



Appeal Decision

Site visit made on 7 July 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2020

Appeal Ref: APP/C3430/W/20/3244275

The Meadows, Middle Lane, Oaken, Wolverhampton WV8 2BE

- 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 & Mrs McAuliffe against the decision of South Staffordshire Council.
 - The application Ref 19/00562/FUL, dated 17 July 2019, was refused by notice dated 22 November 2019.
 - The development proposed is the demolition of existing dwelling and construction of replacement dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs McAuliffe against South Staffordshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - (i) whether the proposal is inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt; and
 - (iii) if the development is inappropriate, 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

Whether the proposal is inappropriate development in the Green Belt

4. Paragraph 133 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 145 and 146, sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
5. New buildings within the Green Belt are inappropriate unless, amongst other matters, they would constitute the replacement of a building, providing that the

new building is in the same use and not materially larger than the one it replaces¹. The proposal would clearly be the same use as the existing, so therefore the key consideration for this exemption is whether the proposed building is materially larger than the existing building.

6. The Framework does not define what would be classed as being materially larger, but the size of the building (either in terms of footprint, floorspace or volume) are clearly important factors.
7. That said, from the evidence before me, it is clear that the proposed replacement dwelling would be significantly larger than the existing dwelling. Whilst there is a discrepancy between the Appellants and the Councils figures, even if I adopt the Appellants lower floorspace figures it would amount to around a 100% increase in size. To that end, the proposal would not accord with the exemption outlined at paragraph 145d).
8. In addition to the above, paragraph 145g) of the Framework allows for the redevelopment of previously developed land (which is the case here) providing that the proposal would not have a greater impact on the openness of the Green Belt than the existing development.
9. Therefore, in order to determine whether it would be inappropriate development it is necessary to consider whether or not the proposal would have a greater impact on openness than the existing development.

Effect on the openness of the Green Belt

10. One of the five purposes of a Green Belt, outlined at paragraph 134 of the Framework, is that it should assist in safeguarding the countryside from encroachment.
11. The appeal site is a spacious plot and currently contains a two-storey dwelling. When compared to the existing dwelling, the appeal proposal would result in a substantially larger building on the site. The increase in size and bulk of the proposal would inevitably lead to the loss of openness despite the lowering of the ground level when compared to the existing dwelling. It is also clear that in assessing a developments impact on openness, this must be taken from the existing situation.
12. Given my conclusions above, the proposal would be inappropriate development in the Green Belt as it would not accord with any of the exemptions outlined at paragraphs 145 or 146 of the Framework. Furthermore, it would also lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment contrary to the Framework, and Policy GB1 of the South Staffordshire Core Strategy Development Plan Document (2012) (CS).

Other considerations

13. The Appellants case is largely predicated that the existence of various proposals² to extend the existing dwelling represents a fall-back position which would amount to the very special circumstances necessary to justify the granting of planning permission.

¹ Paragraph 145d) of the Framework

² Permissions 20/000088/LHSHLD, 19/00328/FUL and 19/00275/LUP

14. Utilising the Appellants figures, the appeal proposal would result in a gross internal floor area of 399 square metres. The layout of the dwelling includes a kitchen, utility, dining, family, living and snug reception areas, together with circulation space and an attached garage and boiler room. At first floor, there would be 4 bedrooms, including en-suites for all bedrooms and a dressing room for the master bedroom.
15. In contrast, the fallback position would result in a total floorspace of around 493 square metres when added to the internal floorspace of the existing dwelling. There could also be a further 56 square metres of floor area for the detached triple garage. From the Appellants plans, the fallback position would include a kitchen/living area, utility, dining, study and two further family/living room areas with circulation space and an attached garage and bedroom (including an en-suite). At first floor, there would be 4 bedrooms (including one en-suite) a bathroom, toilet and a small study. There would also be two further bedrooms in the roofspace including a dormer window.
16. It is clear to me that the fallback position is a material consideration which I must take into account. Additionally, the Appellant has drawn my attention to two court cases³ which are relevant to my consideration. Whilst it is clear that the fallback position weighs in favour of the proposal, the amount of weight I can attach to it is clearly a matter of planning judgement.
17. In considering the appeal proposal against the fallback position, the totality of the fallback position provides a much greater level of accommodation, including an additional three bedrooms, additional garage space and a greater amount of ground floor living accommodation space when compared to the appeal proposal.
18. Taking this into account, whilst there is clearly a possibility that all of this fallback position could be implemented, I am of the opinion that this is unlikely given the much greater level of accommodation in the fallback position. To my mind, this therefore limits the amount of weight I can attach to it.
19. Even if, for example, not all of the fallback elements were implemented, the appeal proposal would result in a much greater level of first floor accommodation than what is currently on site, or what could be built. In my view, this is a significant factor in this case as the greater level of first floor accommodation would have a greater impact on openness than the alternative much lower building form from the fallback position.
20. I am also conscious that the appeal proposal itself would be taller than the existing dwelling. As I understand it, the existing dwelling is around 8.2 metres in height and the appeal proposal would be around 9 metres. I have noted that the appeal development would be set at a lower land level than the existing dwelling and its main ridge line would be marginally lower than the height of the existing dwelling.
21. However, one important factor in considering openness is the absence of built form. In this case, the building would be taller than the existing built form albeit that the overall impact, as a result of the lowered land/floor levels, would be somewhat reduced. In terms of its height, whilst the degree of harm is not

³ Mansell v Tonbridge And Malling BC [2017] EWCA Civ 1314 and Zurich Assurance v North Lincolnshire Council [2012] EWHC 3708 (admin)

significant, the development does nevertheless have some harm to the openness of the Green Belt even when compared to the fallback position.

22. In coming to the above views, I acknowledge that the totality of the fallback position proposals would result in a greater size of buildings than the appeal proposal. However, a large part of the extensions would be single storey and would not have the same visual effect than the much bulkier two storey appeal development.
23. The Appellant has also stated that there are numerous examples of other developments in South Staffordshire and has included details of a case at The Sheepwalks. From the information before me, the appeal proposal is different to that at the Sheepwalks as that scheme involved the removal of a commercial element and existing built form. Therefore, I can give this case only very limited weight. Moreover, each proposal must be considered on its individual merits.

Green Belt balance

24. I have concluded that the proposal would be inappropriate development and would have an adverse effect on openness. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Therefore, substantial weight should be given to the harm to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
25. Taking into account the other considerations, whilst it could be said that there are some benefits of the appeal development over the fallback developments (such as a reduced footprint of building), there are also some negative aspects. However, the fallback position proposals do not provide a compelling reason why planning permission should be granted.
26. In considering the substantial weight given to the Green Belt, in my view the benefits which arise from the appeal scheme (against the totality of the fallback proposals) do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal would conflict with the Framework and Policy GB1 of the CS.

Conclusion

27. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR