

Appeal Decision

Site visit made on 3 October 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/C3430/W/23/3316395

The Croft, School Road, Trysull, Staffordshire WV5 7HR

- 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 R Sanders on behalf of Mr H Sanders against the decision of South Staffordshire District Council.
 - The application Ref 22/00275/FUL, dated 16 March 2022, was refused by notice dated 24 August 2022.
 - The development proposed is described as 'caretaker's cottage within the grounds of the Croft, Trysull, application made by Mr Richard Sanders on behalf of his son Mr Howard Sanders who resides at Croft Cottage, Trysull'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development is inappropriate in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposed development on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the Trysull and Seisdon Conservation Area and the setting of The Croft, a locally listed building; and
 - Whether the 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 development.

Reasons

Inappropriate development

3. The appeal site is located within the Green Belt. The Framework establishes that new buildings in the Green Belt are inappropriate other than for specified exceptions that are set out in paragraph 149. One such exception, 149(e), is limited infilling in villages.
 4. Policy GB1 of the South Staffordshire Core Strategy (2012) (CS) broadly conforms to the general thrust of the Framework. Although it predates the Framework, I do not consider it to be out of date. It states that planning permission will normally be permitted within the Green Belt where the proposal is for certain purposes, including limited infilling.
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5. The term 'limited infilling' is not defined in the Framework, it is therefore a matter of judgement for the decision maker in the context of any relevant development plan policy or guidance. In that regard, CS Policy GB1 clarifies it 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. The Green Belt and Open Countryside Supplementary Planning Document (2014) (SPD) provides further guidance on what constitutes acceptable limited infilling.
6. The site is to the rear of properties fronting onto School Road and is therefore not within a ribbon of development. Furthermore, whilst there are buildings on two sides of the appeal site, that front onto School Road and Seisdon Road, the land is open on the other two sides. Consequently, the proposed dwelling would also not be within a tight cluster of buildings. Accordingly, whilst limited in scale, the proposal is at odds with the definition of limited infilling as set out in CS Policy GB1 and the SPD. It would not, therefore, constitute 'limited infilling'.
7. For these reasons, the proposed development would be inappropriate in the Green Belt which is, by definition, harmful. It would therefore conflict with CS Policy GB1, the SPD, as well as the Framework.

Openness

8. The Framework, at paragraph 137, sets out 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. Openness has both spatial and visual aspects.
9. The proposed development would introduce a building to an area of land which is currently free from structures. It would be screened from views from School Road and Seisdon Road and limited, if any, glimpses of it would be possible from the nearby public footpath. The proposed dwelling has been reduced in scale during the application process and would be low in profile. Nonetheless, it would be viewed from the properties adjoining the site. Therefore, whilst localised in respect of the resultant harm identified, in spatial and visual terms the proposal would result in a greater impact on the openness of the Green Belt than the existing situation on site.
10. I have had regard to the *Euro Garages Ltd v SSCLG & Anor* [2018] EWHC 1753 (Admin) case that the appellant has drawn to my attention. Whilst I acknowledge that where development alters the openness of the Green Belt it does not always follow that the effects will be harmful. Nevertheless, the circumstance of the case before me is that the proposal would harmfully erode the openness of the Green Belt.
11. Furthermore, the proposed development would conflict with the Framework as it would fail to assist in safeguarding the countryside from encroachment and would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.
12. I therefore conclude that the proposed development would result in a loss of openness of the Green Belt in this locality and would conflict with CS Policy

GB1, the SPD as well as the Framework which require development to not impact on openness.

Character and appearance

13. As the appeal site lies within the Trysull and Seisdon Conservation Area (CA) I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area as set out at Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). It is also within the grounds of the Croft, a Locally Listed Building (LLB).
14. The CA partly derives its significance from its buildings which have a diversity of architectural styles, from the minor impact that new housing has had on the historic core of the village, and from the location of the village around the Smestow Brook and within an enclosed landscaped setting.
15. The LLB is a substantial, three storey building constructed in red brick that lies within a section of School Road which is described in the Trysull and Seisdon Conservation Area Management Plan (CAMP) as an immensely important element within the Conservation Area. The significance of the LLB is derived from its architectural and historic character and the substantial contribution it makes to the overall composition of School Road. The appeal site, by forming part of the grounds, contributes to the significance of the LLB.
16. The historic ordnance survey map provided within the submitted Heritage Impact Assessment shows the LLB, and the building that is sited directly to its rear, had extensive grounds. A dwelling, at an advanced stage of construction, has been introduced into the grounds thereby affecting the context of the LLB. The proposed development, albeit of modest scale, would comprise a further intrusion into the LLB's setting, that would, together with the dwelling under construction, diminish the appreciation of the former grounds. Therefore, whilst the grounds to the LLB would still be large, the additional impact of the proposed building on the setting of the LLB would lead to a loss of significance to this non-designated heritage asset, amounting to less than substantial harm.
17. Furthermore, even though there would be limited, if any, views of the proposed dwelling from public vantage points, the backland position of the proposed dwelling would not reflect that historically buildings in Trysull and Seisdon have been sited towards the front of plots on through routes. The proposal therefore would not conform to traditional building lines and street patterns and, thus, would not accord with an identified action of the CAMP. For this reason, the proposed development would also fail to preserve or enhance the character or appearance of the CA as a whole and would lead to less than substantial harm to the significance of a designated heritage asset.
18. Paragraph 202 of the Framework states that where a development would lead to less than substantial harm to the significance of a heritage asset, that harm should be weighed against the public benefits of the proposal. In addition, paragraph 203 says that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

19. The proposed dwelling is for occupation by a person who would care for the appellant, Mr H Sanders, who will live in Croft Cottage when work has been completed to make that property more suitable for a wheelchair user. The provision of such care would give the appellant a degree of independence. However, whilst the providing of care in the home environment is in the interests of a civilised society, the benefit would be more private, than public, in nature. As such any public benefits arising from the appeal proposal would be minimal and insufficient to outweigh the great weight given to the conservation of the heritage asset. In addition, I find that there are no clear benefits that would outweigh the harm that I have identified to the significance of the LLB.
20. For the above reasons, the proposal would harm the character and appearance of the Trysull and Seisdon Conservation Area and the setting of The Croft, a locally listed building. It would therefore be contrary to CS Policy EQ3 and EQ4 which seek to conserve, preserve and protect heritage assets and protect and enhance the character and appearance of the landscape. In addition, it would not satisfy the requirements of Section 72(1) of the Act and Section 16 of the Framework which are also concerned with heritage assets.

Other Considerations

21. The appellant has referred to the ability to extend the Croft, by an equivalent floor area to that of the proposed dwelling, without the need for planning permission. However, even if I were to consider that such an extension would be less harmful to the character and appearance of the CA and the LLB than the appeal proposal, there is nothing before me that suggests that there is a reasonable likelihood that such an extension would be constructed were I to dismiss the appeal. Consequently, this is a matter to which I attribute limited weight.
22. I consider that the design and appearance of the proposed dwelling to be appropriate in this location and that it would not have an unacceptable impact on the living conditions of neighbouring occupiers. However, the absence of harm is a neutral factor that does not weigh in favour of the proposal.
23. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
24. I have not been provided with any medical evidence as part of the appeal. However, I have no reason to doubt that the proposal would assist the appellant to live independently. I recognise that the proposed accommodation would be on available land within easy access to the appellant's home and that the provision of care by someone living within the area is less practicable. However, there is no substantive evidence before me to demonstrate that the proposed dwelling would be the only means of meeting the appellant's care needs.
25. As such, there is little specific evidence that refusal of planning permission would result in a failure to advance equality of opportunity or otherwise conflict with the aims of PSED. Therefore, whilst I have had regard to this matter as a benefit in favour of the proposal, the weight I attach to it is limited.

Other Matter

26. I have noted the concern raised by interested parties about the effect of the proposal upon trees. However, as I have found the proposal to be unacceptable for other reasons, set out above and below, it is unnecessary for me to explore this matter further.

Green belt balance

27. I have concluded that the appeal scheme would be inappropriate development and is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also found harm to the openness of the Green Belt, to the character and appearance of the CA and to the setting of the LLB. The Framework, at paragraph 148, states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
28. The other considerations I have identified are of limited to moderate weight in favour of the proposal. Consequently, these considerations, along with all other matters identified in the evidence, do not clearly outweigh the substantial weight to be given to the identified harm to the Green Belt, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development.

Conclusion

29. The development conflicts with the development plan when considered as a whole. There are no other considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
30. I hereby dismiss this appeal.

Elaine Moulton

INSPECTOR