



Appeal Decision

Site visit made on 27 January 2021

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2021

Appeal Ref: APP/F4410/W/20/3259387

The Scout Hut, Hooten Lane, Brodsworth, Doncaster DN5 7XH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr G Rodgers against the decision of Doncaster Council.
 - The application Ref 20/00567/FUL, dated 24 February 2020, was refused by notice dated 2 September 2020.
 - The application sought planning permission for the erection of 1 dwelling following demolition of the existing building without complying with conditions attached to planning permission Ref 18/02256/FUL, dated 6 November 2018.
 - The conditions in dispute are Nos. 14 and 15 which, respectively, state:
"Notwithstanding the provisions of the Town and Country (General Permitted Development) (No. 596) (England) Order 2015 Article 3, Schedule 2: Part 1 (or any subsequent order or statutory instrument revoking or re-enacting that order) no additions, extensions or other alterations other than expressly authorised by this permission shall be carried out without the prior permission of the Local Planning Authority"; and "Notwithstanding the provisions of the Town and Country (General Permitted Development) (No. 596) (England) Order 2015 Article 3, Schedule 2: Part 1 (or any subsequent order or statutory instrument revoking or re-enacting that order) no development shall be carried out on any part of the land other than hereby permitted without the permission of the Local Planning Authority".
 - The reason given for the 2 conditions is: "The Local Planning Authority considers that further alterations could cause an unacceptable loss of openness to the Green Belt being contrary to Saved Policy ENV3 of the Unitary Development Plan and section 13 of the National Planning Policy Framework 2018".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's reason for refusing the application to delete conditions nos. 14 and 15 of the original permission included reference to Policy CS3 of the Doncaster Core Strategy 2011-2028 2012 ('the CS'). Although the policy did not form part of its reason for including these conditions in the original planning permission granted in 2018 it is referred to in this Decision Letter.

Background and Main Issue

3. The appeal site is within the Green Belt where planning permission was granted in November 2018 for the demolition of the former Scout Hut at Hooten Lane, Brodsworth and its replacement with a single dwelling.

4. Two of the conditions (nos. 14 and 15) included within that permission stipulated that the permitted development rights allowing additions, extensions and alterations to the approved dwelling and allowing the erection of structures within the surrounding grounds incidental to the enjoyment of the dwelling would be withdrawn.
5. These conditions were imposed to ensure that the openness of the Green Belt would not be prejudiced. Whether or not the Council has indiscriminately and improperly adopted such an approach in the past to the control of development within the Green Belt is not relevant to the determination of this appeal.
6. The main issue in the determination of this appeal is whether these conditions are reasonable and necessary to protect the openness of the Green Belt.

Reasons

7. The semi-elliptical shaped site occupies an elevated and broadly open area at the end of a long, narrow lane about 200 metres from the main road running through Brodsworth. It is surrounded by fields and there is a large detached dwelling about 100 metres away in the direction of the village. The footing of the former scout hut sits close to the middle of the site. Hedging and some mature trees provide a very limited degree of screening for the site. Because of its elevation and its position, it is very prominent and is readily visible from the road running through the village.
8. An important consideration for the Council when granting planning permission for the erection of a dwelling was to ensure, consistent with Paragraph 145g) of the National Planning Policy Framework 2018, that it would not have a greater impact upon the openness of the Green Belt than the original scout hut.¹
9. Consequently, whilst the permission allowed for a dwelling that would be slightly taller than the original scout hut it would also have a smaller footprint. The dwelling would be modest in size with a total floor area of around 130 square metres.
10. Its volumetric capacity would be around the same as that for the original scout hut and therefore the effect on openness would be essentially unchanged. To ensure that it would not be extended to the detriment of the Green Belt's openness 2 conditions were imposed withdrawing permitted development rights.
11. This notwithstanding, however, permitted development rights are conferred by law. The Government has made it clear that whilst councils can withdraw such rights this should only happen exceptionally and where it is necessary. Advice set out in Paragraph 17 of the Planning Policy Guidance (PPG) is that blanket withdrawals of permitted development rights will rarely be necessary or reasonable and this applies equally within the Green Belt.
12. Paragraph 145d) of the National Planning Policy Framework 2019 ('the Framework') states that the extension or alteration of a dwelling within the Green Belt is not inappropriate development so long as it does not result in a disproportionate addition over and above the size of the original building.

¹ The paragraph referring to extensions to buildings within the Green Belt is numbered the same in the 2018 version of the National Planning Policy Framework as in the 2019 version.

13. The Appellant proposes to extend the approved dwelling through the addition of 2 bedrooms and a bathroom, together with the construction of a double garage a short distance from the dwelling. These combined would increase the floor space by around 85 square metres or about 65% of the approved floor space.
14. Subject to obtaining prior approval the footprint of the approved dwelling could nearly double if the permitted development rights were reinstated. Given that there are no neighbours whose living conditions could be affected by any proposed extension it is almost certain that prior approval would be obtained.
15. Whilst the proposed development would not result in this scale of increase it would not prevent extensions in the future. Such extensions could result in a disproportionate addition to the original dwelling. Because of the site's exposed and prominent position these structures would be visible from the village and would prejudice the openness of the Green Belt.
16. The approved dwelling would occupy a small part of the generously sized site. There is no reason to believe that any structures that might be erected ancillary to the enjoyment of the dwelling would cover much of the surrounding garden. Nevertheless, given the site's prominent and generally exposed location any structures would risk prejudicing the openness of the Green Belt.
17. The Appellant submitted summaries of 6 appeal decisions in support of his case.² In each, the Inspector found that the condition restricting permitted development rights was not consistent with the advice set out in the PPG and so allowed the appeal. At least 5 of these decisions concerned sites within the Green Belt.
18. However, each appeal decision on such matters is fact dependent, in particular as regards the development concerned, its location, the extent to which it would be visible and its contribution, where relevant, to maintaining the openness of the Green Belt. In the absence of the full details of the above cases, little weight can be accorded to them.
19. The decision in the current appeal case turns on the specific facts relating to the original building and its replacement, the potential disproportionate expansion of built development on the site, the visibility of the site and the desire to maintain the openness of the Green Belt both spatially and visually.
20. Consequently, given that permitted development rights would allow the construction of a large extension to the dwelling and the erection of structures in the garden including a large garage, there is a significant risk that the openness of the Green Belt could be unacceptably harmed in this open and prominent location.
21. This would fail to accord with Saved Policy ENV3f) of the Doncaster Unitary Development Plan 1998 and with Policy CS3(A)(1) of the CS which both seek to ensure that the Green Belt's openness is protected. It would also fail to accord with Paragraph 145c) and g) of the Framework which seek to ensure that extensions to buildings should not result in a disproportionate addition and should not have a greater impact on openness than the original building.

² APP/H1515/W/16/3165798 (May 2017); APP/T0355/A/01/1071185 (February 2002); APP/Q5300/A/14/2217664 ((July 2014); APP/T0355/W/16/3156065 (January 2017); APP/M2270/W/15/3137428 (February 2016); and APP/X4725/D/18/3201609 (July 2018).

22. For these reasons the conditions subject to this appeal are reasonable and necessary for the protection of the Green Belt. As conditions nos. 14 and 15 satisfy all the other requirements in Paragraph 55 of the Framework and the Planning Practice Guidance, there is no need to remove or vary them.

Conclusion

23. Therefore, the appeal should be dismissed.

William Walton

INSPECTOR