



Appeal Decision

Site Visit made on 1 November 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal Ref: APP/C3430/W/21/3278322

The Paddocks, Mile Flat, Greensforge DY6 0AU

- 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 Mr and Mrs Sankey against the decision of South Staffordshire District Council.
- The application Ref 21/00473/VAR, dated 30 April 2021, was refused by notice dated 29 June 2021.
- The application sought planning permission for proposed replacement dwelling without complying with a condition attached to planning permission Ref 19/00777/FUL, dated 23 April 2020.
- The condition in dispute is No 9 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any other subsequent equivalent order, no development within the following classes of development shall be carried out to the dwelling, the subject of this approval, without the prior approval of the Local Planning Authority:*
 - (a) Schedule 2, Part 1, Class A – enlargement, improvement or other alteration*
 - (b) Schedule 2, Part 1, Class B – addition or alteration to the roof*
 - (c) Schedule 2, Part 1, Class C – any other alteration to the roof*
 - (d) Schedule 2, Part 1, Class D – porches*
 - (e) Schedule 2, Part 2, Class A – gates, wall, fence or other means of enclosure.'*
- The reason given for the condition is: *'The site is within Green Belt within which, in accordance with the planning policies within the National Planning Policy Framework and Policy GB1 of the Core Strategy, 2012, there is a presumption against inappropriate development.'*

Decision

1. The appeal is allowed and planning permission is granted for proposed replacement dwelling without complying with a condition attached to planning permission Ref 19/00777/FUL, dated 23 April 2020 at The Paddocks, Mile Flat, Greensforge DY6 0AU in accordance with the application ref 21/00473/VAR dated 30 April 2021 and subject to the conditions set out in the attached schedule.

Procedural Matters and Main Issues

2. There are two appeals relating to this site. The first is the subject of this appeal and the second is appeal ref APP/C3430/W/21/3278321. I am determining both appeals.

3. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given the opportunity to make any comments on the implications of the revised Framework to this appeal and I have taken the comments into account in my considerations.
4. Planning permission has been granted for a dwelling in the Green Belt. The appellant seeks permission to carry out this development without complying with condition 9 of the permission. This follows a previous approval for a new dwelling on this site, the circumstances of which are not before me. As such I assume that the proposal meets one of the categories of development not regarded as inappropriate development in the Green Belt. Whilst I must accept that the approved scheme is not inappropriate development, I am nonetheless required to consider the implications of the appeal proposal for Green Belt purposes in terms of keeping land permanently open. The main issues are, therefore:
 - i) whether the openness of the Green Belt and the character and appearance of the area would be harmed, and;
 - ii) in the event that allowing development would lead to inappropriate development in the Green Belt, whether any harm by inappropriateness, or any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances which would be necessary to justify the development.

Reasons

Openness and character and appearance

5. The Framework at paragraph 137 indicates that openness is an essential characteristic of the Green Belt with a fundamental aim of Green Belt policy being to prevent urban sprawl and keep land permanently open.
6. Class A, B, C and D, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) limit the size and height of the extensions and other alterations that may be permitted. If those additions were carried out on the appeal dwelling, they would not project excessively from the sides or rear of the property, nor would they be allowed to exceed the height of the roofline. Furthermore, limitations are placed on the size and extent of additions which can protrude from the dwelling's primary elevation. And so, the works that could be carried out under Class A, B, C and D of Part 1 of the GPDO would appear subordinate to the original dwelling and therefore would not be harmful to the openness of the Green Belt. With regards to character and appearance, additions to the dwelling under these classes would be sympathetic to the scale of the original dwelling and therefore would not appear unduly dominant and thus would not be harmful to the character and appearance of the area.
7. Class A, Part 2, Schedule 2 of the GPDO permits the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. The appeal site is within a rural area and fronts Mile Flat which is flanked mostly by hedging on both sides. A gate, fence or wall, particularly to the front of the site, would be unduly urban in appearance. Given that the land surrounding the appeal site is flat, development of this kind would be

particularly noticeable and stark and therefore harmful to the rural character identified and the openness of the Green Belt.

