The Planning Inspectorate

Appeal Decision

Site visit made on 3 July 2015

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 22 July 2015

Appeal Ref: APP/R4408/W/15/3003382
Woodland Villa, Work Bank Lane, Thurlstone, Sheffield S36 9RR

- 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 Mrs Dorothy Utting against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2014/0638, dated 13 June 2014, was refused by notice dated 21 August 2014.
- The development proposed is incorporation of owned adjacent land into curtilage of property; new drystone boundary wall; alterations to vehicular access; new driveway and reconstruction of new boundary wall adjacent to highway.

Decision

1. The appeal is dismissed.

Procedural matters and main issues

2. The purpose of the appeal proposal is to provide space within the land surrounding the dwelling to enable vehicles to enter, turn and leave again in forward gear. As is clear from the summary details above, the proposal comprises a change in the use of land to provide the space to achieve this primary purpose and a series of associated operational developments. Although the Council's decision notice states that the development would conflict with policy CSP 29 of the adopted Core Strategy (CS), the officer report says that the operational development and the proposal itself would be acceptable in terms of visual amenity and in compliance with policy CSP 29. The Council's appeal statement does not refer to that policy or any conflict with it. Since, in essence, the operational development would simply replicate the type of stone boundary wall that is there now and improve the surface of the driveway, I see no reason to disagree with that view.

3. CS policy CSP 34 which is also cited in the single reason for refusal simply defines the boundary of the Green Belt, confirming that the appeal site is within it. It does not address the types of development that may or may not be permitted in the Green Belt. I shall therefore determine this appeal in accordance with the National Planning Policy Framework (the Framework) which is also cited.

4. Framework Paragraph 89 lists a number of exceptions to the general principle that the construction of new buildings is inappropriate development in Green Belt. Framework paragraph 90 lists five forms of other development that are

also not inappropriate development in Green Belt and the court [1]has confirmed that this is a closed list. The appeal development is not among the exceptions in Framework paragraph 89 nor is it included within the list in Framework paragraph 90. It therefore amounts to inappropriate development in Green Belt. As I understand it, the appellant does not challenge the Council's assertion in this regard in any event.

5. Framework paragraph 87 reaffirms longstanding national planning policy that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Framework paragraph 88 confirms that local planning authorities, and by extension the Secretary of State on appeal, should ensure that substantial weight is given to any harm to the Green Belt. The 'very special circumstances' referenced above 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.

6. In the light of all this the main issues for my determination of this appeal are:
   (a) The effect of the development proposed on the openness of the Green Belt; and
   (b) Whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations to amount to the very special circumstances required to justify the proposal.

Reasons

The effect of the development proposed on the openness of the Green Belt

7. Although the essential characteristics of Green Belts are their openness and their permanence[2], 'openness' is not defined in statute or Guidance. Generally, the courts have held that it means an absence of development. While the visual impact of that development may go to the Green Belt balance, it does not influence the principle of the openness of the Green Belt being affected by development.

8. In this case it is proposed to extend the residential land within which the dwelling sits into the surrounding Green Belt. At present the appeal land is a marginal area of agricultural land that does not appear to be so used and is now in the ownership of the appellant. The appeal proposal would see it laid in part to hard surfacing to provide a vehicle manoeuvring area and planted with shrubbery and wild flowers.

9. In the light of the definition of openness given above, as a matter of fact there would be some reduction in openness and therefore an effect on it arising from the appeal proposal. However, in relation to the extent of the Green Belt as a whole the reduction in openness would be negligible as would the resultant harm to the openness of the Green Belt.

[1] *Fordent Holdings Ltd v Secretary of State for Communities and Local Government and Cheshire West and Chester City Council* [2013] EWHC 2844 (Admin)
[2] Framework paragraph 79

Whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations to amount to the very special circumstances required to justify the proposal

Other considerations

10. The appellant has put forward a number of other considerations which I shall consider in turn.

11. The first is that the current access arrangements present a danger to users of the highway given the narrowness of the Lane, the limited width of the vehicular access and the consequent difficulty in turning into and out of the appeal site.

12. Work Bank Lane is a no-through road serving a limited number of properties. Beyond the appeal property there appeared to be only one house. Further along there was what may be an agricultural building with some stables and some other development a little further distant. Some of this development appeared to be under construction and I have no clear evidence as to the planning circumstances or the traffic generation involved. However, a previous planning application (ref: 2013/1358 granted planning permission in January 2014) for alterations to the vehicular access and formation of a new driveway within the appeal site but without the provision of any turning facility did not attract any objections from the Highway Authority on highway safety grounds.

