation would be occupied by rent-paying individuals not related to the main household. It would thus have the distinctive characteristics as a dwelling house.
19. Policies H1, H3 and GD1 of the Tynedale Core Strategy 2007 (CS) establish the Council's approach to its strategic housing policy. These seek to direct new housing to the main towns, local centres and smaller villages with adequate services. As the site falls outside of an identified smaller village the proposal does not comply with these policies.
20. However, TLP Policy H18 indicates that a dwelling may be permitted in the countryside in limited circumstances. This includes where such housing is essential for people engaged in a viable agricultural or other compatible rural business. Similarly, paragraph 79 of the Framework indicates that one of the few special circumstances for permitting isolated new homes in the countryside is to meet an essential need for a rural worker to live permanently at, or near their place of work. Whilst the site is not in an isolated location³, it is still appropriate to consider whether there is an essential need for the erection of a dwelling on the site in order to determine whether there are very special circumstances that might outweigh the harm to the Green Belt.
21. I am informed that maintenance of the house, gardens and woodland is currently undertaken by four part time workers travelling from Consett, Corbridge, Prudhoe and Newcastle. However, the appellant considers that this would be better served by one or two full time workers, and that appropriately skilled workers could only be attracted by providing on-site accommodation.
22. Owing to the size of the house and grounds, I do not doubt that regular maintenance is required and I am mindful of the age and personal circumstances of the occupiers in requiring support to do so. I also recognise the importance of ancient woodland, the need for it to be properly managed and the biodiversity value it brings. I am told that duties required to be undertaken at the site include tree surgery; grass cutting; weeding; hedge maintenance; repair of fences and walls; clearing debris from the stream to avoid flooding; supervision of contractors; and gate control when the occupiers are not present. However, there is no calculation of the overall amount of labour required in order to be able to verify a functional requirement. Nor does the evidence provided demonstrate why the ability to undertake such routine duties is dependent on one or more workers residing permanently on the site.
23. Furthermore, whilst the appellant contends that there is no other suitable accommodation in the area, the evidence before me in this respect is very

³ Having regard to Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

limited and is not up-to-date. In addition, although I agree that unnecessary travel is to be discouraged, no cogent reasons have been provided why a worker employed at the site would have to live within walking distance. The site is not so remote that travel distances from the aforementioned nearby villages, towns and city could be regarded as unreasonable or impractical for the nature of work undertaken at the site.

24. Overall therefore, on the evidence before me, it has not been demonstrated that it is essential for one or more workers to reside permanently at the site for the purposes that have been put forward. Thus, the proposal is also contrary to TLP Policy H18 in this regard.
25. I have noted that the appellant would accept a restrictive occupancy condition. However, for the reasons above, an occupancy condition would not make the development acceptable in planning terms.
26. I have had regard to the LDC as it demonstrates that a building of similar size could be erected on the site under permitted development and thereby reduce Green Belt openness as a consequence. However, it would not be more harmful than the appeal scheme in this regard. Moreover, the LDC is for an incidental outbuilding, not a dwelling. The weight I give to the LDC scheme as a fallback position is therefore modest.
27. The appellant suggests that removal of a hedge from the site would positively improve Green Belt openness. However, the hedge is not built development and its removal could be carried out independently, so I give this matter very little, non-determinative weight.
28. The proposal would contribute to the supply and choice of housing in the area and the government's aim to significantly boost housing. There would also be some social and economic benefits from the support for local services and employment opportunities. However, given the small scale of development, these benefits would be commensurately small and so I afford them limited weight in favour of the proposal.
29. The appellant states that Apperley Dene is a heritage asset and that the proposal would secure its long term future. However, my attention has not been drawn to any formal list maintained by the Council of locally protected buildings which this building is included on. Furthermore, whilst I note the age of the building, there is insufficient detailed information provided as to the significance of the site and the need for enabling development. Therefore, I can only give this matter limited weight.
30. I note that the Council considers that the proposal would be acceptable in terms of design, ecology, flooding, highway safety, neighbour impact and coal mining legacy, albeit subject to conditions. I also acknowledge the intention to carry out construction to a high environmental standard, although no details are provided. Nevertheless, these factors are neutral considerations.
31. My attention is drawn to a decision made by the Council in Acomb, Hexham⁴, in which it appears that a number of other considerations were presented to justify development in the Green Belt. However, from the very limited details I have of that case it does not appear to be entirely comparable to the appeal scheme. In any event, just as the Council considered that proposal on its

⁴ LPA ref: 18/02238/FUL

individual merits, I have considered this appeal on its own merits having regard to the site context and the circumstances that are specific to this case.

Other Matters

32. I acknowledge the extensive planning history of the site and the appellant's past encounters with the Council. However, my assessment of the appeal has been based on its planning merits.
33. The appellant refers to TLP Policies H20, H23, H33 and H34 in support of the proposal. However, I have found that the development is not an extension and would not constitute affordable housing, so these policies have not been determinative in this case.

Green Belt Balance and Conclusion

34. The proposal would be inappropriate development in the Green Belt and would result in a moderate loss of Green Belt openness. Framework paragraph 144 advises that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
35. I have also concluded that it has not been demonstrated that it is essential for one or more workers to reside permanently at the site. This carries significant weight. The multitude of other factors put before me in favour of the scheme by the appellant have been carefully considered; however, I conclude that the totality of the harm I have identified is not clearly outweighed by the other considerations, either individually or collectively. Consequently, the very special circumstances necessary to justify the development do not exist.
36. The appellant suggests that the emerging status of the NLP means that the Council cannot demonstrate a 5-year supply of housing sites. However, for the reasons above, the application of policies in the Framework that protect the Green Belt provides a clear reason for refusing the development proposed⁵. As such, the proposal would not be the sustainable development for which the Framework indicates a presumption in favour.
37. For all these reasons, the proposal is contrary to the Framework and the development plan taken as a whole. These matters provide a clear justification for finding the scheme to be unacceptable and therefore the appeal should be dismissed.

A Caines

INSPECTOR

⁵ Having regard to Framework paragraph 11d)i footnote 6