



Appeal Decision

Site visit made on 6 December 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2024

Appeal Ref: APP/Y3425/W/23/3319821

Hillside Nurseries/Wrekin View, Leadendale Lane, Rough Close, Stoke-on-Trent ST3 7NL

- 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 Andrew Lovatt against the decision of Stafford Borough Council.
 - The application Ref 21/33778/FUL, dated 22 March 2021, was refused by notice dated 21 October 2022.
 - The development proposed is described as replacement of existing residential accommodation.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 20 December 2023 accompanied by a written ministerial statement (WMS). The revised Framework is a material consideration which should be taken into account from the day of publication. The paragraphs most pertinent to this appeal and to considering appeals in Green Belts are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether the proposed development would provide a suitable location for housing, having regard to the development strategy for the area;
 - The effect of the proposal on trees; and
 - Whether any 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

Inappropriate development

4. The appeal site comprises part of Hillside Nurseries which is located within the Green Belt and situated outside of any identified settlement boundary. The nursery occupies a sloping site and consists of a variety of nursery structures and buildings, a detached dwelling, and an existing static caravan. The use of the site as a nursery/ garden centre, with ancillary residential accommodation in the form of the static caravan, was confirmed through a lawful development certificate in September 2020.
5. Paragraph 154 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other things, they are a replacement building that is in the same use and not materially larger than the one it replaces.
6. Policy SP7 of The Plan for Stafford Borough, 2011-2031, adopted 2014 (PSB) seeks to limit development outside of the defined settlement boundaries. Within the Green Belt the policy requires development to be consistent with national policies.
7. The appeal proposal is to replace the existing static caravan and a former greenhouse with a permanent dwelling. However, it is well-established in the courts that a caravan is not a building and, therefore, the proposal would not constitute a replacement building. Moreover, the new dwelling would be materially larger than the caravan currently on site and the proposed dwelling would not be the same use as the former greenhouse it is to replace. The proposed development would, therefore, not comply with any part of the exception detailed under paragraph 154(d) of the Framework.
8. The appellant could replace the existing caravan with a larger caravan under the certificate of lawfulness, providing the new structure complied with the limitations within the definition of a caravan. The certificate of lawfulness confirmed that the site, shown edged red in the Second Schedule, has been used continuously as a nursery/ garden centre with associated ancillary development, including the caravan. Although supporting information submitted with the certificate indicated the location of the different uses on the site the formal certificate does not specify the position or size of the caravan and, therefore, contrary to the Council's assertion, the certificate would not prevent a larger unit being placed anywhere within the red edge of the site.
9. This is a valid fallback position and there is a realistic possibility that a new, larger, caravan would be brought onto site should the appeal before me fail. However, the siting of a replacement caravan would not be a building and would be carried out under the existing certificate of lawfulness. Even if the appellant replaced the existing caravan with a larger caravan the proposal to replace the caravan with a permanent dwelling would not comply with 154(d) of the Framework. As such, although a larger caravan is a valid fallback the fallback would not constitute development and, therefore, would not be inappropriate development in the Green Belt.

10. For the above reasons, the proposed permanent dwelling would be inappropriate development in the Green Belt and would conflict with Policy SP7 of the PSB and would not comply with any of the exceptions set out in paragraph 154 of the Framework.

Openness of the Green Belt

11. A fundamental aim of Green Belt policy is to keep land permanently open, as set out in paragraph 142 of the Framework. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appeal site lies within the Green Belt and also outside of any settlement and, for planning purposes, is therefore considered as in the countryside.
12. The site forms part of the existing nursery which is a mix of buildings and structures which have been developed over time. The existing nursery structures, including the existing caravan, are not uncommon in rural areas and the existing nursery does not harm the countryside. However, the existing structures do have an existing visual and spatial impact on the openness of the Green Belt.
13. The former greenhouse on the appeal site, at the time of my visit, was a lightweight frame with no covering. The visual impact of this structure on the Green Belt is limited and temporary, as too is the visual impact of the caravan. The proposed dwelling would have a greater visual impact than the existing polytunnel frame structure on the site as the proposed building would be a solid structure. However, I acknowledge that the polytunnel could be recovered and, therefore, have a greater visual impact than it currently does. Moreover, a larger caravan could be placed on the appeal site which would also have a greater visual impact than the existing caravan. In my judgement the appeal proposal would not have a greater impact on the visual aspect of the openness of the Green Belt than the fallback position.
14. The new dwelling would not significantly reduce the sprawling nature of the existing nursery, as contended by the appellant, and would only replace two existing structures with one. Nonetheless, a permanent dwelling on the appeal site would result in a permanent building where there is currently only temporary structures. For this reason, the proposal would have a significantly greater spatial impact on the openness of the Green Belt than the existing polytunnel or existing caravan. Moreover, the fallback position would also have less of a spatial impact than the proposed development and would, therefore, be less harmful than the appeal before me. In my judgement the proposal would not represent a benefit to the openness, as the appellant asserts.
15. That a permanent dwelling would be more likely to be maintained than a caravan would not justify the harm to the openness of the Green Belt. If the condition of any caravan on the site deteriorates it would be likely to be replaced with a newer one. Furthermore, if the business were to cease operating, or the need for ancillary residential accommodation were to cease, then the caravan could be removed and the impact on the openness of the Green Belt would be reduced. A permanent dwelling would have a permanent and harmful spatial impact on the openness of the Green Belt.
16. For the above reasons, the proposal would have a spatial impact which would result in loss of the openness of the Green Belt contrary to Paragraph 142 of the Framework which identifies the essential characteristics of Green Belts as

their openness and their permanence. I give substantial weight to the harm to openness, as set out in the Framework.

