



Appeal Decision

Site visit made on 30 May 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2023

Appeal Ref: APP/P2935/W/23/3318725

Hill Top Cottage, A697 Between Morpeth and Longhorsley, Morpeth, Northumberland NE61 3DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Amy Buck against the decision of Northumberland County Council.
 - The application Ref 22/03417/OUT, dated 16 September 2022, was refused by notice dated 22 December 2022.
 - The development proposed is one residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application is submitted in outline with all, but access reserved for a subsequent reserved matters application. Access details are shown on the submitted details. Any details provided of reserved matters are treated as indicative.
3. I have taken the description of development in the banner heading from the application form. However, the decision notice includes for a self-build residential dwelling, and I have taken this into account in my decision.
4. The appellants' Statement of Case explains that the proposal is for an associated self-build annexe to the existing dwelling and the Council's Statement of Case explains that this differs from the application description and that the application fee was for a new dwelling. The Council have therefore assessed the application as a new residential dwelling and consider this to form the appeal. It is clear from the evidence before me that the proposed development includes for a self-build annexe, and I have determined the appeal accordingly.

Main Issues

5. 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;

- Whether the site location is otherwise suitable for residential development, having regard to development plan policy governing proposals within the open countryside;
- Whether the proposed development would promote the use of sustainable travel;
- The effect of the proposed development on highway safety;
- The effect of the proposed development on protected species and their habitat; and
- Whether any 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 proposal.

Reasons

6. The appeal site is located to the north of an existing residential property known as Hill Top Cottage within an area currently used as further amenity space associated with the property. The site lies outside of any defined settlement boundary and is located within the open countryside as well as being designated Green Belt land.

Green Belt – Whether inappropriate development

7. Policy STP 7 of the Northumberland Local Plan 2016-2036, 2022 (NLP) sets out the strategic approach to the Green Belt and Policy STP 8 of the NLP amongst other matters, explains that in assessing development proposals within the Green Belt, development that is inappropriate in the Green Belt, in accordance with national planning policy, will not be supported except in very special circumstances where other considerations clearly outweigh the potential harm to the Green Belt, and any other harm resulting from the proposal. It then goes on to state that development, which is not inappropriate in the Green Belt, as defined in national planning policy, will be supported.
8. Paragraph 149 of the Framework explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. This is subject to the exceptions at a) to g).
9. The proposed development would not fall within any of the above provisions, including f) in relation to affordable housing which I cover elsewhere in this decision. As a consequence, the proposal is inappropriate development which is, by definition harmful to the Green Belt and should not be approved except in very special circumstances (Paragraph 147, Framework).

Green Belt – Effect on openness

10. Paragraph 137 of the Framework explains 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 their openness and their permanence. Openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion it does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally, this does not mean that the openness of the Green Belt has no visual dimension and thus both aspects need to be considered.

11. Whilst matters relating to appearance, landscaping, layout and scale are reserved for a subsequent application where a full assessment would be made, the proposed development would introduce a building in an existing open parcel of land currently devoid of any significant built development. In spatial terms, the footprint and mass would inevitably have an impact on the openness of the Green Belt even taking into account the size of the established residential curtilage of Hill Top Cottage and presence of the existing dwelling. The appeal site, whilst well screened, is located at a higher level than the adopted highway that runs across the front of the site. Although the proposed building would be located within close proximity of the existing building, so would benefit from a visual association, its mass, height and volume would be clearly visible from public vantage points including the adopted highway. The increase in built form along with its location close to the highway would result in a loss of openness in visual terms leading to a fundamental and permanent change to the Green Belt.

