



Appeal Decision

Site visit made on 26 October 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Appeal Ref: APP/W3005/W/21/3278565
224 Nottingham Road, Selston NG16 6AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Anita Astle MBE against the decision of Ashfield District Council.
 - The application Ref V/2021/0198, dated 16 March 2021, was refused by notice dated 17 June 2021.
 - The application sought planning permission for *amendments to barn and installation of heat pump* without complying with a condition attached to planning permission Ref V/2018/0760, dated 21 January 2019.
 - The condition in dispute is No 3 which states that *the application site indicated on drawing no. 000-PE-XX-ZZ-DR-A-0014P01 (received 06/12/18) shall only be used in accordance with this permission and shall be retained for purposes associated with the equestrian use only. The site should at no time be used for any other purpose in conjunction with the day to day activities or management of the neighbouring residential institution.*
 - The reason given for the condition is *to define the terms of this permission and for the avoidance of doubt.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the revised National Planning Policy Framework (July 2021) (the Framework) was published. I note that submission documents such as final comments were received after this date of publication and therefore the main parties have had opportunity to take account of any changes to the Framework. I have taken any subsequent comments received into account in my determination of this appeal.

Main Issues

3. The main issues are whether the condition is reasonable and necessary in respect of the following matters:
 - whether or not the development is inappropriate development in the Green Belt;
 - the effect of the proposal on the living conditions of occupiers of neighbouring properties with regards to noise and disturbance; and

- if the development is inappropriate development, 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 Inappropriate Development in the Green Belt

4. The appeal site comprises a building located to the rear of 224 Nottingham Road. The building is single-storey with 3 internal 'bays' and was granted planning permission¹ due to its use for outdoor recreation in conjunction with equestrian activities at the property.
5. An application to change part of the use of the building was granted² in 2019 to allow one of these bays to be used as a plant room for a ground source heat pump (GSHP) installed at a nearby care home operated by the appellant. The remaining two bays were retained for equestrian use in line with the original grant of permission. A condition was attached to this subsequent grant of planning permission to limit the use of the building to equestrian purposes alongside the approved plant room. It is now intended to change the use of one of these remaining bays to allow a storage area and workshop associated with 224 Nottingham Road.
6. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Paragraph 150 of the Framework outlines development types which are not considered inappropriate in the Green Belt. Although the officer report does not reference which exception the proposal was assessed and subsequently refused against, the appellant considers the variation of the condition would meet the requirement of paragraph 150(d) - the re-use of buildings provided that the buildings are of permanent and substantial construction. This is on the basis they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. I note there is no dispute that the building is of permanent and substantial construction.
8. Policy EV1 of the Ashfield Local Plan Review (adopted November 2002) (the LP) is broadly consistent with the Framework insofar as it seeks to resist inappropriate development in the Green Belt subject to exceptions and very special circumstances. This includes the re-use of buildings. Policy ST1 states development will be permitted where it will not conflict with other policies in the local plan.
9. The original grant of planning permission was considered not inappropriate due to the use of the building for the purposes of supporting the equestrian activity at the site in the context of outdoor sport or recreation. Part of the building has already changed use to accommodate the plant room for the GSHP, although this did leave approximately two-thirds of the building retained for its originally intended use. In that application, the Council determined that the benefits of the GSHP in terms of its contribution to the Government's aspirations for a

¹ V/2016/0724

² V/2018/0760

transition to a low carbon future were considered to weigh heavily in favour of that application.

10. While I agree that the proposal would preserve openness of the Green Belt as there are no physical changes proposed externally, the change of use of another section of the building to residential would further erode the basis on which the building was considered not inappropriate and would conflict with the purposes of the Green Belt as it would represent encroachment into the countryside. Moreover, I disagree that the proposed use would be ancillary to the established equestrian use. Despite being 17 square metres, when considered alongside the GSHP pump room, the original equestrian use would represent an equal proportion of the overall use of the building for which it was originally approved. This gradual erosion of the originally acceptable purpose of the building would therefore be inappropriate by definition.
11. I note the further concerns of the Council with regards to increased trip generation to the building. However, this use would be related to the dwelling which is in close proximity, and I see no reason why this would cause further encroachment into the countryside.
12. In accordance with paragraph 147 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This harm is attributed substantial weight as per paragraph 148 of the Framework.

Living Conditions

13. The building is located to the rear of No.224, with access provided by a track which runs between the host dwelling and No.220. While the use of the building would change, I see no reason why this would lead to increased noise and disturbance from vehicular traffic given the proximity of the dwelling as occupiers of the property would not drive to the rear to visit the building. Moreover, this could occur now under the current circumstances.
14. However, the use of power tools or associated equipment in a workshop would likely lead to increased noise and disturbance for occupiers of adjacent dwellings when considered against the existing use of the building.
15. Accordingly, the proposal would harm the living conditions of nearby occupiers and would therefore be contrary to relevant provisions of policy ST1 of the LP. This seeks, among other things, to ensure development will not adversely affect the amenity of the environment. The proposal would also be contrary to the provisions of paragraph 130 of the Framework, which advises development should ensure a high standard of amenity for existing and future users.

Other Considerations

16. The garage would provide additional storage space and/or the use of a workshop. However, this would be private to the appellants and of little weight in favour of the proposal.

Other Matters

17. I acknowledge the appellants' concerns over the Council's handling of the application, including the advice received from an enforcement officer. While unfortunate, these are not relevant matters for the appeal process and the

Council will have procedures for dealing with these complaints. In determining the appeal, I have only had regard to the planning merits of the proposals.

Conclusion

18. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. I have found that the proposal would be inappropriate development in the Green Belt. The proposal would also harm the living conditions of occupiers of nearby dwellings with regards to noise and disturbance. These matters carry substantial weight.
19. I have taken on board the other considerations as they are relevant to the appeal but, for the reasons I have given, they carry little weight and would not clearly outweigh the harms that I have found. Consequently, they would not amount to the very special circumstances necessary to justify the proposal.
20. The proposal would conflict with Policy ST1 and EV1 of the LP and paragraphs 147 – 151 of the Framework. The appeal should therefore be dismissed.

C McDonagh

INSPECTOR