



Appeal Decision

Site Visit made on 8 June 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/R1038/W/21/3268496

Fox and Goose Inn, Main Road, Wigley S42 7JJ

- 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 Craig Lynch against the decision of North East Derbyshire District Council.
 - The application Ref 20/00418/FL, dated 14 May 2020, was refused by notice dated 10 August 2020.
 - The development proposed is siting of a 5m x 5m Outdoor Wedding Gazebo on the grounds.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development proposed has already been erected. Therefore, I have considered the appeal on the basis that planning permission is sought retrospectively.
3. I have removed the words ‘...in keeping with the site and its surroundings’ from the description of the proposal given these works are not a description of development and are a matter for my assessment.
4. The Council’s decision notice includes reference to Policies SS9 (Development in the Countryside) and SS10 (North East Derbyshire Green Belt) of the emerging North East Derbyshire Local Plan (2014 – 2034) Publication Draft (ELP). Since the application which led to this appeal was determined consultations on the main modifications have been completed and the consultation statement submitted with the Inspector’s report awaited. Given the advanced stage of the ELP its policies now attract considerable weight.

Main Issues

5. The main issues are:
 - (i) 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.
 - (ii) The effect of the proposal on the openness of the Green Belt.
 - (iii) The effect of the proposal on the character and appearance of the countryside.

(iv) If the proposal would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate in the Green Belt

6. The Government attaches great importance to Green Belts. Paragraph 145 of the Framework indicates that the construction of new buildings in the Green Belt is inappropriate unless it falls into one of the specific listed exceptions.
7. Policy GS2 (Development in the Green Belt) of the North East Derbyshire Local Plan (2005) (LP) also restricts new buildings in the Green Belt to a specific list of circumstances. However, it does not include all the exceptions to inappropriate development listed in the Framework and in that respect is more restrictive. Therefore, I afford more weight to the specific wording in the exceptions in the Framework in respect of determining the appeal. Policy SS10 of the ELP also seeks to protect the Green Belt from inappropriate development and preserve its openness and includes similar exceptions to the Framework so is also material to my assessment.
8. The specified purpose of the building as a wedding gazebo does not fall within any of the exceptions listed in either paragraph 145 of the Framework or those listed under the policies of the LP or ELP.
9. I have seen the supporting evidence which suggests that the level grassed area where the gazebo is located is also used to host a summer garden party and by the village school for sports days. The school also suggests that it would be looking to work in partnership with the Public House (PH) for use of the gazebo for events such as concerts, sports day prize giving, performances and celebration events. Even if I were to accept that some of the other uses suggested related to outdoor recreation, the exceptions under paragraph 145 of the Framework, LP and ELP do not include mixed use buildings.
10. For the reasons set out, the development constitutes inappropriate development in the Green Belt having regard to the development plan and the Framework.

The effect on the openness of the Green Belt

11. Paragraph 133 of the Framework sets out the essential characteristics of Green Belts, which are their openness and permanence. One of the purposes of the Green Belt according to Paragraph 134 of the Framework is "to assist in safeguarding the countryside from encroachment", which itself includes preservation of openness of aspect, a characteristic quality of the countryside. It has been held in the High Court that openness is epitomised by the lack of buildings or development.
12. The footprint, height and volume of the development undoubtedly affect openness from a spatial perspective when compared with the previously open land that the gazebo sits upon. The composition of the gazebo allows for views through parts of the structure. Even so, the prominent siting of the gazebo within an otherwise open grassed area which is elevated relative to the highway and all other buildings associated with the public house (PH), ensures

that the building is highly visible for passers-by on Main Road. The gazebo is also visible in longer distant views including when approaching from the west close to the brow of the hill on Main Road. Overall, taking into account the scale of the building, I find that the development results in a moderate effect on the openness of the Green Belt.

13. I conclude, the development does not preserve the openness of the Green Belt and results in encroachment of built form in this countryside location. In that regard it conflicts with the aims and purposes of including land within the Green Belt when assessed against the Framework.

Whether or not there would be any other harm – Character and appearance of the countryside

14. Policies GS6 (New Development in the Countryside) of the LP and SS9 (Development in the Countryside) of the ELP seek to ensure amongst other things that development is in keeping with the character of the countryside, does not represent a prominent intrusion into it and respects the form, scale and character of the landscape through careful siting, scale, design and use of materials. This is consistent with the guidance in the Framework which amongst other things states that decisions should recognise the intrinsic character and beauty of the countryside.
15. The elevated position and predominantly open and soft landscaped appearance of the land where the gazebo has been erected differentiate it from the main concentration of buildings and hard landscaping associated with the PH. Consequently, this part of the PH's grounds have characteristics which are more closely aligned with a countryside setting. The ornamental design of the gazebo and its siting beyond the footprint and at a higher level to other buildings associated with the PH emphasise its incongruity within the prevailing rural landscape.
16. I conclude that the development is harmful to the character and appearance of the countryside and in that regard conflicts with Policy GS6 of the LP and the Framework. For the same reasons, the development also conflicts with Policy SS9 of the ELP.

Other considerations

17. Given the specified purpose of the gazebo in connection with weddings and other activities which take place on the embankment area where it has been erected, I acknowledge that alternative locations for the structure away from this area are unlikely to facilitate its use for these specific purposes.
18. There is support for a prosperous rural economy in the Framework. The appellant suggests that the business employs over 20 people during peak wedding season. From the evidence before me, a permanent structure would allow for licensed outdoor wedding ceremonies thereby making the site a more attractive prospect for weddings. I recognise that such support for the business carries added importance at this time given the impact of the COVID-19 pandemic on the service sector. This is a matter which attracts positive weight in favour of the development.
19. The occasional use of the gazebo by the local community has the potential to have some limited social and educational benefits. Even so, I am not convinced that any requirements for shelter in those regards could only be met by a

permanent structure. This somewhat diminishes any positive weight I am able to attach in respect of these particular benefits.

20. My attention has been drawn to another open sided structure previously granted planning permission on the site¹. Whether or not this particular proposal met the exceptions to inappropriate development in the Green Belt has not been material to my assessment of the proposal before me which must be assessed on its own merits against the relevant policies of the development plan and the Framework.

Green Belt Balance and Conclusion

21. The development constitutes inappropriate development in the Green Belt to which I attach substantial weight. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. I have found that the design and scale of the proposal and the site-specific circumstances of the development means the development has a moderate impact on the openness of the Green Belt. The development is also harmful to the character and appearance of the countryside, a matter which adds further weight against the proposal. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome.
22. The other considerations advanced would collectively carry positive weight in favour of the proposal. However, in conclusion and on balance, the substantial weight to be given to Green Belt harm, in addition to the other harm identified is not clearly outweighed by these other considerations and therefore the very special circumstances needed to justify the proposed development do not exist.
23. For the reasons given the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR

¹ LPA Ref 12/00620/FL