



Appeal Decision

Site visit made on 25 May 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Ref: APP/E3715/C/20/3263094

Land at Stave Hall Farm, Fosse Way, Monks Kirby, Rugby CV23 0RL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Dean Greenwood against an enforcement notice issued by Rugby Borough Council.
 - The enforcement notice was issued on 7 October 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of outbuildings indicated by blue arrows on Plan A and identified by hatching on the attached plan B.
 - The requirements of the notice are:
 - (i) Demolish the unauthorised outbuildings identified by blue arrows on Plan A and identified by hatching on the attached plan B
 - (ii) Reinstall the land to its conditions prior to the erection of the unauthorised outbuildings.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. It is directed that the enforcement notice be varied by deleting the word "Three" in paragraph 5 and substituting it with "Six". Subject to this variation, the appeal is dismissed, and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

2. Section 177(5) of the Town and Country Planning Act, 1990 (the Act) only allows for a grant of planning permission for the whole or part of the matters stated in the enforcement notice as constituting a breach of planning control. In this case one of the outbuildings (proposed gymnasium/games room) is only partially complete, comprising a concrete base, blockwork walls to a height of approximately 2.5m with some window/door openings formed. It does not have a roof. The deemed application in respect of this outbuilding is therefore confined to the partially constructed structure. I have dealt with the appeal on this basis.

Appeal on ground (a), deemed planning application

Main Issues

3. The main issues in this case are:

- Whether the development is inappropriate development;
- The effect on the openness and the character and appearance of the Green Belt; and
- If it is not inappropriate, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The unauthorised development relates to two separate outbuildings that have been constructed at Stave Hall Farm. One of the buildings is described as a gate house/annex. It is in use as living accommodation and occupied by the appellant's daughter and her partner. The second outbuilding is only partially constructed, with a concrete base, blockwork walls to a height of approximately 2.5m and some window/door openings have been formed, but no roof. It is understood that the intended use of the building is as a gymnasium/games room in association with Stave Hall Farm. The buildings are situated within the Green Belt.
5. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt unless it falls within one of the listed exceptions. Policy GP2: Settlement Hierarchy of the Rugby Local Plan, 2019 (LP) advises the within the Green Belt new development will be resisted and only where national policy on Green Belt allows will development be permitted.

Gate house/annex

6. The gate house/annex has been constructed on land which was previously occupied by a car port for Stave Hall Farm. According to sales particulars for the property the car port had a floor area of 27.5m² and had a dual pitched roof. It is the appellant's case that they replaced the car port with the new building, which has therefore been constructed on previously developed land.
7. Exceptions listed in paragraph 145 of the Framework include limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. Annex 2 of the Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.
8. From the evidence submitted as part of the appeal submission, including photographs and satellite images, the car port that stood on the site of the gate house/annex was a permanent structure. The new outbuilding has therefore been constructed on previously developed land for the purposes of the Framework. However, for the gate house/annex to not be inappropriate

development, the outbuilding must not have a greater impact on the openness of the Green Belt than the existing development.

9. The gate house/annex has a floor area of 44.28m² and therefore extends over a larger area of land than that which was occupied by the car port. It also encroaches onto land which was previously free from buildings and undeveloped. Whilst the new building might not be any higher than the car port it replaced, its overall bulk and mass is greater. Overall, I consider that the impact on the openness of the Green Belt of the gate house/annex would be greater than that of the car port that previously existed on this part of the Land.
10. I am also mindful that the gate house/annex could be considered to be a replacement building. The Framework advises that the replacement of a building is not inappropriate development in the Green Belt provided the new building is in the same use and not materially larger than the one it replaces. In this case the building is in use as living accommodation, which according to the appellant is incidental to the enjoyment of the dwellinghouse. Even if that were to be the case, and its use is the same as that of the car port, then taking into account the overall size and mass of this building as set out above, it is materially larger than the car port which it replaced. The gate house/annex is therefore inappropriate development in the Green Belt.
11. The gate house/annex is not a form of development which would meet any of the other exceptions listed in paragraph 145 of the Framework. For the reasons set out, I conclude that the outbuilding is inappropriate development in the Green Belt.

Gymnasium/games room

12. The second outbuilding is only partially constructed with all four walls built from breeze block, some window/door openings formed, but no roof. The Council Officer's report states that it has a length of 7.9m and a width of 11.4m. It is situated within a yard area to the west of the main dwelling, where there is a collection of single storey buildings, some of which I understand have been granted planning permission to be converted into living accommodation. The intended use of the unauthorised building is as a gymnasium/games room, incidental to the enjoyment of the main dwelling, Stave Hall Farm.
13. The appellant submits that the new building has been constructed on previously developed land. Satellite images have been provided which show that in 2006 there was some form of development on this part of the site. However, the exact form, scale or use of that previous development is not known. Subsequent images dated 2015 and 2018 show this part of the site undeveloped, and the sales details which accompanied the appeal documents show it in use for the parking of caravans.
14. The unauthorised building has a substantial footprint with walls to a height of approximately 2.5m. I have not been provided with any substantive evidence that would demonstrate to me that any previous structures on this land were permanent structures, nor is it clear whether or not they were in use for agriculture. Furthermore, there has not been any built form of development in this location since at least 2015 with its last known use shown on the sales particulars as a concrete yard. From the evidence before me the unauthorised building, which is a substantial and permanent structure, has a much greater

impact on the openness of the Green Belt than the existing development. Consequently, it is an inappropriate form of development in the Green Belt which does not meet any of the exceptions listed in paragraph 145.

