Appeal Decision

Site visit made on 14 August 2009

by Martyn Single DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:

14 September 2009

Appeal Ref: APP/C3430/A/09/2104192
Fifth Ash, 181 & 181a Station Drive, Four Ashes, Wolverhampton, WV10 7BU

- 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 Timothy Gray against the decision of South Staffordshire Council.
- The application Ref 09/00109/FUL dated 13 February 2009 was refused by notice dated 9 April 2009.
- The development proposed is the demolition of an existing detached two-storey dwelling and alteration to and extension of existing single storey outbuilding to create a detached dwelling.

Application for Costs

1. An application for costs has been made by Mr Timothy Gray against South Staffordshire Council. This application is the subject of a separate decision.

Decision

2. I dismiss the appeal.

Main Issues

3. I consider the main issues in this appeal are:-

   - whether the proposal amounts to inappropriate development in the Green Belt;
   - the effect of the proposal on the openness of the Green Belt;
   - if it would be 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

Whether the proposal represents inappropriate development in the Green Belt for the purposes of Planning Policy Guidance Note 2 (PPG2) and development plan policy

4. Current Government policy is set out in PPG2 which advises that there is a

general presumption against inappropriate development in the Green Belt. Paragraph 3.4 indicates that new buildings inside a Green Belt are inappropriate unless they come within one of several categories. This proposal relates to the extension and conversion of an existing outbuilding to form a bungalow dwelling. This would replace an existing dwelling that was formerly an ancillary building but now benefits from a Certificate of Lawfulness of Existing Use granted by the Council in September 2008 as an independent self contained dwelling. The submissions on behalf of the appellant concede that the extension to the building would be inappropriate by definition but contend, on the other hand, that the re-use of the existing structure would meet all of the criteria set out in paragraph 3.8, each of which I consider later.

5. Under these circumstances I consider it necessary to examine whether the proposed development would be inappropriate having regard to both paragraphs 3.6 and 3.8 of PPG2, the former dealing with replacement dwellings and the latter indicating that the re-use of buildings is not inappropriate providing certain criteria are met.

6. In relation to paragraph 3.6 it advises that a replacement dwelling that is not materially larger than the dwelling it replaces need not be inappropriate. PPG2 also states that development plans should make clear the approach local planning authorities will take, including the circumstances (if any) under which replacement dwellings are acceptable. Policy GB1 of the South Staffordshire Local Plan repeats the provisions of PPG2 in respect of inappropriate development but does not expand on the approach of the Council on this particular issue. Although the Council's submissions include Supplementary Planning Guidance in respect of extensions to dwellings in the Green Belt it does not deal specifically with its approach to replacement dwellings.

7. I have considered the increase in the size of the proposed dwelling both by comparison with the existing summerhouse structure and building B. Compared with building B I am told that this has a floor area of 87 sq. m. with the extended building C having 111 sq. m. Based on these figures alone it could be contended that the proposal would meet the principle of paragraph 3.6 that it would not be materially larger but this is not the only factor in this unusual case. The appellant also relies in support on a comparison between the existing floor area of the summerhouse and this building as it is proposed to be extended.

8. The existing summerhouse is a rectangular pitched roof building measuring about 10 metres x 8 metres. It has two rooms along its east side, the remainder, approximating to half of the footprint of the building, being an open fronted sun terrace. The proposed alterations and extensions would involve the infilling of this open area to provide a kitchen and bedroom, with a further lounge/dining extension with a ridged roof on the west side of the building running parallel to the road. The appellant asserts that the overall floor area would increase by 39% but this does not take account of the enclosure of the sun terrace. Whilst this comes within the overall roof cover I do not consider that it should be counted as existing floor area as the term

is ordinarily used in dealing with dwellings. Adding this area also would make the percentage increase over four times greater.

9. Even if incorrect in taking this approach I consider the proposal would still fail to meet the criteria in paragraph 3.8. I believe that use of the building as a dwelling would necessitate significant alterations such as those proposed. In this instance the provision of the proposed extension with its roof to the same height as the existing ridge would have a materially greater impact than the present structure on the openness of the Green Belt. Contrary to the appellant's assertion this extension would be clearly visible from other than within the site itself. In respect of this first main issue I do not take into account the appellant's submission that the demolition of the existing dwelling will more than offset this impact on openness, and have regard only to the physical alteration of the summerhouse. I return to this later in respect of the third main issue.

10. Further to this, proviso (c) requires a building to be capable of conversion without major reconstruction. Whilst I acknowledge that the blockwork building appears to be of relatively sturdy construction I am not satisfied that the structural report submitted with the planning application provides me with sufficient information to come to a definitive view on the extent of alterations and construction necessary to meet the standards required of a dwelling. Whilst it refers to further work required to advise on the appropriate measures necessary to improve its thermal requirements it is non committal on whether the building comprises two skins of blockwork with a cavity, a matter that in my judgement could have been resolved more definitively. This leaves some doubt on the extent of the necessary works. Apart from this enclosing the open terrace would be a significant alteration, using the expression used in Local Plan Policy C1, and even with this the dwelling would lack a lounge and dining area, a basic amenity in a two bedroom dwelling, necessitating the erection of a significant extension with a substantial roof. These add up, in my view, to comprise major reconstruction outside the exceptions in paragraph 3.8

11. In determining whether the development would amount to inappropriate development one needs to consider the whole of the proposal and I do not accept the appellant's approach that re-use of the building would not be inappropriate yet the extension to it would be. I consider that the proposal should be seen as a whole and having regard to all of the above factors I conclude that the proposal would amount to inappropriate development, by definition, and harmful to the Green Belt

Impact on the openness of the Green Belt

12. Paragraph 1.4 of PPG2 states that the openness of the Green Belt is their most important attribute. From my inspection of the site from the road and the car park opposite I believe that the extension to building B would be far more evident than is claimed in submissions on behalf of the appellant. The gable of the summerhouse is clearly visible above the existing boundary fence. The new extension whilst measuring 4.3 metres at ground level would also involve the construction of a new gable roof slightly lower than

the existing ridge but extending some 7.9 metres parallel to Station Drive.