13. My site inspection confirmed that the Lane is indeed narrow and the existing access is of limited width. However, when I arrived an estate car was on the driveway having entered in forward gear. Furthermore, as I was leaving the area having walked unaccompanied further down the Lane, I watched the same vehicle reversing out of the drive and moving away. I believe the vehicle belonged to and was being driven by the appellant's son. It is likely therefore that he would be very practised at this manoeuvre. While it took a couple of movements forward and back, it did not appear too difficult to manoeuvre quite a long vehicle into and out of the vehicular access.

14. While doing so any other traffic on the Lane would have to wait. However, in my view, the narrow width of the Lane coupled with the position of the appeal property on a slight bend would mean that anyone familiar with the highway (which in my judgement would be the vast majority of those using it) would be travelling at a low speed. I see no reason to disagree with the Highway Authority that the current arrangement does not give rise to an unacceptable highway safety issue and therefore give very little weight to this first other consideration.

15. The second is the personal circumstances of the appellant and is related to the first. The appellant is in her early 90s and requires the support of relatives, friends and the various services to remain in her home. Having come to the conclusion that those familiar with the access would become proficient at manoeuvring a vehicle into and out of it I consider that the number of occasions when the appellant would, as contended, have to walk the 200 metres or so to the end of the Lane would be limited to those when someone unfamiliar with the property was assisting her. I have no evidence as to the number of such occasions but they are not likely to include the visits of the family and friends referred to in the evidence as providing support. I accept that the staff providing care may vary and some may find it more difficult than

others to manoeuvre through the access and onto the drive. However, that care is more likely to be home-based than providing transport.

16. As part of this consideration the appellant also refers to other larger vehicles that may need to attend such as grocery delivery vehicles, medical supply couriers, ambulances and postal delivery vans and the fact that these have to block the Lane in the absence of any off-road turning area.

17. First, there is no evidence as to the frequency with which such vehicles visit although it is likely to vary considerably. Second, the length of time any of them would block the Lane is also likely to vary from a few minutes in the case of a delivery vehicle (which might be quite frequent) to a lengthy period in the case of an ambulance (which is likely to be very infrequent). Third, although I accept that these entrances are unlikely to be part of the public highway, I saw at least three a relatively short distance further down the Lane where a larger vehicle would be able to turn with relative ease. Finally, and perhaps most importantly, the submitted drawing shows an indicative swept path only for what the Design and Access Statement describes as a 'typical vehicle' rather than, say, an ambulance. There is therefore no evidence that all of the vehicles referred to would, in fact, be able to utilise the turning head proposed. Moreover, it appears to show that a turning manoeuvre could only be completed in the absence of any other vehicle within the property. Accordingly I give very little weight to this other consideration.

18. Third, the appellant suggests that the visual appearance of this small area of Green Belt land would be improved by the development. Framework paragraph 81 does encourage local planning authorities to plan positively to enhance the beneficial use of the Green Belt (once defined) by, among other things, retaining and enhancing visual amenity. However, there is no suggestion that this should be to the detriment of the fundamental characteristics of Green Belt (openness and permanence) or the five purposes served by Green Belt designation or achieved through development at all. The appeal proposal would change the character of the appeal land from an open to a residential character and would be contrary therefore to the aim of national Green Belt planning policy. I therefore give minimal weight to this other consideration.

19. Finally, the appellant draws attention to what are claimed to be inconsistent approaches by the Council to similar types of development in the local area and to criticisms of the way the application was determined. In respect of the first, circumstances will vary in each case and I do not have the full details of those to which the appellant refers. Regarding the second, this is not a matter that I can take into account and there are other means by which the appellant can pursue any issue of this nature with the Council. I can therefore attribute minimal and no weight respectively to these points.

Other matters

20. A number of representations have been received by the Planning Inspectorate including one on behalf of the local Member of Parliament all of which are supportive of the appeal proposal. However, all of the matters raised have been addressed elsewhere in this decision.

Conclusion on this issue

21. As a matter of national planning policy substantial weight must be attributed to the harm by reason of inappropriateness. To this must be added the harm to the openness of the Green Belt although, in this case for the reasons set out, that harm and thus the additional weight is negligible. The totality of the weight that I consider should be attributed to the other considerations put forward by the appellant does not, in this case, clearly outweigh the totality of the harm to the Green Belt that I have identified. The very special circumstances necessary to justify the development do not therefore exist.

Conclusion

22. For the reasons given above I conclude that the appeal proposal would conflict with national planning policy on development in Green Belt set out in the Framework. The appeal should therefore be dismissed.

Brian Cook

Inspector