

APPEAL BY MR & MRS K SPENCER AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF A REPLACEMENT DWELLING (RE-SUBMISSION OF 15/00393/FUL) AT 114 MOW COP ROAD, MOW COP.

<u>Application Number</u>	16/00389/FUL
<u>LPA's Decision</u>	Refused by delegated powers on 20 July 2016
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	12 January 2017

The Inspector found that the main issues were;

- whether the use of the building as a house has been abandoned
- whether the proposal is inappropriate development in the Green Belt;
- if it is inappropriate development, 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.

In dismissing the appeal, the Inspector made the following comments:

- Taking into account the period of time that the building has not been in use (since 1977); the physical condition of the building; the lack of any other use of the building; and the lack of intention of the owner to abandon the use, the Inspector concluded that the use of the building as a dwelling has not been abandoned.
- National policy advises that the replacement of a building in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces, is not inappropriate development. Policy S3 of the Local Plan is consistent with this approach. Having answered the question that the proposed development is in the same use as the existing building, the question which then arises is whether the proposed replacement dwelling would be materially larger.
- Neither the National Planning Policy Framework (NPPF) nor policy S3 of the Local Plan quantify what is meant by materially larger, it is therefore a matter of planning judgement based upon a comparison of existing and proposed development.
- The former cottage attached to the eastern end of the existing cottage has been demolished, and the Inspector did not take this into consideration as part of the existing. The existing building is a modest two storey dwelling (consisting of two rooms at ground floor and two above) with two small single room back additions and a single storey garage linked to the existing cottage by the remaining wall of the demolished former cottage.
- The proposed two storey replacement house would be larger than the existing. It would have a gable projecting from its rear elevation, three bedrooms, with an en-suite to the master bedroom, an entrance hallway, landing and an integral garage. Whilst features such as an en-suite bathroom and integral garage are desirable, they are not necessary to provide an acceptable standard of accommodation.
- The front elevation of the proposed replacement dwelling would be significantly taller than the existing dwelling.
- The appellant's view is that the replacement dwelling would have a similar footprint to the existing building and garage. However, in this instance, volume is a more useful means of comparison than footprint as it enables the different heights of the existing and proposed to be taken into account. The Council's position that the proposed house would have double the volume of the existing has not been refuted by the appellant, and the Inspector agreed with this assessment. The doubling in volume would be a considerable increase in size that would clearly result in a replacement dwelling that would be materially larger than the one it would replace.
- The proposal therefore represents inappropriate development and as such would be harmful to the Green Belt by definition.
- Having found the proposal would be harmful to the Green Belt it is necessary to consider whether there are very special circumstances that would outweigh this harm.

- The Council has less than a five year supply of housing land. A replacement dwelling would not result in an increase in housing in the Borough but given that the cottage is uninhabitable in its present state, the replacement house would help address the need for housing by making available a modern dwelling that would be ready to live in. However as the proposal only result in a single dwelling, only limited weight was attached to this consideration.
- The proposal would result in a dwelling in poor condition being replaced with a new, attractively designed house and as a result it would improve the visual amenity of the area. As such some weight was attached to this consideration.
- The proposed development would create some employment and to a limited extent support local economic growth during the construction period. However, as this benefit would be short lived, limited weight was attached to this consideration.
- The proposed development would cause harm by reason of inappropriateness and paragraph 88 of the NPPF advises that substantial weight should be given to such harm. Clearly, the degree of harm caused would be significant and the other considerations put forward by the appellant do not clearly outweigh the harm identified and the very special circumstances necessary to justify the development do not exist.
- Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five year supply of deliverable housing sites. Policy S3 states that, within the Green Belt, there is a presumption against development unless it is one of several specified types. It therefore has the effect of restricting the locations where housing may be developed. As a result, it affects and constrains the supply of housing land. Consequently it should be regarded as a relevant policy for the supply of housing in this case. However, the Government attaches great importance to Green Belts and because it is consistent with the NPPF the Inspector gave policy S3 significant weight.
- In circumstances where relevant policies are out-of-date, the NPPF indicates that permission should be granted, unless there are specific policies in the NPPF (such as land designated as Green Belt), which indicate that development should be restricted. Given that the Inspector found that there are no very special circumstances, Green Belt policy provides that to be the case here. Overall, therefore, the proposal does not represent sustainable development.

Recommendation

That the decision be noted.