



Appeal Decision

Site visit made on 16 October 2024

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/C3430/C/23/3324573

Meadow View, Paradise Lane, Slade Heath, Staffordshire, WV10 7NZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Lee Pountain against an enforcement notice issued by South Staffordshire District Council.
 - The notice was issued on 19 May 2023.
 - The breach of planning control as alleged in the notice is 'without planning permission, the construction of a brick built two storey building ("the Building") for the purposes of an independent residential dwelling house in the approximate position shaded blue on the Plan.'
 - The requirements of the notice are
 - i) Cease the use of the Building on the Plan as an independent residential dwelling house.
 - ii) Demolish the Building including the concrete slab and footings.
 - iii) Remove all materials and debris resulting from compliance with ii) above from the Land
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended)(the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of the words '*6 months*' from the period of compliance and their substitution with '*12 months*.'
2. Subject to the variation, the appeal is dismissed and the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. Since the issue of the notice, there have been revisions to the National Planning Policy Framework (the Framework). However, as there have been no changes to the Framework wording with regard to the Green Belt, further comments from the parties are not required.
4. The appellant did not pursue an appeal under ground (g) in his appeal form which relates to the period for compliance with the notice. However, due to the extent and nature of the breach, the parties' views were sought and obtained with regard to timescales arising in the event of the notice being upheld. I will therefore address whether the period for compliance is reasonable under ground (g).

The appeal under ground (a) and the deemed planning application (the DPA)

Main Issues

5. The main issues are ;

- whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect of the development on the openness of the Green Belt;
- the effect of the development on the character and appearance of the area;
- the effect of the development on the living conditions of the occupiers of the neighbouring property; 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 required to justify the development.

Reasons

6. The original dwelling at Meadow View is a bungalow which forms the end property in a row of dwellings which front onto Paradise Lane. The end of row location of the appeal site means that it has spacious outside space including a paddock. Paradise Lane is made up of a mix of largely detached two storey and single storey dwellings. The appeal site is located in the Green Belt and there are views of fields and open countryside particularly at the rear.
7. The development consists of a brick built two storey dwelling which has three dormer windows to the rear and two at the front on the second level. It is located at the rear of the appeal site next to an unnamed road. Access to the development is provided from the front of the appeal site along a drive which runs along the side of the original dwelling.

Whether the development is inappropriate

8. The Framework states that inappropriate development in the Green Belt is, by definition, harmful and should not be approved except in very special circumstances. The construction of new buildings is inappropriate in the Green Belt unless it falls within one of the listed exceptions.
9. The development plan includes South Staffordshire Core Strategy Development Plan Document Adopted 11 December 2012 (the Core Strategy). Policy GB1 of the Core Strategy is broadly consistent with the Framework in regarding the construction of new buildings as inappropriate subject to exceptions. However, there are differences between the wording of Policy GB1 and the Framework when considering the exceptions relied upon by the appellant. The appellant refers to two exceptions, namely limited infilling in villages and replacement buildings.

Limited Infilling

10. The aims of Policy GB1 broadly reflect that of Green Belt policy in the Framework. However, the exception contained in Paragraph 154 e) refers to 'limiting infilling in villages' whereas policy GB1 is less restrictive as refers to 'limited infilling' only and omits the reference to 'in villages'. Less weight is

attributed to the development plan policy where it is not consistent with the Framework. The appellant relies specifically upon the Framework definition of 'limited infilling in villages.'

