



Appeal Decision

Site visit made on 26 January 2010

by **Karen L Ridge** LLB (Hons) MTPL

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

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Decision date:
5 February 2010

Appeal Ref: APP/C3430/A/09/2116233

31 Love Lane, Great Wyrley, Staffordshire WS6 6NN

- 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 P Goodyear against the decision of South Staffordshire Council.
- The application Ref. 09/00187/FUL, dated 1 March 2009, was refused by notice dated 7 May 2009.
- The development proposed is a single storey detached annexe inside the existing rear garden boundary, located at maximum distance from existing dwelling.

Decision

1. I dismiss the appeal.

Preliminary matters

2. There is a dispute between the parties as to whether or not part of the appeal site falls within the Green Belt. The plans accompanying the application are at fairly large scales and there appear to be some inconsistencies between them in terms of both the location of the rear boundary to no. 31 and the siting of the new building. The Council has produced a plan which depicts the Green Belt boundary running along the rear of the properties on this part of Love Lane. When this plan is compared to the application plans it appears that a small part of the new building would be located on Green Belt land. In the circumstances I consider that the proposal must be assessed having regard to national and development plan policies relating to the Green Belt, as well as all other material considerations.
3. The Council accepts that a building of the size proposed could be constructed as permitted development. However, it objects to the use of the building as an annexed dwelling.
4. The building proposed is described as a detached annexe which would share the existing amenity space with no. 31. However, the layout plan depicts a kitchen, bathroom, bedroom and lounge/diner in the building which means that it would be capable of use as a completely separate dwelling. A parcel of agricultural land to the rear of no. 31 has been fenced off and appears to be part of the domestic curtilage given the lack of internal divisions to the rear of the drive. If the new dwelling were to be occupied independently of the main house, the driveway would have to be shared with the existing property but this is true of many adjoining dwellings which are occupied separately. In addition I consider that the plot size is such that it would lend itself to division to enable the building to be occupied as a separate dwelling.

5. I note the appellant's stated of intention of using the building for ill parents. However, taking all of the above matters into account, I conclude that the building is capable of being used as an independent dwelling and I therefore conclude that it does not fall within the category of a building whose purpose is incidental to the enjoyment of the dwelling house. As such, it is not an ancillary building or structure and I consider that it should be assessed as a new building within the Green Belt.

Main issues

6. Having regard to the above, I consider the main issues to be;
- (i) is the development inappropriate in the Green Belt;
 - (ii) the effect of the development upon the visual amenities and openness and of the Green Belt;
 - (iii) whether or not the new building would provide satisfactory living conditions for its intended occupants having regard to outlook;
 - (iv) the effect of the building on the living conditions of adjoining neighbours; and
 - (v) 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

Is the development inappropriate development in the Green Belt

7. I have set out above my reasons for considering that the building should be considered to be a new building rather than an ancillary building or structure within the curtilage of a dwellinghouse. Planning policy guidance 2-Green Belts (PPG 2) sets out government policy in relation to Green Belts and provides that the construction of new buildings inside a Green Belt is inappropriate unless it is for one of the purposes set out in paragraph 3.4. This advice is reflected in saved policy GB1 of the South Staffordshire Local Plan. The proposal does not fall within any of the listed purposes and I therefore conclude that it constitutes inappropriate development in the Green Belt.

8. Paragraph 3.2 of PPG 2 states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be attached to this harm when considering any proposal concerning such development. PPG 2 further sets out a general presumption against inappropriate development in the Green Belt and provides that very special circumstances will be required to justify such development. Very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The effect of the building on the openness of the Green Belt and on its visual amenity

9. Whilst only a small proportion of the building would sit on Green Belt land, it would result in built development where currently there is none and as such it would lead to a loss of openness. Paragraph 1.4 of PPG 2 confirms that

openness is the most important attribute of the Green Belt and I therefore attach some additional weight to the harm by way of loss of openness.

10. The building would be enclosed by internal fencing which runs along the drive and along the rear garden boundary and a second set of fencing annexing the agricultural land. Views of the new building would be largely screened by this fencing and by the vegetation beyond. For this reason there would only be a limited effect on the visual amenity of the Green Belt and I attach only limited weight to this harm.

Whether or not the new building would provide satisfactory living conditions for its intended occupiers

11. The building would be sited at the end of the rear garden to no. 31 with its side elevation facing the rear elevation of the existing house. There would be no windows in the side elevations of the building and three windows in its rear elevation which would face onto the side boundary with no. 29 at a distance of some 2 metres away. This part of the common boundary is partly delineated by the side wall of a brick outbuilding which rises to around 2.5m, with a timber element in front and fence panels along the rest of the boundary. The siting of the rear elevation, so close to this boundary, would result in a very poor outlook from these windows. The views out would be of blank brick wall/timber fence and would be very oppressive and the levels of daylight into the rooms served by these windows would be significantly reduced.
12. An internal fence has been erected along the driveway which steps in towards the rear of the garden. The front windows would look out onto this fence at very close quarters and again the outlook would be oppressive. I further consider that there would be a material reduction in the levels of daylight in the rooms served by the windows to the front of the dwelling, to the detriment of living conditions. The space around the building would be contrary to the standards set out in Appendix 1 of the South Staffordshire Local Plan (LP). For the reasons set out I conclude that the building would not provide satisfactory living conditions for its intended occupants, contrary to saved LP policy BE26.

The effect of the building on the living conditions of adjoining neighbours

13. The new building would face onto the brick and timber outbuilding of no. 29, located along the common boundary. It would be low level and given the nature of boundary treatments there would be no overlooking of the two properties on either side of the appeal site. Whilst a new unit of residential occupation could intensify the use of the appeal site I do not consider that the any additional noise and disturbance would be significantly greater than that which exists at present. I conclude that the proposal would not be harmful to the residential amenities of adjoining properties and in this regard it would satisfy the requirements of saved policies BE26 and H19 of the LP.

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. In support of his application the appellant contends that the annex is needed to look after ill parents and that a number of other properties have second homes within their back gardens. No further details are supplied. Even if a condition were applied requiring the building to be used ancillary to the main dwelling,

this would not overcome the objections in terms of the quality of the proposed living accommodation. The existing house is a large dormer bungalow which has already been extended to provide generous living accommodation. There is no evidence to suggest that other options in terms of accommodating elderly or ill parents have been explored. Whilst I have sympathy with the appellant's desire to look after an ill parent, personal circumstances rarely justify allowing harmful development which will remain long after the personal circumstances have ceased to be relevant. I therefore attach only limited weight to the personal circumstances of the appellant.

15. In this case I have concluded that there would be harm to the Green Belt by way of inappropriateness, some harm to openness and limited harm to visual amenity. In addition the building would provide unsatisfactory living accommodation. All of these factors weigh against the proposal. On the other side of the balancing exercise are the personal circumstances of the appellant to which I have attached only limited weight. In these circumstances I conclude that the harm which I have identified would not be outweighed by factors in favour of the development. Therefore very special circumstances do not exist and the appeal must be dismissed.

Karen L Ridge

INSPECTOR