Suitability of location

17. The proposal seeks consent for the erection of a new dwelling on the site and, contrary to the appellant's assertion that the proposal does not seek the erection of a dwelling, the proposed development would constitute a dwelling. As such Policies SP3, SP7 and C5 of the PSB are relevant to my determination of the appeal and I have no compelling evidence to justify why I should not give these policies full weight.
18. Policy C5 of the PSB provides the policy for new residential proposals outside the settlements listed in Policy SP3 (the settlement hierarchy) and provides three exceptions to the general restriction on new housing. The appeal proposal would not meet any of the exceptions listed.
19. I acknowledge that there is already a caravan used as residential accommodation. However, the proposal would not meet the criteria for replacement dwellings in C5 of the PSB as the existing structure is a caravan, the new dwelling would be of a larger floor area and in a different position to the existing caravan.
20. As with the Green Belt assessment the fallback position, that the appellant could site a larger caravan on the appeal site, is a material consideration. However, although the proposed dwelling may be similar in size and position to a caravan that could be brought onto site, a new caravan would still be a temporary form of construction and would, therefore, not justify a permanent dwelling on the site under Policy C5.
21. The existing caravan also has restricted residential use as ancillary accommodation to the nursery business through the wording of the certificate of lawfulness. The ancillary nature of the accommodation is to the business rather than ancillary to the existing dwelling. Any replacement caravan would equally be ancillary to the nursery. As such there is no requirement for the proposed dwelling to have a physical or functional reliance on the main dwelling, contrary to the Council's assertion.
22. I accept that the proposed dwelling is intended to be ancillary to the business, as the existing caravan is, and that a replacement caravan could be placed on the site and occupied as ancillary accommodation. However, although a condition could be imposed to require the occupation of the proposed dwelling to be limited to a person solely or mainly employed at the nursery, and thereby not create a separate planning unit, I do not have compelling evidence before me that such a dwelling is required on the site.
23. It is not clear from the submitted evidence that a permanent dwelling has to be located on the appeal site and that a dwelling for the appellant could not be within a nearby settlement. I am not convinced, from the evidence before me, that the proposal is justified to support the existing business or for any other reasons, including the appellant caring for their elderly parents. That there is existing ancillary accommodation would not justify a permanent dwelling outside of the settlement. For these reasons, a condition to restrict the occupation of the proposed dwelling to be ancillary to the nursery business

would not be sufficiently related to the development proposed and would, therefore, fail the tests for conditions.

24. Moreover, I have no substantive evidence before me that the land supply for housing in the Local Authority area is constrained or that the land proposed for the dwelling is under-utilised, as asserted by the appellant. At the time of my visit the structure on the appeal site was in use as part of the nursery and appeared to be a key area for the display and sale of plants. The proposed dwelling would reduce the structures and land available for the nursery business. The support in paragraph 124(d) of the Framework for more effective use of land needs to be balanced against the development of land outside of the settlement.
25. For the above reasons, I find that the proposal is not a suitable location for housing having regard to the development strategy for the area. Accordingly, the proposal would fail to comply with Policies SP3, SP7 and C5 of the PSB which, taken together, seek to limit development outside of the defined settlement boundaries and require new housing outside of the settlements to meet certain criteria.

Effect on trees

26. There are existing trees within the wider nursery site, within the garden of the existing dwelling, close to the existing caravan and on the edge of the entrance. There is also existing hedging between the caravan and the access driveway and parking area.
27. However, notwithstanding that the appellant contends that only poor-quality trees would be likely to be affected, in my judgement, none of the existing trees would be close to the siting of the proposed dwelling. The Council has not provided any detail of which trees they contend would be harmed and the proposed position of the dwelling would be outside of the canopy of any of the existing trees, thereby enabling the retention of the existing trees.
28. From the evidence before me the proposed development would not be likely to adversely affect trees and I, therefore, find no conflict with Policies N1 or N4 of the Plan in that the proposed development would enable the retention and protection of existing landscaping features.
29. I also find no conflict with the relevant parts of the Framework in relation to trees and existing landscaping features.

Other considerations

30. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would comprise inappropriate development in the Green Belt. In addition, there are adverse impacts on the spatial aspect of openness. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, including the harm to the character and appearance of the area, are clearly outweighed by other considerations.
31. I have considered the fallback position, that the appellant could replace the existing caravan with a larger caravan on the appeal site, within the main

issues above. The fallback is a material consideration but would not justify a permanent dwelling for the reasons given.

32. The development would have associated social and economic benefits both during and post construction. However, given the small scale of the development and that the proposal would not increase the number of households in the area, these benefits would be limited. Nevertheless, these benefits contribute positively and carry limited weight in favour of the proposal.
33. That there is no objection to the design or appearance of the proposed dwelling and that it reflects the mix of dwellings in the immediate area is a neutral matter. The scheme would also have a neutral effect on biodiversity, the living conditions of the occupiers of neighbouring properties and highway safety. These matters weigh neither for, nor against the proposal.
34. For the above reasons I find that the other considerations in this case do not clearly outweigh the harm that I have identified to the Green Belt and other matters. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

35. The development conflicts with the development plan taken as a whole and the Framework. There are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Townsend

INSPECTOR