11. Slade Heath is not identified in the Core Strategy as a village within the Council's hierarchy of settlements or within the Council's Site Allocations Document. Whilst the appeal site is within a cluster of residential development that forms part of the wider community of Slade Heath that is not in itself enough to make it a village. The appellant acknowledges that there is no traditional village core or facilities and functions which may indicate that it forms part of a village. There are also no services and amenities in the immediate area and the appeal site is around 1.9 km from the village of Coven. I do not consider that Slade Heath is a village. Even if I had found that Slade Heath was a village, the development would still need to be 'limited infilling' to fall within the Framework exception.
12. There is no definition of limited infilling in the Framework. However, Policy GB1 defines limited infilling as 'the filling of small gaps (1 or 2 buildings) within a built-up frontage of development which would not exceed the height of the existing buildings, not lead to a major increase in the developed proportion of the site or have a greater impact on the openness of the Green Belt and the purpose of including land within it.'
13. The development is located at the rear of the appeal site on an unnamed road. Other development along the unnamed road is limited and sporadic and the commercial enterprises referred to by the appellant are located towards the other end of the road. The development is not located between other buildings, does not fill a gap and, to my mind, is not limited infilling.
14. The development does not therefore fall within either the definition of 'limited infilling in villages' set out in Paragraph 154e) of the Framework or the less restrictive policy definition of 'limited infilling'.

Replacement Building

15. The exception contained within Paragraph 154 d) of the Framework refers to 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'. In order to fall within the exception, the development needs to be in the same use and not materially larger than the building it replaced. Policy GB1 has similar wording with regard to size but does not require buildings to be in the same use.
16. The Council has provided a photograph dated April 2021 which shows a single storey building at the rear of the appeal site as viewed from the main road which runs past Paradise Lane. The garage building had a gable end facing the road and is described by the Council as being single storey. A later photograph taken from a similar vantage point angle shows the development which has a distinctive roof form with the feature dormer windows. The development does appear to be materially larger than the garage building. The appellant has not provided any photographs or dimensions to provide comparisons between the garage and the development. Based upon the evidence before me, the development is materially larger than the demolished garage building. Use as a garage is also not the same as residential use.

17. The development does not therefore fall within Paragraph 154 d) of the Framework or the development plan policy exception as the development is materially larger than the garage building and is not in the same use.

Conclusion on whether the development is inappropriate

18. I find that the development is not limited infilling in villages, or limited infilling for the purposes of Policy GB1, and it is materially larger than the building that it replaces and it is not in the same use. The development does not therefore fall within the exceptions contained in paragraphs 154 d) and 154 e) of the Framework or those within Policy GB1. As such, I find that it is inappropriate development in the Green Belt for the purposes of Policy GB1 and the Framework.

Openness

19. The Framework indicates that openness is an essential characteristic of the Green Belt. Openness has both a spatial as well as a visual aspect. The development is a two storey dwelling with a total of five dormer windows. The garage that previously existed at the appeal site was smaller than the development and had less impact upon openness. The development is not well screened at the rear due to its proximity to the road and its height and mass. The visual and spatial impact does reduce the openness of the Green Belt. The development does therefore harm and have a moderate impact upon openness of the Green Belt.
20. Furthermore, whilst the development is to the rear of the appeal site, it does take the built form further towards the surrounding countryside. As such the development also fails to assist in safeguarding the countryside from encroachment which is one of the purposes of including land within the Green Belt. I therefore find that the development has resulted in the reduction in openness and conflict with one of the purposes of including land within the Green Belt contrary to paragraphs 143 of the Framework.

Character and appearance

21. The development is located at the rear of a substantial plot where the rural character of the area with fields of sheep is particularly noticeable and built development is very limited. Whilst the development is set back slightly from the road, it is still a very prominent feature when the development with its striking dormer elements is visible behind the boundary fencing. The height, size and modern design of the development is out of character and incongruous in a rural backland location where there is no linear development.
22. For the reasons given, I find that the development does harm the character and appearance of the area. It is therefore in conflict with Policies EQ11 and EQ4 of the Core Strategy which collectively requires development to respect the local character and distinctiveness including the surrounding development and to contribute positively to the streetscene and surrounding area in terms of scale, volume and massing.

