



Appeal Decision

Site visit made on 10 December 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2025

Appeal Ref: APP/C3430/W/24/3346861

The Cottage, Hilton Lane, Hilton, Staffordshire WV10 7HU

- 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 Stephen Doran against the decision of South Staffordshire Council.
 - The application Ref is 24/00140/COU.
 - The development proposed is change of use of land to residential garden, including the retention of mobile home, kennel building and hardstanding for ancillary residential purposes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I have considered the changes and as they are not material to the proposal, further comments were not sought by the parties. I have, however, determined the appeal having regard to the revised Framework.
3. The appeal scheme had been undertaken at the time of my visit. For clarity, I have dealt with the appeal based on the submitted plans.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt;
 - the effect of the proposal on the character and appearance of the area; and,
 - if the proposal is inappropriate development, whether the 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 development.

Reasons

Inappropriateness

5. The appeal site is situated in the Green Belt. The Government attaches great importance to Green Belts. 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.

6. The Framework establishes that development in the Green Belt is inappropriate except in certain circumstances, as defined in the exceptions at Paragraph's 154 and 155. This includes material changes in the use of land, provided the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Policy GB1 f) of the South Staffordshire Core Strategy (Core Strategy), although differing from national policy in referencing that there should not be no material effect on the openness of the Green Belt or the fulfilment of its purposes, is broadly consistent with the Framework.
7. The appellant has referenced the use of part of the appeal site as a side garden and that it was sold by the previous owners as such, with its size and shape limiting its use for the keeping of a horse. Nevertheless, the proposed description of development includes for a change of use of land to residential garden, and although some evidence has been provided on its lawfulness, this does not conclusively demonstrate its use for over 10 years as a domestic garden.
8. The change of use that forms part of the appeal proposal has introduced domestic paraphernalia and activity into a hitherto open area of land, and despite the context of being in the vicinity of nearby houses, the proposal is harmful to the spatial aspect of openness. The site is enclosed by mature hedgerows and other planting which provide some screening of the appeal site. However, the extended residential curtilage, including the mobile home and the kennel building on it are visible from public vantage points and as such, reduce the openness of the Green Belt in visual terms. By spreading development into an open area of land forming part of the countryside, the development also contravenes one of the purposes of the Green Belt, namely, to assist in safeguarding the countryside from encroachment.
9. The appellant has acknowledged¹ that the proposal which includes the brick wing walls and the entrance gates is inappropriate development and has not stated that any of the exceptions set out at Paragraph's 154 and 155 in the Framework apply. As such, and given my reasoning set out above, I conclude that the scheme is inappropriate development in the Green Belt. Paragraph 153 of the Framework states that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The development is contrary to the Framework in this regard. It also conflicts with Core Strategy Policy GB1 which seeks development within the Green Belt to be in line with the Framework.

Character and appearance

10. The appeal site is situated in a rural area that contains small groups of buildings surrounded by fields and open areas of land. These are bounded by hedges and trees which gives the area a verdant, spacious character that contributes positively to the wider countryside setting.
11. The use of the land has extended the domestic garden area of The Cottage and resulted in the introduction of urban characteristics into the landscape arising from domestic paraphernalia and a hardstanding area. It also contains a kennel building, which although of a design that is typical of many garden outbuildings, has introduced a building within the extended residential curtilage. The mobile home, although single storey and partially screened by the hedge, is a large

¹ Planning Statement (Philip Brown Associates Ltd, 12 February 2024)

structure, with a long linear form. This alongside the kennel building, has spread development to the east of this nearby group of buildings to the detriment of the rural, spacious character of the area.

