

Appeal Decision

Site visit made on 20 August 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2024

Appeal Ref: APP/N3020/W/24/3337584

Land adjacent Sherwood Croft, Newstead Abbey Park, Nottingham Road, Ravenshead NG15 8GD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr P Shoker against the decision of Gedling Borough Council.
 - The application Ref is 2021/0193.
 - The development proposed is described as an 'infill dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). The appeal site is located within the Green Belt and changes to determining development in those areas are proposed. However, the exceptions to the construction of new buildings in the Green Belt against which the appeal proposal was assessed are not proposed to be changed. As such, I have not sought the views of the main parties in coming to my decision.

Main Issues

3. The main issues are as follows:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies; and
 - The effect of the proposal on the setting of the Grade II* Registered Park and Garden (RPG).

Reasons

Whether Inappropriate in the Green Belt

4. Subject to the exceptions listed in Paragraphs 154 and 155, the Framework makes clear that the construction of new buildings in the Green Belt should be regarded as inappropriate. Of relevance to this appeal are paragraphs 154(c) and 154(g).

5. Policy 3 of the Greater Nottingham Aligned Core Strategies (adopted September 2014) (ACS) seeks to protect the Green Belt, and the purposes of including land within it, in principle. Similarly, policy LPD15 of the Gedling Borough Local Planning Document (adopted July 2018) (LPD) broadly aligns with the Framework insofar as it states the construction of new buildings is not inappropriate, provided they are located within named villages and constitute infilling while also seek to protect the Green Belt and the purposes of including land within it, such as its openness.
6. With regards to paragraph 154(e) of the Framework, neither 'limited', 'infilling' nor 'villages' are defined. However, policy LPD15 advises that infill can be taken as development of a gap within a village or site which is enclosed by buildings on at least two sides. This is a reasonable definition and I see no reason to ignore it. Moreover, the Courts¹ have held that the question of whether a particular proposed development is to be regarded as 'limited infilling' in a village for the purposes of the policy in the Framework will always be essentially a question of fact and planning judgment for the planning decision-maker.
7. I am informed that the dwelling would be less than 150m² and would therefore meet the requirement outlined in the justification text of policy LPD15 to qualify as 'limited'. While this is noted, this does not appear to be in dispute and relates to the matter of whether a proposal is 'limited' only.
8. I observed on the site visit that there are dwellings to the north (Sherwood Croft) and east (Culag and Pendlewood). However, there are significant distances to all of these. Therefore, I do not consider this to be infilling a gap. My attention is drawn to the garage, which is proposed to be retained as part of the proposal within the appeal site, and a substation located adjacent but outside of the site. However, while these are much closer than the aforementioned dwellings, the proposed dwelling would not be enclosed on at least two sides as the front, rear and one side would be open in this regard and in any event these two structures do not leave a gap to be infilled.
9. As such, regardless of whether the site could be considered to be located in a village, I do not consider the proposal would constitute infill as a matter of planning judgement. It would therefore not meet the exception of paragraph 154(e).
10. Paragraph 154(g) of the Framework details another exception whereby *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority'*. I have already determined that the proposal would not constitute infilling.
11. To meet this exception, regardless of whether the site constitutes previously developed land, the development is required to meet either of the two limbs relating to the impact of the development on the openness of the Green Belt.

¹ R.(on the application of Tate) v Northumberland County Council v Susan Leffers-Smith

The existing site comprises the garage and two small sheds, with the sheds evidently to be removed. It is otherwise formed of overgrown foliage and trees.

12. Paragraph 142 of the Framework advises 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. The assessment of openness has both a spatial and visual aspect and intrusion on either can, individually or collectively, impact the openness of the Green Belt.
13. The erection of the dwelling would invariably reduce openness in spatial terms given its scale compared to the existing situation. Simply, that the proposed dwelling would be much larger than the garage and occupy space which is currently foliage. Visually, the site is well enclosed by trees from the road which runs through the park. However, two of these trees near the site entrance are proposed to be removed as part of the development and this would open up views from the road at this location. I agree that visually there would be a limited loss of openness, but it would nevertheless occur. As such, the proposal would have a greater impact on the openness of the Green Belt than the existing development.
14. That being said, the proposal would not cause substantial harm to the openness of the Green Belt. However, this second limb of paragraph 154(g) also requires that the proposal contribute to meeting an identified affordable housing need within the area of the local planning authority. There is nothing before me to indicate that the dwelling would contribute in this manner or that there is a particular need for affordable housing, although no doubt it would be welcomed.
15. Taken together, the proposal would therefore not meet the exception given in paragraph 154(g), regardless of whether the site is considered to be previously developed land.
16. With the above in mind, the appeal scheme would not fall within any of the exceptions set out in paragraph 154. As such, the proposal would constitute inappropriate development in the Green Belt.