Location

12. The location of the site in open countryside limits the occasions where development will be supported to predominantly those set out in Policy STP 1 g) of the NLP. The most relevant in this case relates to provision of residential development that accords with Policies HOU 7 or HOU 8. Set 1 of the Morpeth Neighbourhood Plan also includes exceptions.
13. None of the circumstances as set out in HOU 8 or Set 1 apply. HOU 7 is not mentioned in the Council's first reason for refusal, but it clearly signalled as being relevant within Policy STP 1. HOU 7 makes provision for affordable housing and self-build development by exception. However, the exception does not apply in this case given the position of the site away from an existing settlement.
14. As a consequence, the site location is unsuitable for residential development, having regard to development plan policy governing proposals within the open countryside. There is conflict with Policies STP 1, HOU 7 and HOU 8 of the NLP, and Set 1 of the Morpeth Neighbourhood Plan which set out how development in the open countryside will be managed.
15. I address the provision of self-build and affordable housing further in my 'other considerations' below.

Sustainable travel

16. I note the Councils' concerns regarding the failure to promote the use of sustainable modes of transport due to the reliance on the private car as well as noting the pedestrian and cycle connections. However, as set out above, the Council has confirmed that they have assessed the application as a new residential dwelling opposed to a self-build annexe. On this basis, the activity and movements associated with a new dwelling would be entirely different to that of an annexe. Such activity would fundamentally remain ancillary to the main property and any intensification of use would be minor.
17. Taking into account the annexe element, the associated occupancy, activities and movements are not likely to be any greater than that of the existing and thus would not have any material change to travel options. The ancillary element could be conditioned if I were to allow the appeal.

18. The proposed development would therefore not conflict with Policies TRA 1 and TRA 2 of the NLP which together, amongst other matters, requires development to promote a spatial distribution which creates accessible development, reduces the need to travel by car, and maximises the use of sustainable modes of transport. The proposed development would also accord with the aspirations of the Framework which relates to promoting sustainable transport.

Highway safety

19. The appeal site would be accessed via the adopted highway to the east. Although there is an existing access serving the site and access arrangements including refuse, delivery services etc would remain the same, visibility at the access point is severely restricted in an easterly direction when exiting the site. This is due to the brow of the hill which is located close by.
20. The adopted highway is a very busy and fast road with a speed limit of 60mph. The evidence before me shows that a 60mph strategic road would require secured visibility splays of 2.4m x 215m. No detailed plans of the site access have been provided to demonstrate that this can be achieved and given the site constraints, I am not convinced that the proposed development would not lead to conditions prejudicial to highway safety having regard to ingress and egress.
21. The proposed development would not add any significant traffic to the local road network given the scale of the proposals and annexe element. However, even if the access is established and used, visibility is still severely restricted resulting in highway safety issues. Sufficient space for internal parking/ turning area and any provision for off street parking remains a neutral factor in my overall findings.
22. I conclude that the proposed development fails to demonstrate that safe ingress and egress can be achieved from the application site. The proposed development would therefore unacceptably harm highway safety. As such, it would be contrary to Policy TRA 2 of the NLP in this regard which amongst other matters, seeks to provide effective and safe access and egress to the existing transport network. The proposed development would also be contrary to the aspirations of the Framework which seeks to ensure that a safe and suitable access to the site can be achieved for all users.

Protected species and their habitat

23. No substantive evidence has been submitted regarding the ecological value of the site and I cannot be certain that the proposed development would not be harmful to biodiversity. The use of the site for garden purposes and the lack of a specific designation as an ecologically important site does not change my findings on this nor does any permitted development rights that may exist for building work and maintenance as this is a theoretical position only and there is no substantive evidence to suggest that there is any reasonable likelihood for this to occur. Moreover, the Council's Ecologist explains that the site is located within an amber risk zone for Great Crested Newts and that there are also local records of other protected or notable species nearby which despite the outline application type, would require further assessment of the potential impacts and any mitigation.

24. Taking a precautionary approach to this issue, in the absence of evidence and in light of my findings of harm elsewhere, I conclude that the potential impacts upon protected species and their habitat have not been satisfactorily demonstrated or how these can be appropriately mitigated. Consequently, the proposed development would not comply with Policy ENV 2 of the NLP which amongst other matters, requires development proposals affecting biodiversity and geodiversity to minimise their impact, avoiding significant harm through location and/or design. Where significant harm cannot be avoided, applicants will be required to demonstrate that adverse impacts will be adequately mitigated or, as a last resort compensated for. The proposed development would also be contrary to the aspirations of the Framework which relates to conserving and enhancing the natural environment.

