

APPEAL BY MR & MRS C & R MCCARTHY AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT OUTLINE PLANNING PERMISSION FOR THE PROPOSED DEMOLITION OF AN INDOOR MODEL CAR RACING BUILDING AND ERECTION OF A DETACHED DWELLING AT THE OLD STABLES AND TAWNEY COTTAGE, BARTHOMLEY ROAD, KNOWLE END, AUDLEY

<u>Application Number</u>	17/001590/FUL
<u>Recommendation</u>	Approval subject to securing of a planning obligation
<u>LPA's Decision</u>	Refused under delegated authority 12th October 2017
<u>Appeal Decision</u>	Appeal dismissed
<u>Date of Appeal Decision</u>	11th April 2018

The Appeal Decision

The Inspector identified the main issues to be;

- Whether the proposal is inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt;
- Whether the proposal would provide a suitable location for housing having regard to the proximity and accessibility of services; and
- If the proposal is inappropriate development, whether the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances to justify the development.

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

Inappropriate development

- The proposal involves a new dwelling which does not meet any of the exceptions identified in the National Planning Policy Framework (NPPF).
- The proposal is contrary to Policy S3 of the Local Plan. The Inspector gave this policy moderate weight as it has a degree of consistency with the NPPF.

Openness

- The demolition of the adjacent commercial building and return of that land to agriculture would in itself increase openness in that location. However the construction of a new dwelling and introduction of domestic paraphernalia would in themselves harm openness.
- Whilst some forms of development could be controlled by a condition removing permitted development rights in accordance with Planning Practice Guidance and the NPPF, such a condition would be rarely justified and its use should only be in exceptional circumstances. Whilst such exceptional circumstances to justify removing such rights could exist in this case some elements which would have an impact on openness within the domestic curtilage could not reasonably be controlled through such a condition.
- The scale and appearance of the proposed house would be a matter for subsequent consideration but the proposed house would be unlikely to be as large as the commercial building or have such an extensive footprint.
- It is not possible to determine exactly what the extent a potential reduction would have on openness could be as the details are not known. In any case the proposed development would lead to the creation of a domestic curtilage on an area of currently undeveloped land which appears to be of a greater area than the plot presently occupied by the commercial building. Therefore there would probably be some reduction in overall impact on openness but this is likely to be minor

Suitable location

- The appeal site lies next to a small collection of buildings in open countryside.
- Barthomley Road is a narrow, unpaved lane. The site is around 2.5km from Audley. There is no public transport. The unlit and narrow nature of the lane would tend to discourage walking or cycling. The occupants of the proposed dwelling would most likely have to use a motor vehicle to access shops, services and facilities.
- Since the appeal site is not within a village and some distance from the nearest one, the proposed development would fall into the category of an isolated home in the countryside which paragraph 55 of the NPPF seeks to avoid. It would also be contrary to the penultimate bullet point of paragraph 17 of the NPPF which, amongst other things, seeks to actively manage patterns of growth to make the fullest use of public transport, walking and cycling.

Other considerations

- As the commercial building and the area surrounding it is within the appellants' control demolition and returning the land to agriculture could be secured by condition or obligation.
- The removal of the building, the palisade fence surrounding the building and the hardstanding would have some visual benefits to the appearance of the area although this would be balanced against the visual impact of the new dwelling on the appearance of the area. The Inspector gave moderate weight to this consideration.
- Limited weight was given by the Inspector to the removal of the traffic movements and noise and disturbance associated with the legitimate planning use of the commercial building as there was no evidence that the building caused noise and disturbance or resulted in highway safety issues.
- The Inspector noted the considerable shortfall in the supply of housing land, that the Parish Council provided qualified support of the proposal and that the construction of the new dwelling would bring some limited economic benefits.

Conclusion

- Collectively the benefits do not clearly outweigh the totality of the harm which has been identified. Accordingly very special circumstances do not exist to justify the proposed development.

Your Officer's comments

That the appeal decision be noted.