15. I conclude that the outbuildings are inappropriate development in the Green Belt. There is conflict with the Framework and with Policy GP2 of the LP.

Openness, character and appearance

16. Paragraph 133 of the Framework states that the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open and essential characteristics of the Green Belts are their openness and permanence.
17. I have found that the outbuildings have a greater impact on the openness of the Green Belt than existing development and consequently the openness of the Green Belt has been reduced. Recognising that the gate house/annex is a replacement building, and that the incomplete outbuilding is located within an established yard area surrounded by other outbuildings, I consider the overall impact on the openness of the Green Belt to be moderate.
18. Stave Hall Farm is situated in an area of countryside characterised by farmsteads scattered within otherwise open countryside. Policy SDC1 of the LP seeks to ensure that all development is of a high quality, inclusive and sustainable design which respond to the character of the areas in which they are situated and add to the overall quality of that area. In addition, the Residential Extension Design Guide, which forms Appendix B of the Council's Sustainable Design and Construction Supplementary Planning Document, 2012 (SPD) advises that outbuildings should be sympathetically related to the main dwelling and not in prominent locations.
19. The gate house/annex occupies a prominent location at the entrance to Stave Hall Farm. Taking into account the car port which previously existed in this location, its siting and relatively small scale, which gives it the appearance of a gatehouse, if it were to be finished in render to match the house I do not consider that the outbuilding would have a significant harmful effect on the overall character and appearance of the area. However, the bulk and form of the other outbuilding is not well related to the original dwelling. Whilst I understand that this building is intended to be incidental to the use of Stave Hall Farm, it occupies part of the neighbouring former farmyard. It appears incongruous in that location and is unrelated in its siting, scale and form to the simple and uniform arrangement of the neighbouring former farm buildings, which are consistent in their scale and form and have a visually harmonious appearance. In addition, the outbuilding has a crude and unfinished appearance and is harmful to the character and appearance of the area.
20. I conclude that the outbuildings would have a moderate effect on the openness of the Green Belt. Whilst the gate house/annex would preserve the character and appearance of the area, the partially constructed outbuilding to be used as a games room/gymnasium detracts from the character and appearance of the area and there is conflict with the development plan, and in particular with the Council's SPD and Policy SDC1 of the LP, the aims of which are set out above.

Other considerations

21. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
22. The appellant considers that the buildings are on previously developed land, within a complex of other buildings and have no greater impact on the Green Belt than those buildings which previously existed on the Land. However, for the reasons set out above I have found that the outbuildings do have a greater impact on the openness than those that previously existed, and I therefore give this consideration no positive weight in the planning balance.

Green Belt Balance

23. I have found that the proposal would constitute inappropriate development in the Green Belt and is by definition harmful to the Green Belt; harm which the Framework indicates should be given substantial weight. Added to which is the harm to the character and appearance of the area which has been identified in relation to the proposed games room/gymnasium. No other considerations have been identified which would weigh in favour of the development.
24. Therefore, the harm by reason of inappropriateness and additional identified harm are clearly not outweighed by other considerations. Very special circumstances do not exist to justify the development. The development fails to comply with national planning policy in the Green Belt to protect the Green Belt.

Conclusion

25. For the reasons given above and taking into account all other matters raised, the erection of the outbuildings is not compliant with the development plan and no considerations merit a decision other than in accordance with the development plan and Framework. I conclude that the appeal on ground (a) should not succeed and planning permission on the deemed planning application is refused.

Appeal on ground (g)

26. The issue is whether the compliance period of three months is reasonable. The appellant requests a period of 12 months for compliance as they consider that this longer timeframe is necessary to enable them to find alternative accommodation for the family member and partner who are currently residing in the outbuilding.
27. Whilst three months is adequate time to demolish the buildings, this is a relatively short period of time if alternative living accommodation must be found. The conclusion that I have come to is that a period of six months strikes the right balance and is sufficient time for the outbuilding to be vacated and the notice complied with in full. To that extent the appeal on ground (g) succeeds.

Human Rights

28. I have taken into consideration the Human Rights Act, 1998 which enshrines in UK law most of the fundamental rights and freedoms contained in the European Convention on Human Rights. I recognise that dismissal of the appeal would

interfere with the occupier's rights under Article 8 and the appellant's rights under Article 8 and Article 1 of the First Protocol. However, given the harm identified and taking into account the variation to the notice to increase the time for compliance, the action is in accordance with the law and pursues legitimate aims of protecting the environment and is necessary and proportionate to the situation.

Overall Conclusion

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice, with a variation and refuse to grant planning permission on the application deemed to have been made under section 177 (5) of the 1990 Act as amended.

Elizabeth Pleasant

INSPECTOR