13. I acknowledge that the Council has not raised this as an issue in its refusal of planning permission, and only touches on the matter in the officer's report. It does not express it as a matter of openness as such, in dealing with the differences between the nature of buildings B and C. Nevertheless, it is a matter, based on my experience, on which I have a clear view. I consider that the visual impact of the extension in the Green Belt should not be under-estimated and, in my judgement, it would have a substantial and harmful impact on the openness of the Green Belt.

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

14. PPG2 states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be attached to this harm when considering an appeal. It is for an appellant to show why planning permission should be granted. Very special circumstances to justify such development will not exist unless the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations. I now deal with the other considerations that have been put forward in support of this appeal. Some of these, such as vehicular access points, thermal efficiency and improved occupier's amenity have less substance than others and I have concentrated on the latter and deal with these in the order that they appear in paragraph 3.6 of the grounds of appeal.

15. It is postulated that the proposed extension to the summerhouse could be erected now as permitted development ancillary to the enjoyment of one or both of the existing dwellings. However, the appeal before me is under Section 78 of the Act against a refusal of planning permission. It is outside my remit in the context of such an appeal to determine whether planning permission would be required for such a proposal. The proper course of action would be for the appellant to submit an application to the Council in the first instance on an application for a Certificate of Lawfulness of Proposed Use or Development.

16. In what appears to me to be the main thrust of the appellant's submissions it is contended that the extension to building C, and the harm that I have found to the openness as a consequence of that adaptation and extension, would be more than offset by the benefits to be derived by the demolition of building B. However, this is a view to which I do not subscribe. The Council refer to building B being closely related to the original dwelling, whereas the proposed dwelling would be physically separate.

17. Building B currently appears as part of a small and compact group of original buildings on the site. From Station Drive it is partly obscured by vegetation but generally is seen against the backcloth of the original dwelling. I find that its appearance blends satisfactorily in the rural scene and Green Belt by reason of its close relationship with building A. Whilst its removal would increase openness to a degree I do not accept that a building

of significantly different design, remote from the parent group, would compensate in terms of gain to the openness of the Green Belt. The new extended building would not respect the character of the area and the site and would draw attention as a separate new dwelling. The mass and alignment of the new roof would obscure present views of some of the woodland to the rear of the site and reduce openness in a generally more open part of the site.

18. Finally I acknowledge that the proposal would provide an opportunity to remove permitted development rights under Class E but no indication is given of what buildings may be contemplated within the existing curtilage when there is already a very substantial steel building D, and the ancillary building the subject of this appeal, that acts as a summerhouse and games room. I have insufficient information to enable me to afford significant weight to this as a measure to prevent a potential threat to openness.

19. Even when taken together, these matters do not clearly outweigh the harm by reason of inappropriateness or the additional harm to the openness of the Green Belt and the character and appearance of the rural area arising from the proposal. The very special circumstances required to justify the development do not, in my judgement, exist.

20. In reaching my decision I have also had regard to submissions made in respect of PPS7 in respect of housing and the re-use of buildings in the countryside. These do not outweigh the conclusion I have reached having regard to PPG2 and the strict planning controls it includes and find that the proposal would be unacceptable.

Martyn Single

INSPECTOR

Costs Decision

Site visit made on 14 August 2009

by Martyn Single DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date: 14 September 2009

Costs application in relation to Appeal Ref: APP/C3430/A/09/2104192
Fifth Ash, 181 & 181a Station Drive, Four Ashes, Wolverhampton, WV10 7BU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr Timothy Gray for a full award of costs against South Staffordshire Council.
- The appeal was made against the refusal of planning permission for the demolition of an existing detached two-storey dwelling and alteration to and extension of existing single storey outbuilding to create a detached dwelling.

Summary of Decision: The application is dismissed.

Reasons

1. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has acted unreasonably and thereby caused another party to incur or waste expense unnecessarily.

2. The appellant submits that the Council has failed to provide evidence to substantiate the refusal of planning permission acting unreasonably in the terms of paragraph B16 of the Circular. The appellant refers to the absence of a Written Statement from the Council relying initially on the Officer's Report. Circular 05/00 *Planning Appeals* makes it clear that the local planning authority may rely on the questionnaire and supporting documents as its full case, which includes that report.

3. Whilst the terminology of that report and the first refusal reason may not accord strictly with the phrases used in PPG2 by referring to appropriate development, and by not specifically referring to the impact of the proposal on openness, it is clear that the Council came to the view that the proposal would amount to inappropriate development. It is evident from the detailed grounds of appeal that the appellant has approached it having regard to all of the relevant paragraphs in PPG2. Whilst I have not come to the same conclusion the submissions relating to the suggested trade-off and benefits to openness clearly address this subject. Even if I find that the Council had acted unreasonably in this regard I consider that the appellant has not shown that he has been put to other unnecessary expense in promulgating his case.

4. Likewise, although the Council did not itemise all of the submissions put forward as amounting to very special circumstances I am satisfied that it dealt with these in a reasonable manner finding them to carry insufficient weight.

5. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009 has not taken place.

Martyn Single

INSPECTOR