



Appeal Decision

Site visit made on 2 November 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/R1038/W/22/3300585

Elmwood House, Snowdon Lane, Troway, Derbyshire S21 5RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr John Osborne against North East Derbyshire District Council.
 - The application Ref 22/00153/FLH, is dated 24 February 2022.
 - The development proposed is described as: 'creation of auxiliary accommodation to existing storage building comprising 3 bedrooms, one with disabled access wetroom, a bathroom, a kitchenette, a lounge and loft storage area'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is against the Council's failure to reach a decision within the relevant statutory timeframe. The Council has not provided a statement. However, I have been provided with a copy of the delegated report and decision notice issued as part of a previous refusal (Ref 21/00984/FLH) for a similar development at the appeal site. I have used this and the evidence before me to inform my main issues.
3. I have also noted that the Council has adopted the North East Derbyshire Local Plan (2014) (the NEDLP) since that refusal. The Council has provided me with a list of up-to-date policies relevant to the appeal.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect upon the openness of the Green Belt;
 - 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 required to justify the proposal.

Reasons

Whether Inappropriate Development

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential

characteristics of Green Belts are openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

6. Paragraph 150 lists forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include at 150. d) the re-use of buildings, provided that the buildings are of permanent and substantial construction. Policy SS10 of the NEDLP similarly supports the re-use of buildings in the Green Belt subject to the same requirements.
7. The appeal building is a sizeable outbuilding with external walls comprised of tongue and groove timber cladding above low concrete blockwork walls with stone quoins. The roof comprises of corrugated sheeting supported on slender timber purlins. Windows are small and positioned at a high level. A large doorway is located on the rear elevation.
8. The proposed conversion would involve the over-cladding of the existing walls with profiled metal sheeting to match the roof. It is also proposed to provide new internal aerated blockwork walls and an insulated cavity providing an internal insulated skin. Windows would be replaced, and their openings would be enlarged and relocated to new, lower positions. The plans also show alterations to the roof timbers and the installation of rooflights, although the evidence is unclear as to whether the roofing material would be replaced. Whilst the application form indicates that the existing roof would be retained, the Structural Appraisal Report¹ (the Survey) suggests that the roofing material would be replaced, stating that '*a similar weight roof covering should be considered as part of the conversion proposals*'.
9. The Survey concludes that the appeal building is constructed in a manner and size that would allow its conversion and the retention of its principal structural components. However, the Survey makes clear that it has not assessed the suitability of existing foundations of the building. Whilst the survey notes the need for adequate cross wall stability, it is not clear whether the existing foundations are appropriate in this regard or whether these would need to be underpinned or replaced.
10. Furthermore, on the basis of the above, the proposal would require the installation of new external walls, new windows (which would be enlarged and repositioned), new internal walls, staircase and first floor. There would also be works to the roof structure and the roof covering may also be replaced. There is also limited evidence with regard to the suitability of the existing foundations.
11. Overall, on the basis of what is before me, the proposal would amount to the replacement or removal of a significant portion of the existing building. The works required would go significantly beyond what could reasonably be considered a conversion or re-use of the existing building. Given the extensive development works required to bring it into use, I am therefore not convinced that the appeal building would be of permanent or substantial construction.
12. In terms of its impact on openness, the development would not increase the size of the appeal building but would result in more frequent parking of cars

¹ By Freeman Design Surveying, dated 3 February 2022.

within the site and may lead to additional residential paraphernalia. However, I am satisfied that the garden and parked cars would not be highly prominent in the landscape and that the harm to the openness of the Green Belt would be limited.

13. In view of the above, I conclude that the existing building is not of permanent and substantial construction and that the scheme would go beyond what could be considered to be a conversion or re-use. The proposal therefore does not fall within the forms of development referred to in paragraph 150 of the Framework and as such is inappropriate development in the Green Belt. For the same reasons, the proposal conflicts with Policy SS10 of the NEDLP.
14. The appellant's statement suggest that changes could be made to the proposal, for example, substituting blockwork for studwork partitions and timber/insulation lining. However, I am required to make a decision on the basis of what is before me and the plans upon which the Council made its decision.

Other Matters

15. The appellant has concerns with the processing and level of communication with the Council during the planning application. However, this is an administrative matter for the Council and any concerns in that regard are not matters that I can take into account in this decision.
16. The appellant has set out that there are clear personal benefits to this proposal. Given the sensitive nature of the health information supplied to me as part of this appeal, it would not be appropriate for me to outline the specific health conditions of the individuals concerned. However, on the evidence that is before me, I have no doubt that the proposal would be of benefit to both the appellant and his family, allowing their family members to visit and stay. The proposal would allow them to care for dependents whilst retaining a degree of independence from the main house with suitable facilities to hand.
17. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.

Planning Balance and Conclusion

18. The proposal would be inappropriate development in the Green Belt. The Framework establishes 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 are clearly outweighed by other considerations.
19. Having regard to the above, there would be clear benefits in terms of providing overnight accommodation and allowing facilities for the care of visiting family. Nonetheless, it is not clear that the appeal proposal would be the only means of achieving those benefits or that the accommodation needs to take the form before me. As such, whilst these considerations carry moderate weight in favour of the appeal, they do not clearly outweigh the substantial weight I am required to give to Green Belt harm by reason

of inappropriateness. Therefore, notwithstanding that the harm to openness would be limited, the very special circumstances necessary to justify the proposal do not exist.

20. I have considered all other matters raised but none outweigh the conclusions I have reached. For the reasons set out above, I dismiss the appeal.

Paul Martinson

INSPECTOR