Other considerations

25. I am aware of the nature and policy environment surrounding provision of self-build dwellings and have had regard to Policy HOU 5 of the NLP as set out in the appellants' Planning Statement which appears to provide a level of support to individual self builds. Nevertheless, such schemes would still be required to comply with the other NLP policies as set out earlier.
26. The relevant criteria under Policy HOU 7 of the NLP does not specifically refer to or restrict sites being located within the Green Belt. However, notwithstanding my assessment of the suitability of the location above, the provision of self-build and affordable housing are mentioned as other considerations.
27. There is some dispute regarding the self-build register and the need to deliver this type of housing. A copy of the Northumberland Self Build and Custom Housebuilding Register Monitoring Report (Position as at 30 October 2022), 2023 has been provided which sets out that the Council is exceeding targets in relation to self-build properties. Consequently, there is not an overriding need for additional self-build properties and there is no compelling case provided to the contrary. Even if there is a deficit, the proposed development would make a minimal contribution and, in any event, there is no legal agreement securing its provision.
28. The appellant sets out that the property would be affordable. However, details of this are limited and there is no mechanism in place to secure the dwelling as affordable to enable me to attach any weight.
29. The proposed development would re-use a brownfield site to meet the housing needs of the family and I have had regard to the family's personal circumstances. I am also aware of the various benefits listed in the appellants' submissions including; economic benefits through spending in the locality, construction phase and job creation; new homes bonus contribution and Council Tax; improved landscaping to help create and improve habitat onsite. However, given that the scheme relates to a single dwelling, the extent to which these factors would be beneficial is limited and therefore carry limited weight.
30. The site is not within a Conservation Area and is not affected by listed buildings or other heritage assets. This is a neutral matter in my overall decision. I am aware of permitted development rights that exist as referred to above. However, this is a theoretical position only and there is no substantive evidence

put forward in order to decide whether reliance could be placed on such permitted development rights as a fallback and any reasonable likelihood for this to occur. As such, it would not weigh in favour of the development.

31. There would be a contribution to the Councils housing land supply and the provision of affordable housing would be a benefit. However, the development would only contribute a single dwelling to the supply and in this case, there is no mechanism in place to secure the dwelling as affordable, so I have given such matters limited weight.
32. I acknowledge the benefits associated with self-build schemes and the support shown locally and nationally including the requirements of the Self Build and Custom Housebuilding Act 2015 (as amended). To this end, my attention has been drawn to a number of previous planning appeals for self-build and custom build dwellings. However, there are material differences between these appeals and the one before me including their specific location and siting as well as policy context. Additionally, these appeals do not appear to be located within the Green Belt where there is extra control over development. On this basis, they cannot be considered comparable and therefore carry limited weight.

Planning Balance and conclusion

33. Paragraph 147 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Additionally, the proposed development would have an adverse impact upon the openness of the Green Belt as well as other harm identified above.
34. Paragraph 148 of the Framework explains that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Whilst I acknowledge the other considerations put forward by the appellant as set out above, the Framework makes it clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt which I have applied.
35. Therefore, those other considerations referred to above would not hold sufficient weight to outweigh the harm that I have found would be caused to the Green Belt by reason of inappropriateness and loss of openness as well as the other harm identified. This is the case even excluding protected species and their habitat from the balance on the grounds that I found harm on a precautionary basis. The very special circumstances needed to justify the development do not therefore arise.
36. In considering this appeal, I have had due regard to the Public Sector Equality Duty (PSED) set out under Section 149 of the Equality Act 2010, in particular the need to eliminate discrimination against persons with the protected characteristics of age and/or disability, advancing equality of opportunity for those persons and fostering good relations between them and others. Following careful consideration of the family circumstances, I am satisfied that the impact of dismissing the appeal is proportionate and necessary.

37. Accordingly, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR