



Appeal Decision

Site visit made on 29 March 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/J3015/W/22/3290606

Gilt Hill Farm, Gilt Hill, Kimberley NG16 2GZ

- 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 and Mrs Kari and Deb Viitanen against Broxtowe Borough Council.
 - The application Ref 21/00371/FUL, is dated 29 April 2021.
 - The development proposed is described as "two storey and single storey extensions with balcony."
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Decision

1. The appeal is dismissed and planning permission for two storey and single storey extensions with balcony is refused.

Preliminary Matters

2. In the banner heading and formal decision above, I have referred to the name of the appellants as stated on the appeal form. The application form accompanying the planning application referred to a different first name, however the appellants' agent has clarified that this was simply an error on the form. I have also referred to the description of the development as set out in the appeal form, as this describes the proposal more precisely than that contained within the application form.
3. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a copy of a report to its planning committee concerning the planning application, and the minutes of that meeting, both of which recognised an appeal had already been lodged. I have had regard to these documents in so far as they provide clarity in terms of the reasons why the Council would have refused planning permission had it been able to do so.
4. I am advised that the appellant requested a refund of the planning fee in accordance with the terms of regulation 9A of The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 (as amended). This matter is between the appellant and the Council and not for consideration through this appeal.
5. Interested parties were not invited by the Council to comment on the appeal until later in the appeal process due to an earlier administrative error. Following the requisite notification of the appeal, comments were submitted by an interested party. The appellant was thereafter given an opportunity to respond to these. It is therefore considered that no party has been prejudiced.

Main Issues

6. The main issues are:

- 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;
- The effect of the proposal on the openness of the Green Belt; and
- Whether any harm by reasons 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 the proposal would be inappropriate development

7. The appeal site is located within the Green Belt. Policy 8 of the Part 2 Local Plan 2018-2028 Adopted October 2019 (the Local Plan) indicates that Applications for development in the Green Belt will be determined in accordance with the Framework. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. 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.
8. Paragraph 149 of the Framework indicates that, other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. These exceptions include (c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, and (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
9. I recognise that extension or alteration of a building could be considered partial redevelopment of previously developed land in continuing use. Where a proposal has the potential to fall within multiple categories of the list of exceptions it is reasonable to consider it against all exceptions that are relevant. I have therefore considered the proposal against each of the exceptions identified above.

The extension or alteration of a building

10. Annex 1 of the Framework indicates that the weight afforded to development plan policies should accord with their degree of consistency with the Framework. Policy 8 of the Local Plan is more prescriptive than the Framework, including a stipulation that 'disproportionate additions' to a building will be treated as those that, taken cumulatively, exceed 30% of the volume of the original building. I consider this criterion is consistent with paragraph 149(c) in respect of its aim of ensuring the extension of a building does not result in disproportionate additions. Accordingly, I attribute considerable weight to it.
11. The term 'original building' is defined in the Glossary to the Framework as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. The appeal site currently comprises a collection of adjoined

structures arranged around a courtyard, including the original dwelling, a series of single storey offshoots and two barns.

12. The appellant confirms the original dwelling was built in 1913 however there is little information before me on the age of the other structures on the site. Some of the single storey elements of the existing dwelling appear to be later additions. Notably, planning permission was granted in 2004 to construct an extension and convert an outbuilding to a bedroom. Based on this and my observations on site, it appears the original dwelling may at some point have been disconnected from the adjacent outbuildings.
13. A 1938 historic OS map which appears to show a building, or collection of adjoined buildings, on the appeal site has been provided. This map is limited in detail however and does not appear to fully correspond with the existing block plan, suggesting there has been changes to the site since. It also precedes the 1 July 1948 by approximately 10 years and, therefore, other than the original dwellinghouse, I cannot be sure that this is an accurate account of the original building or buildings as existed on that date.
14. Irrespective, the justification to Policy 8 of the Local Plan states calculations of increases in volume will not include any existing outbuildings. Based on the volumetric calculations provided, excluding the milking barn and tractor / bale barn from the calculation, the proposal would represent a considerable increase in the volume of the original building significantly above the 30% threshold in Policy 8.
15. The appellant contends this interpretation of what should be included in the volumetric calculation conflicts with caselaw in *Tandridge DC v SSCLG, Jason Syrett* [2015] EWHC 2503 (Admin). This judgement considered whether the demolition of other buildings on a site, as well as the existing dwelling, should be counted in any allowance for the size of a replacement dwelling. However, this is a different matter to that which is before me.
16. Additionally, the other buildings in that case were domestic in scale and clearly ancillary to the residential use of the existing house. The same cannot be said of the milking barn and tractor / bale barn on the appeal site. For this reason, even if I were to agree that the cited caselaw demonstrates that 'building', in the context of paragraph 149(c) of the Framework, can be read as including more than one building, I do not find that, as a matter of planning judgment, the buildings referred to in the volumetric calculations can sensibly be considered together as part of the original building.
17. In view of the above, I consider the proposal does not benefit from the exception set out in paragraph 149(c) of the Framework and would be inappropriate development in the Green Belt when assessed against this criterion. It would therefore be, by definition, harmful to the Green Belt.

Limited infilling or the partial or complete redevelopment of previously developed land

18. Whether the appeal proposal would benefit from the exception within paragraph 149(g) of the Framework in this case is contingent on whether it would have a greater impact on the openness of the Green Belt than the existing development. This is considered in further detail below.

Effect on openness

19. Openness is an essential characteristic of the Green Belt. The Courts have found that the word “openness” in this context is open textured, and several factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. The matters relevant to openness are therefore a matter of planning judgement, and the openness of the Green Belt can have a spatial aspect as well as a visual aspect.
20. The appeal site sits in an elevated position on the slope of a hill, with a frontage onto Gilt Hill. The existing dwelling is set back from the footpath behind a generous front / side garden area and curved driveway. I recognise that the site is located on the edge of a built-up area, with other urbanising development within its setting.
21. In distant views from the east along Gilt Hill, the site is well screened by the adjacent old schoolhouse. In closer views however, despite the collection of buildings behind, the space to the front and side of the existing dwelling remains considerably open. This contributes to the openness of the site and the Green Belt in this location. The appeal proposal would project into this space in both directions, and up to two storeys in height. On the Gilt Hill frontage, a large, curved wall would enclose part of the site. It would thereby erode the openness of the site and its contribution to that of the wider Green Belt.
22. The site is also clearly visible in wider views from the west, across the adjacent field, given its elevated position. From this perspective, it sits within the context of the old schoolhouse and urban areas behind and therefore the effect on openness would be less pronounced. Viewed from the north, the proposed extensions would also benefit from some screening provided by the other large agricultural buildings on site.
23. The appeal proposal would nevertheless substantially increase the size of the existing building and in doing so would harm the openness of the Green Belt in both visual and spatial terms. This would be mitigated to some extent by the factors mentioned above. However, Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. The harm identified above therefore weighs heavily against the proposal.
24. As the proposal would have a greater impact on the openness of the Green Belt than the existing development, it would not benefit from the exception within paragraph 149(g) of the Framework and would also be inappropriate development in the Green Belt when assessed against this criterion.

Other considerations

25. The proposal would provide enhanced living accommodation for the appellant and future occupants and would enable convenient use by people with limited mobility. The design of the proposals is also indicated to be heat and energy efficient and ecologically sensitive, including a high standard of planting and features for biodiversity such as green living roofs. These would be modest benefits of the proposal where it could be demonstrated they constitute an improvement over the existing situation. However, where such measures simply mitigate the effects of the proposed development, they would be neutral in the planning balance.

26. I also recognise efforts have been made to achieve a good standard of design in the proposals, including elements aimed at reflecting the heritage of the local area. However, I do not find the host dwelling or appeal site to be harmful to the character of the area in their current form.
27. Reference has been made within the appellant's statement to the potential of constructing a new building with similar or larger volumes of space elsewhere on site, such as in the open field beyond the existing outbuildings, utilising Class E of the permitted development rights for householders. The appellant considers the proposal would be a betterment in comparison to this.
28. However, no clear alternative fallback position pursuant to the property's permitted development rights has been advanced in this case. It is therefore not clear to me that there is greater than a theoretical possibility of permitted development rights being utilised in this instance or that this would amount to development that would be more harmful to the Green Belt than the proposal. Accordingly, I can attribute little weight to this.
29. While the proposal may comply with other parts of the development plan or national policy, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.

Conclusion

30. The appeal proposal comprises inappropriate development that is harmful to the Green Belt. I give this harm substantial weight as required by the Framework. I have considered the matters put before me in favour of the scheme. However, there are no other considerations that clearly outweigh the substantial weight I have afforded to the Green Belt harm arising from the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.
31. The proposed development conflicts with the development plan, taken as a whole, and I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal is dismissed and planning permission is refused.

Ryan Cowley

INSPECTOR