
Appeal Decision

Site visit made on 17 October 2017

by Katie McDonald MSc MRTPI

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

Decision date: 15th November 2017.

Appeal Ref: APP/Z4718/W/17/3177245

21 Northfield Lane, Highburton, Huddersfield HD8 0QT

- 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 T Wetton against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/90828/E, dated 8 March 2017, was refused by notice dated 4 May 2017.
 - The development proposed is the demolition of existing outbuildings and erection of new annexe accommodation associated with 21 Northfield Lane, Highburton, Huddersfield HD8 0QT.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuildings and erection of new annexe accommodation associated with 21 Northfield Lane, Highburton, Huddersfield HD8 0QT at 21 Northfield Lane, Highburton, Huddersfield HD8 0QT in accordance with the terms of the application, Ref 2017/62/90828/E, dated 8 March 2017, subject to the conditions set out in the attached Schedule.

Main Issue

2. The site is within the Green Belt. Accordingly, the main issue is whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework).

Reasons

3. The Government attaches great importance to Green Belts. The Framework sets out the construction of new buildings should be regarded as inappropriate in Green Belt. Exceptions to this are set out in Paragraph 89 of the Framework, one being the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
4. The proposal seeks to demolish 2 existing outbuildings and replace them with annex accommodation. One of the buildings is a stone garage and the other is a timber structure, formerly used as stables. Whilst the proposed use is not exactly the same as existing, the buildings are in an ancillary domestic use overall and this would continue. The Council agree this policy test is met.
5. In part, the replacement building would replicate the dimensions of the stone garage. The length of the timber structure would be reduced and the concrete

plinth is proposed to be removed. However, the proposal would be wider and taller than the timber structure, and would infill the current gap between buildings.

6. Based on the appellant's unchallenged calculations the increase in footprint would be relatively marginal when comparing the total existing and proposed footprints. The increase in height of the timber shed would have more of an effect upon the overall size, yet it would not be significantly taller than the existing timber shed and would maintain the height of the stone garage. Furthermore, the infilling of the gap would consolidate the built form and would not result in a significant increase in bulk.
7. Therefore, whilst the scheme does increase in size, I find that it would not be materially larger than the buildings it replaces. Thus the proposal would not constitute inappropriate development within the Green Belt, and falls within the exceptions set out in Paragraph 89 of the Framework. Since there is no Green Belt harm, there is no need to identify very special circumstances or assess the effect of the development upon openness.

Others Matters

8. The Council refers to an extant planning permission that is smaller than the proposal but I have few details of that scheme before me. Whilst the Council has made a comparison between the extant permission and the proposal, the Framework is clear that is not the correct comparison to be made. As I have found this proposal is not inappropriate development, the appellant could implement either permission, but not both.
9. I agree with the Council that the proposal would have an acceptable effect upon the character and appearance of the area, being constructed from materials similar to the dwelling, in compliance with Policies BE1 and BE2 of the Kirklees Unitary Development Plan (March 1999) (UDP), which seek to ensure that all development is of good quality design in keeping with any surrounding development.

Conditions

10. The approved plans and supporting information are listed for certainty. The site is defined as a Development High Risk Area by the Coal Authority, and unrecorded shallow mine workings within the Black Bed Coal seam pose a high risk of instability to development at the site. Therefore, a condition for intrusive site investigations, and if necessary remediation, is required to ensure the safety and stability of the proposed development. The condition is required to be a pre-commencement condition as it is imperative the condition is satisfied before development commences.
11. To ensure a satisfactory appearance, I shall attach a condition which requires materials to be constructed in line with those detailed on the plans. A condition to restrict the use to annex accommodation is required to ensure the building remains as annex accommodation, and is not used as a separate dwelling.
12. The Council raise concerns over the extent of domestic curtilage and that permitted development rights have been removed on a previous application. However, I have not removed permitted development rights on this proposal as I do not find that such a condition would not meet the 6 tests set out in the Framework. The Council request that restrictions are imposed on the blue edge

which to my mind only indicates ownership (not necessarily curtilage) and thus is not directly related to the development permitted. The Planning Practice Guidance indicates that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances and I do not find those exist here.

13. I have also not included conditions requiring bat and swallow boxes as they are proposed on the plans and condition 2 requires the development to be carried out in accordance with the approved plans. Additionally, because I have been presented with no reasons why the development would be unacceptable without bat and swallow boxes, I do not consider it necessary to require their retention.

Conclusion

14. For the reasons above, the proposal would not be inappropriate development in the Green Belt. It is therefore acceptable, and in compliance with the guidance in the Framework and Policies BE1 and BE2 of the UDP; and the appeal succeeds.

Katie McDonald

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans 3096(LP)01 Rev A, 3140(PL)01, 3140(PL)02, 3140(PL)03, 3140(PL)04 and 3140(PL)05.
- 3) The development hereby permitted shall be carried out in accordance with the Coal Mining Risk Assessment prepared by Rogers Geotechnical Services Ltd August 2016.
- 4) No development shall take place until a scheme of intrusive site investigations has been submitted to and approved in writing by the local planning authority. Prior to commencement of development, the approved scheme of intrusive site investigations shall be undertaken and the findings submitted to and approved in writing by the local planning authority. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.
- 5) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 3140(PL)05.
- 6) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 21 Northfield Lane, Highburton, Huddersfield HD8 0QT.