Setting of the RPG

17. The appeal site is located adjacent, but not within the Newstead Abbey RPG, which is Grade II* listed. Although I am directed to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), this refers to development which affects listed building or its setting. Moreover, the appeal site is not located within a Conservation Area and as such I have no reason to consider section 72(1) of the Act.
18. There is no statutory duty concerning the consideration of development in respect of an RPG. However, I am cognisant of the relevant provisions in the Framework in this regard. Paragraph 206 of the Framework advises that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. I note that it is not disputed that the

appeal site is located within the setting of the RPG. Given its proximity and characteristics, I see no reason to disagree.

19. The significance of the RPG is drawn predominantly from its historic and artistic interests. Historic interest is derived from its association with the Grade I Listed Newstead Abbey while artistic interest is derived from its extensive formally landscaped grounds and surrounding woodland. The main vehicular access runs between the Abbey and the A60. The appeal site access branches off from this main section of road and is surrounded by woodland to all sides. The road has a spacious and verdant character which provides a bucolic entranceway to the RPG as part of its setting, to which the appeal site in its current form contributes positively with its general openness. There are dwellings in the vicinity of the appeal site, although these are generally large and sit in generous plots, set well back from the access road.
20. The proposed dwelling would be formed of two sections; one with a pitched roof which would include a mezzanine master bedroom with the main living areas below, and a single storey section to one side with a home office and second bedroom. The dwelling would be timber clad which would be designed to silver over time, while it would be constructed in a modular fashion on site.
21. The design cues for the houses are taken from the surrounding woodland and it would fit comfortably within its plot. Although the loss of two trees is disappointing, I note the Council does not take issue with this element of the scheme and given the dense woodland surrounding their loss could be absorbed subject to protective measures to safeguard remaining trees.
22. Notwithstanding my findings as it relates to impacts upon the Green Belt, I am satisfied that the design would relate well to this location and would therefore not harm the setting of the RPG. The proposal would therefore comply with policy 11 of the ACS and policies 26 and 29 of the LPD. These seek, among other things, to ensure that proposals affecting Registered Parks and Gardens should seek to conserve and/or enhance features which form part of the significance of the asset. The proposal would also comply with paragraph 206 of the Framework.
23. Policy 28 of the LPD is also referenced in the decision notice, although there is nothing before me to indicate that the proposal is in a Conservation Area. As such I have not assessed the proposal against this policy, nor against sections 66(1) or 72(1) of the Act.

Other Considerations

24. Paragraph 152 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. It goes on to advise 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.
25. I am informed that the dwelling would be constructed off-site and assembled on-site in a modular method. This would be quicker, minimise disruption and evidently meet level 6 of 'Buildings for Life' standards. The construction method is worthy of some positive weight, although there is nothing before

me to indicate how this would raise design and construction standards across the wider area. Alongside the more general benefit of work for a contractor to carry out the building, this is afforded some limited weight in the balance.

26. The delivery of a self-build dwelling to the Council's housing stock is also of benefit, although there is nothing substantive before me to indicate it is not meeting those obligations at present. A smaller dwelling may also contribute to the housing mix locally. There would be societal benefits insofar as new residents would use local services and facilities. However, as the appellant states the dwelling would be small and as such there would equally be a very minor increase in the number of new residents. These considerations are also worthy of limited weight.

Other Matters

27. I am presented with a plethora of emails detailing correspondence between the agent and Council's planning officer during the application process. There is no explanation as to the relevance of these, although it would appear to highlight delays in reaching a decision. Regardless, this is not a dispute for me to mediate and any complaints regarding the planning application process should be made to the Council directly.

Green Belt Balance and Conclusion

28. I have found that the proposal would be inappropriate development in the Green Belt, although I did not find harm to the setting of the RPG, a designated heritage asset. A lack of harm is neutral in the planning balance. The harm identified carries substantial weight against the scheme as per paragraph 153 of the Framework.
29. Set against these, material considerations cited in support of the proposal carry limited weight and therefore do not outweigh the totality of the harm the scheme would cause. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
30. As such the proposal would conflict with policies LDP15 of the LP, Policy 3 of the ACS and Green Belt policy as set out in the Framework. For the reasons given above, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR