



Appeal Decision

Site visit made on 29 August 2023

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

Appeal Ref: APP/X1355/D/23/3326796

Woodside, Sleetburn Lane, Langley Moor, Durham DH7 8LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Liam Timmins against the decision of Durham County Council.
 - The application Ref DM/23/00864/FPA, dated 25 March 2023, was refused by notice dated 21 June 2023.
 - The development proposed is replacement of former stable block with a new outbuilding with uses incidental to main dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The stable block has been removed and there is a partially constructed blockwork building on the site of the former stables. The planning application indicates that the building works commenced on 1 June 2022 but they have not been completed. Therefore, notwithstanding what I saw, I have determined the appeal on the basis of the submitted plans.

Main Issues

3. The main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt; and
 - iii) If the development is inappropriate, whether the harm by reason of inappropriateness or other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate development

4. Woodside is an extended single storey dwelling at the end of a short and irregular ribbon of residential development on the outskirts of Langley Moor. It is in the open countryside and the Green Belt.
5. 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.

6. Policy 20 of the County Durham Plan Adopted 2020 (the CDP) states that proposals within the Green Belt will be determined in accordance with national planning policy. In this regard, Paragraph 149 of the Framework directs local authorities to regard the construction of new buildings as inappropriate in the Green Belt subject to limited exceptions. These include paragraph 149 d) the replacement of a building provided the building is in the same use and not materially larger than the one it replaces and paragraph 149 g) limited infilling or the partial or complete redevelopment of previously developed land (PDL).
7. In relation to both replacement buildings and the redevelopment of PDL, the starting point is to establish what constitutes 'the building it replaces' or 'the existing development'. Case law¹ has established that the meaning of the policy wording 'the one it replaces' and 'the existing development' must refer to a building as it exists on site now.
8. In this case, the appeal building would be in the same location as the former stable building and it would be substantially similar in terms of its dimensions. However, the stable building no longer exists and the partially constructed building does not benefit from planning consent. Setting aside the unauthorised structure, there is no existing building. Therefore, paragraph 149 d) cannot apply as there is no building to be replaced.
9. On the basis that the appeal relates to the location of a former stable building and it is in a residential garden outside of a built up area, the appeal site constitutes PDL for the purposes of the Framework. Paragraph 149 g) requires that the redevelopment of PDL does not have a greater impact on the openness of the Green Belt than the existing development. This is considered below.

Openness

10. Paragraph 133 of the Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
11. The proposal would be single storey with a low pitched roof and it would have a footprint of nearly 15m by just over 4m. It would be a substantial building where currently there is no building. It would be sited closer to the low roadside boundary wall than is the host dwelling and its long blank rear elevation would be prominent in views. The significant increase in the quantum of built development along the boundary, close to the rear elevation of the dwelling, would enclose this part of the road with buildings and obscure views through and across the site to the surrounding countryside. The loss of spatial openness and the visual impact of the proposal would result in an adverse and greater impact on openness than the existing development. Accordingly, the proposal would not meet the exception in Framework paragraph 149 g) relating to the redevelopment of PDL.
12. The Council accepted amended plans during the processing of the application that remove the originally proposed tall close-boarded boundary fencing. However, while the scheme might result in a lesser loss of openness as a result, the omission of the fencing would not mitigate the impacts on openness arising from the building itself.

¹ Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)

13. Therefore, I conclude that the proposal would not meet the exceptions in Framework paragraphs 149 d) or 149 g). It would be inappropriate development in the Green Belt, in conflict with CDP Policy 20 and the policies in the Framework that protect the Green Belt.

Other Considerations

14. As it would be development in the existing residential curtilage and incidental to the dwelling, the proposed outbuilding would accord with CDP Policy 10. However, compliance with development plan policy in this, or other, regards is a neutral factor.
15. Both occupants of the appeal dwelling work from home and one of them is also a hobby and crafting enthusiast. However, there is little evidence that the extended dwelling is not capable of meeting the needs of its residential occupiers or that their home working and hobbies could not in any case be met by alternative less harmful solutions. The appellant's personal circumstances carry little weight in favour of the scheme.
16. Planning permission (ref DM/21/02439/FPA) was previously granted for the erection of extension to rear of dwelling and change of use from stable block to holiday let. However, the former stable block has been demolished and the permitted change of use cannot be implemented. The permission does not constitute a fallback position at this site and it does not weigh in favour of the proposed new build.
17. A subsequent application (ref DM/22/02365/FPA) for demolition of existing stable and erection of dwelling was refused and it was dismissed on appeal (ref APP/X1355/W/22/3309292). An application (ref DM/22/03022/FPA) for the erection of holiday let on footprint of former stable building was also refused. The previous Inspector noted that there would be a building where, following demolition of the previous building, there was none, but accepted it would be the same size and dimensions and in the same location and spatially it would relate to the existing development. However, in dismissing that appeal, the Inspector found that the proposed residential use would result in a visual loss of openness and they did not reach an explicit conclusion as to whether or not the building in the absence of use would have a greater impact on openness than the existing development.
18. The scheme has been amended to address the previous Inspector's concerns in relation to its proposed use, openings and boundary treatments. As a result, the appeal scheme would be likely to result in a lesser visual impact on openness than the previously proposed residential dwelling, Nevertheless, it would still have a greater impact on openness than the existing development. Therefore, neither the scheme amendments nor the previous appeal decision weigh in favour of the proposal.

Green Belt Balance

19. I have concluded that the appeal scheme would be inappropriate development in the Green Belt. It would conflict with CDP Policy 20 and the Framework. It would have a greater impact on openness of the Green Belt than the existing development. These matters attract substantial weight.

20. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Therefore, the very special circumstances necessary to justify the appeal do not exist.

Conclusion

21. For the reasons set out above, the appeal should be dismissed.

Sarah Manchester

INSPECTOR