8. The appellant provides an example 50 metres from the appeal site where a substantial boundary wall has been constructed to the front of the dwelling. The wall contrasts starkly with the rural character of the lane and epitomizes the point made above about the harmful effect a boundary wall can have on the rural character of the area and on the openness of the Green Belt. This, therefore, is not a precedent in favour of the appeal.
9. And so, I find that development constructed under the GPDO with regard to Class A, B, C and D would not have a harmful effect on the openness of the Green Belt and would comply with Policies GB1, EQ4 and EQ11 of the Core Strategy (2012) which seek development that, amongst other things, has no material effect on the openness of the Green Belt and protects and enhances the character of the landscape. On this basis, condition 9 is not necessary to protect Green Belt openness and the character and appearance of the area. Nonetheless, I have found that development under Class A, Part 2, Schedule 2 of the GPDO would cause moderate harm to the openness of the Green Belt and the character and appearance of the area and would be contrary to the stated policies. In accordance with the Framework, substantial weight must be given to the Green Belt harm.

Other Considerations and Very Special Circumstances

10. Development under Class A, Part 2, Schedule 2 of the GPDO would lead to a loss of openness to the Green Belt. Substantial weight is given to the harm to the Green Belt and development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
11. There are no other considerations before me to clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify development under Class A, Part 2, Schedule 2 of the GPDO do not exist.

Conclusion

12. For the reasons set out above, condition 9 is not reasonable or necessary to prevent harm to the openness of the Green Belt by way of development under Class A, B, C and D of Part 1 of the GPDO. Nor is the condition necessary to protect the character and appearance of the area in this regard.
13. Condition 9 is necessary and reasonable, however, to ensure that development by way of Class A, Part 2, Schedule 2 of the GPDO does not harm the character and appearance of the area and the openness of the Green Belt.
14. Therefore, I shall allow the appeal, subject to a schedule of conditions which includes the re-wording of condition 9.

Conditions

15. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the

other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

16. As the original development has started, a time limit condition is not necessary. Condition 1 is included in the interests of proper planning. Conditions 2 and 3 are imposed in the interests the character and appearance of the area. Conditions 4, 5 and 6 are imposed to protect or identify areas of archaeological significance. Condition 7 is imposed in the interests of highway safety. Condition 8 follows the reasoning in this Decision.

CONDITIONS SCHEDULE

- i) The development hereby approved shall be carried out in accordance with the plans referenced 1257-200 entitled 'Block Plan- Existing', 1257-400 entitled 'Site Layout Plan', 1257-300 entitled 'Block Plan -Proposed' received by the Local Planning Authority dated 15th October 2020 together with plan referenced 1257-500 Rev D entitled 'Proposed Floor Plans and Elevations' and 1257-600 entitled 'Existing Floor Plans and Elevations' received by the Local Planning Authority dated 7th November 2020 and the amended plan reference 1257-100 Rev B entitled 'Location Plan' received by the Local Planning Authority dated 6th April 2020.
- ii) Notwithstanding what is shown on the approved plans, before development commences, details of the facing materials to be used on the wall and roof of the development shall be submitted to the Local Planning Authority for approval. The development shall be carried out in the approved materials.
- iii) A scheme of hard and soft landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority before development commences. The scheme shall include the retention of any existing trees, shrubs, hedgerows and planting of additional trees and shrubs; proposed finished levels or contours; all ground surface treatments and materials; new means of enclosure or details of retained boundary treatments; car parking layouts and proposed and existing functional services above and below ground and shall be implemented as approved within 12 months of the commencement of the approved development or as otherwise agreed in writing by the Local Planning Authority and thereafter be maintained in accordance with the approved scheme. In the event of any of the trees or shrubs so planted dying or being seriously damaged or destroyed within 5 years of the completion of the development, a new tree or shrub of equivalent number and species, shall be planted as a replacement and thereafter properly maintained.
- iv) Prior to the commencement of any development hereby permitted, a written scheme of archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication.
- v) The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under Condition 4.

- vi) The development shall not be occupied until the site investigation and post-excavation assessment has been completed in accordance with the written scheme of archaeological investigation approved under Condition 4 and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured. Any subsequent archaeological mitigation must be the focus of a separate WSI produced after the monitoring stage and following detailed discussions with the LPA's archaeological advisor.
- vii) The replacement dwelling hereby approved shall not be occupied until the vehicular access, driveway, car parking spaces and turning areas have been provided in accordance with the approved plans.
- viii) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any other subsequent equivalent order, no development within Schedule 2, Part 2, Class A shall be carried out without the prior approval of the Local Planning Authority.

R Walmsley

INSPECTOR