

APPEAL BY M ROBINSON AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR A DETACHED DWELLING AT PLOT 146 MELVILLE COURT, CLAYTON

<u>Application Number</u>	18/00451/FUL
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	9th July 2019

The Appeal Decision

The Inspector identified the main issues to be:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies;
- the effect of the development on the openness and the purposes of including land within the Green Belt;
- the effect on the character and appearance of the area; and,
- if the development is inappropriate, 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 key comments and observations:-

Inappropriateness

- The appeal site falls within the Green Belt as defined in the Council's development plan, which comprises the Newcastle Under Lyme Local Plan (LP) 2011 and the Newcastle Under Lyme and Stoke on Trent Core Spatial Strategy (CSS) 2009.
- The appellant contends that the appeal site appears on two Land Registry plans dated 1974 and 1988 whereby the site does not encroach into the Green Belt. However, there is no evidence of these plans which in any event would predate the LP and the CS and therefore, even if the site was not within the Green Belt on those dates, it is plausible that the Green Belt has been extended since. The site falls within the Green Belt.
- The Framework states that inappropriate development in the Green Belt is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. There are a number of exceptions to this. However, the appellant does not contend that the proposal falls within any of these.
- The proposal would be inappropriate development, and therefore would be contrary to saved Policy S3 of the LP, which seeks to protect the Green Belt from inappropriate development, and the Framework. In accordance with the Framework, substantial weight must be given to this harm.

Openness of the Green Belt

- The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
- The dwelling would be located in what is currently a densely wooded area that is free from any built-form, to the south of an existing housing development. Whilst the site is overgrown with various trees and undergrowth, it nevertheless provides a verdant

openness that makes an important role in defining the edge of the Green Belt. The introduction of a dwelling on the site, and the resultant loss of trees and vegetation, would create an intrusive form of development.

- Moreover, the erosion of three-dimensional space arising from the overall size of the buildings would in itself result in an erosion of openness, which would conflict with paragraph 133 of the Framework which identifies openness as an essential characteristic of Green Belts. Accordingly, significant weight is attributed to the effect it would have on openness.
- In addition, the dwelling would extend the existing built form of the adjacent housing development therefore encroaching into the countryside. This would be contrary to one of the five purposes of the Green Belt set out in paragraph 134 of the Framework, which seeks to safeguard the countryside from encroachment.
- Therefore the visual intrusion of the dwelling and its erosion of three-dimensional space arising from its size would result in the erosion of openness, which would conflict with paragraph 133 of the Framework. In addition, it would conflict with the purposes of including land within it, in particular safeguarding the countryside from encroachment.

Character and Appearance

- The existing trees and undergrowth form part of a wider woodland that links in with the nearby nature reserve. Whilst the site is unkempt and many of the trees are likely to have been self-set, this does not have a detrimental effect on the visual amenity of the area. On the contrary, it makes a positive contribution to its character and appearance, defining the boundary between the built and natural environment.
- It is proposed that many of the existing trees would be retained to the front, rear and side of the dwelling, therefore reducing its visual impact. However, many of these trees would be in proximity to a number of the windows in the dwelling and therefore would likely reduce the level of light entering the dwelling when the trees grow larger. Furthermore, much of the outdoor amenity space would be in shadow, particularly when the trees are in leaf, thus reducing the usability of the amenity space. In addition, due to the proximity of the proposed dwelling to the retained trees, in time there would be pressure to remove overhanging branches given that they could be directly above the dwelling. The potential fear of falling branches and damage to the dwelling would likely give rise to an increase in pressure for the reduction or, at worst, removal of the trees. Consequently, such works would have a significantly detrimental effect on the appearance of the site and the overall character and appearance of the area.
- The dwelling would extend no further south than the existing development on the opposite side of the road and, on plan, would be read as rounding off the existing development. However, this does not provide sufficient justification for the harm identified above.
- The Inspector found therefore that the proposal would significantly harm the character and appearance of the area, contrary to saved Policies N12, N13, N17 and N19 of the LP, which, amongst other matters, seek to ensure that development is informed by and be sympathetic to landscape character, including the protection of trees. In addition, it would fail to accord with the design objectives of the Framework.

Planning Balance

- The appeal scheme has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt and the conflict with the purpose of including land within it. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Furthermore, the development would significantly harm the character and appearance of the area.
- The substantial weight given to Green Belt harm is not clearly outweighed by any considerations advanced by the appellant. Therefore, there are no very special circumstances to justify the new dwelling and the proposal would conflict with saved Policy S3 of the LP and the Framework.

Recommendation

That the appeal decision be noted.