Living conditions

23. The development is located to the rear of the neighbouring dwelling which fronts onto Paradise Lane. Photographs taken show views of the bulk of the roof of the development and one of the dormer windows from the neighbouring property. The presence of opaque glass in the dormer windows of the development on the side facing the neighbouring development which serve bathrooms prevents any direct overlooking.
24. However, the proximity of the development to the neighbouring property means that it is overbearing due to its height and bulk. I do therefore find that the development does harm the living conditions of the neighbouring property due to its overbearing nature. It is therefore contrary to EQ9 of the Core Strategy which refers to development protecting amenity of nearby residents.

Other considerations

25. The appellant originally indicated that he was not relying upon Very Special Circumstances as part of his appeal. In September 2021, the appellant indicated that he would be occupying the development on a temporary basis with his wife and four children until extensive renovation works at the original dwelling were complete. Planning permission was granted on the 19 July 2021 for extensions to the original dwelling which had also been previously extended. His timescale for those works was around 2 years. He did however wish to then retain the development to provide a sensory room for one of his children.
26. The development is now occupied by one child of the family and the appellant's father and his partner who are his full time carers although the appellant's father has health issues. It has been modified to include the sensory room for the child who has medical issues. The appellant considers that the child's recent medical diagnosis represents a change of circumstances. However, the medical advice provided indicates that the child of the family can return to his family home with a transitional period for adjustment. The development is very generous and was constructed to provide accommodation for two adults and four children on a temporary basis. I therefore give limited weight to the family circumstances.
27. The Council has referred to the development being located in an isolated location. However, the development is located to the rear of an existing dwelling which forms part of a cluster of residential development. Paragraph 84 of the Framework refers to planning decisions avoiding development of isolated homes in the countryside unless certain criteria apply. The development is also around 1.9 miles from the village of Coven where there are services. Whilst the development is located in the countryside and is backland development, I consider that the development is not isolated. The development is therefore not an isolated home in the countryside for the purposes of Paragraph 84 of the Framework. However, this is a matter of neutral weight.

Other matters

28. The parties do not dispute that the appeal site is within the 15km zone of the Cannock Chase Special Area of Conservation (the SAC). The Council has a mitigation scheme and requires a payment where development results in a new dwelling to offset the impact of the development on the SAC. Whilst the appellant has stated he will make a payment towards mitigating the effects of

the proposal on the SAC, no mechanism to secure that payment by way of a Section 106 agreement or a Unilateral Undertaking has been provided. However, I have not attributed any weight to the absence of any mechanism as part of my decision.

Green Belt balance

29. The development is inappropriate development in the Green Belt with a loss of openness and encroachment. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I have also found harm to the character and appearance of the area and to the living conditions of the neighbouring property. Whilst the development is not in an isolated location, that is a matter of neutral weight. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
30. On the other side of the scales, I have attached limited weight to the family circumstances. These considerations do not outweigh the substantial weight that I give to Green Belt harm and the other identified harm in respect of the character and appearance of the area. Consequently, the very special circumstances necessary to justify the proposal do not exist. As such, the proposal would fail to accord with the Framework and Policy GB1 of the Local Plan and Policies EQ4, EQ9 and EQ11 of the Core Strategy. The appeal under ground (a) should therefore fail.

The appeal under ground (g)

31. An appeal on ground (g) is that the period specified for compliance with the notice falls short of what is reasonable. The period for compliance in the notice is 6 months. The appellant has referred to the need to provide a transitional period to move the child who is living at the development to move back into the family home and the likely timescale is between 6 and 12 months based upon informal advice. Reference is also made to rehousing the appellant's father and his partner and the ill health of the appellant's father.
32. The appellant has also indicated that a 12 month period is also needed as he intends to make a further planning application. The Council disputes that an extension is required for this purpose when this appeal includes an application for planning permission. In any event, the Council now has no objection to a 12 month period of compliance based upon the family's circumstances.
33. I agree that the proposed period of 12 months would allow time for adult occupants to look for alternative accommodation and for the child to move back into the family home at Meadow View. This period would also allow for the demolition of the development. The appeal on ground (g) succeeds to that extent.

Conclusion

34. For the reasons given above, I conclude that the appeal should not succeed. I shall vary the period for compliance and uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

E Griffin INSPECTOR