



Appeal Decision

Site visit made on 2 August 2022

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal Ref: APP/T2350/D/22/3299040

Winton, 145 Whalley Road, Wilpshire, Blackburn, BB1 9NE

- 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 M Khan against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2021/0944, dated 13 September 2021, was refused by notice dated 24 February 2022.
 - The development proposed is retrospective planning application for the retention of existing outbuilding containers on site used as ancillary leisure space for Winton House.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt and visual amenity;
 - iii) Whether the proposal would be an ancillary extension to the dwelling; and
 - iv) If the development is inappropriate, whether the harm by reason of inappropriateness or other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate development

3. Winton is a detached dwelling next to the A666 Whalley Road. It is set in a large plot with outbuildings to the rear, including the subject of the appeal, and an amenity grass playing field beyond. It is part of a short row of properties beyond the settlement boundary in the Green Belt.
4. Paragraph 147 of the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

5. Key Statement EN1 of Ribble Valley Borough Council Core Strategy 2008-2028 Adopted December 2014 (the CS) sets out several exceptions to new buildings in the Green Belt. This is broadly consistent with Framework paragraph 149. My attention has been drawn to paragraph 149 b) the provision of appropriate facilities for outdoor sport or recreation and paragraph 149 d) the replacement of a building provided the building is in the same use and not materially larger than the one it replaces.
6. The description of the development indicates the proposal would be ancillary leisure space for the appeal property. On the basis of the plans and from what I saw, it includes lounge, kitchen and dining areas, bedrooms and bathroom. While the open plan area could be used for indoor games, the development provides internal living accommodation and it does not meet the exception in paragraph 149 b) appropriate facilities for outdoor sport or recreation.
7. In relation to replacement buildings and the redevelopment of previously developed land (PDL), the starting point is to establish what constitute 'the building it replaces' or 'the existing development'. In this regard, case law¹ has established that, taking a common sense approach, the plain meaning of the policy wording 'the one it replaces' and 'the existing development' must refer to a building as it exists on site now.
8. In this case, the containers are in a similar location to a former building that enclosed a swimming pool. There is little evidence in relation to the size of the former building although a photograph has been provided that illustrates it around 2006, not long after which the roof and the supporting timber structure collapsed. The remains of the building had been entirely removed by early 2016. Therefore, the previous building no longer exists. In the absence of the unauthorised containers, there would be no existing building. Therefore, paragraph 149 d) cannot apply as there is no building to be replaced.
9. I have also considered Framework paragraph 149 g) the infilling or redevelopment of previously developed land. In this regard the glossary to the Framework indicates that residential gardens outside of built up areas are considered to be PDL. On the basis that the appeal site is outside of the settlement boundary and it is residential land, it may therefore constitute PDL. Paragraph 149 g) requires that the redevelopment of PDL does not have a greater impact on the openness of the Green Belt than the existing development. This is considered below.

Openness and visual amenity

10. Paragraph 133 of the Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
11. If the containers were removed, the defunct swimming pool would still exist but, as noted above, there would be no aboveground building or structures. The plans suggest that the development extends further into the playing field than the swimming pool, which is the existing development. The apparent increase in the footprint of development and the significant increase in the volume of development results in a small loss of spatial openness. By virtue of

¹ Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)

its siting and scale, the appeal scheme serves to enclose the rear of the host property and it increases the spatial envelope and extent of buildings.

12. If the appeal was allowed, the storage containers would be finished with a green pitched roof and timber cladding. This would result in a more attractive external finish. Irrespective, by virtue of its large size, design, extensive timber cladding and glazing, the proposal would be a prominent and discordant feature that would be out of keeping and it would not relate well to the surrounding relatively traditional built development. The development is to the rear of the appeal property, screened from the road and footways to the front by dense planting. However, vegetation is not permanent and there would be no guarantee of future screening. Moreover, based on the plans and from what I saw it seems likely that it would be visible from locations elsewhere, including at times of year when vegetation is not in leaf.
13. Taking into account its scale, siting, appearance and the surrounding context, I find that the spatial and visual effects of the appeal scheme result in an adverse and greater impact on openness than the existing development. Accordingly, the proposal would not meet the exception in Framework paragraph 149 g) relating to the redevelopment of PDL.
14. Therefore, I conclude that the development would not meet the exceptions in Framework paragraphs 149 b), 149 d) or 149 g). It would be inappropriate development in the Green Belt, in conflict with CS Policy EN1 and the policies in the Framework that protect the Green Belt. The visual harm would also conflict with the design aims of CS Policy DMG1.

Ancillary extensions

15. CS Policy DMH5 requires that proposals for residential extensions accord with Policy DMG1 and any relevant designations that cover the site, in this case the Green Belt. Further, it requires that extensions to provide accommodation for elderly or dependent relatives are capable of integration into the main dwelling or other ancillary use and generally provide a modest level of accommodation.
16. Notwithstanding the description of development, the evidence suggests the proposal would be used by elderly relatives residing in the main dwelling. However, there is little evidence it would be primarily ancillary accommodation for elderly or dependent relatives. At just under 144sqm of floor space and with facilities for independent living by several persons, the proposal would not be a modest level of accommodation nor, taking into account its size and separation, would it be demonstrably capable of integration into the main dwelling or other ancillary use.
17. Therefore, I conclude that the appeal schemes conflicts with the aims of CS Policy DMH5.

Other Considerations

18. My attention has been drawn to planning permissions elsewhere. Different policies apply in Areas of Outstanding Natural Beauty. The scheme within the Green Belt (ref 3/2018/0053) is described as a more complex development, with different and additional planning considerations, and it relates to the creation of a new dwelling not a replacement building. These schemes are not demonstrably comparable to the appeal scheme and they carry neutral weight.

19. A larger number of storage containers were originally brought onto the site in 2016. Planning applications were then submitted in 2017 and 2018 to retain containers and temporary use was approved until September 2019. While the appellant may have been unable to remove the containers during the coronavirus pandemic lockdown, neither the previous permissions nor the continuing presence of containers weigh in favour of the proposal.
20. The evidence states the proposal would replicate a similar use to that of the former swimming pool building, namely ancillary leisure for the Winton House residents including a games room, lounge, home office and relaxing space for the elderly parents. Site plans refer to it as home office and care rooms. Layout plans illustrate self-contained living accommodation. In this regard, the proposal would be a benefit to the appellant and his extended family, some of whom have used it as living accommodation. However, there is little evidence that the needs of the elderly parents could not be met within the existing family dwelling or that the extended family need to live on site. The personal and family circumstances carry little positive weight.
21. I note that the development is served by a septic tank, the appellant is exploring renewable energy sources and he considers the green roof would be a biodiversity benefit. Suitable arrangements for drainage are not a benefit of the scheme. The proposal would not be outstanding or innovative design which promotes high levels of sustainability. There is little evidence that the pitched green roof would be a living green roof or that in any case, taking into account the surrounding green space, a small green roof would deliver any significant biodiversity benefits. These matters carry negligible positive weight.

Green Belt Balance

22. I have concluded that the appeal scheme would be inappropriate development in the Green Belt. It would conflict with Key Policy EN1 of the Local Plan and the Framework. It would result in a small loss of openness of the Green Belt. These matters attract substantial weight. There would be modest harm to the character and appearance of the area. The policy conflict with CS Policy DMH5 weighs against the proposal to a modest degree.
23. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Therefore, the very special circumstances necessary to justify the appeal do not exist.

Conclusion

24. For the reasons set out above, the appeal should be dismissed.

Sarah Manchester

INSPECTOR