12. The proposal also includes wing walls with pillars and gates across the vehicular entrance. Given their height and the limited length along the boundary, which would continue to be formed mainly of hedges, I do not consider that this aspect of the proposal would be visually harmful to the character and appearance of the area.
13. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the area. As such it would be contrary to Core Policy 4 and Policies EQ4 and EQ11 of the Core Strategy, which seek, amongst other matters, development that respects and enhances local character and distinctiveness, including the intrinsic rural character and local distinctiveness of the South Staffordshire landscape. It would also be contrary to the Design Guide Supplementary Planning Document and Paragraph 135 of the Framework, which seek development that is sympathetic to local character.

Other considerations

14. In support of the appeal development, the needs of a disabled person have been set out with the mobile home providing ancillary accommodation at ground floor level that would enable semi-independent living. The needs of another family member are also set out. Having regard to the health circumstances, the appeal development would be beneficial to the needs of the appellant's family. This is an important consideration, but it has not been demonstrated that the appeal scheme is the only means to address these health needs.
15. The appellant states there are few, if any options of finding accommodation locally and I note the reference to the limited new housing that is being built locally and the undersupply of specialist housing. I have not however been provided with any further details of alternative properties that have been considered and their unsuitability to meet the health needs set out. Consequently, I attach moderate weight to this matter.
16. My attention has been drawn to the fallback position of re-locating the mobile home to the side garden of The Cottage which is said would result in a very similar impact on the openness of the Green Belt and on the character and appearance of the area. Whilst the Council considers this would be speculative, if this relocation was undertaken, and there is a reasonable prospect of this occurring for the reasons set out above, it would be closer to the main dwelling and therefore less harmful than the appeal scheme when considering the openness and purposes of the Green Belt and the character and appearance of the area.
17. The relocation of the kennel building closer to the existing house has also been referenced. Whilst this could result in an increase in noise and disturbance to neighbouring occupiers, it would likely also have a similar impact on the occupants of The Cottage. It has also been set out that the kennel building could be built as a larger building, but given the size of the existing kennel building, which has not been said to be inadequate, it has not been explained why the replacement would be constructed in a larger size. Even if it was to be replaced, the siting closer to The Cottage would have a lesser impact on the visual openness of the Green Belt and on the character and appearance of the area.

18. The fallback positions advanced are therefore of very limited weight in this appeal and in any event, they would not negate the harm that I have identified in relation to the change of use element of the proposal.
19. A planning condition can be used to prevent additional buildings and extensions, but it is not clear what form of development is likely to take place beyond those that I have considered above. This matter would not overcome the harm that I have identified to the Green Belt or to the character and appearance of the area.
20. A planning appeal² on another site for caravans has been referenced which is said to share some similarities with this appeal case. I have limited details of the circumstances of that case but note from the appeal decision notice that it was for a gypsy and traveller proposal. The circumstances of that case are not therefore comparable to this proposal before me.
21. Apart from safeguarding the countryside from encroachment, the proposed development would not conflict with the other purposes of the Green Belt. The access would also have adequate visibility and there are no harmful effects arising on neighbouring occupiers living conditions. These are however neutral matters and not ones which weigh in favour of the proposal.

Conclusion

22. The proposed development would be inappropriate development, which the Framework clearly sets out is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt including harm to its openness. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, in this case to character and appearance is clearly outweighed by other considerations.
23. I have attached moderate weight in favour of the proposal for the health reasons set out. With this in mind, the substantial weight I have given to the Green Belt harm and other harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
24. Dismissing the appeal would interfere with the appellant's family's rights to peaceful enjoyment of their possessions, and to a private and family life and home, under Article 1 of the First Protocol and Article 8 as set out under the Human Rights Act 1998. However, those are qualified rights; interference with them in this instance would accord with the law and be in pursuance of a well-established and legitimate aim: the protection of the Green Belt.
25. It is therefore proportionate and necessary to refuse to grant planning permission and there will be no violation of the appellant's family's human rights. The protection of the public interest cannot be achieved by means that are less interfering with their rights.
26. I conclude therefore that the appeal should be dismissed.

F Rafiq INSPECTOR

² APP/C3430/W/21/3274008