Appeal Decision

Hearing held on 6 August 2013
Site visit made on 6 August 2013

by Alison Lea  MA (Cantab) Solicitor
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 August 2013

Appeal Ref: APP/B2355/A/13/2194105
4 East View, Shawforth, Whitworth OL12 8NT

- 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 Eagan against the decision of Rossendale Borough Council.
- The application Ref 2012/0585, dated 10 December 2012, was refused by notice dated 1 March 2013.
- The development proposed is the demolition of the existing buildings and the erection of one 2 bed bungalow and car parking including the formation of a private access and 2 car parking spaces for 4 East View.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing buildings and the erection of one 2 bed bungalow and car parking including the formation of a private access and 2 car parking spaces for 4 East View at 4 East View, Shawforth, Whitworth OL12 8NT in accordance with the terms of the application, Ref 2012/0585, dated 10 December 2012, and subject to the conditions set out in the attached Schedule.

Main Issues

2. The main issues is this case are
   (a) whether the development would constitute inappropriate development in the Green Belt;
   (b) the effect of the development on the openness and visual amenities of the Green Belt;
   (c) the effect of the development on the character and appearance of the site and the surrounding area and
   (d) if the development is inappropriate development, whether any considerations exist that would clearly outweigh the harm by reason of inappropriateness and any other harm such that very special circumstances exist to justify the development.

Reasons

3. The appeal site is a plot of land located to the side of No 4 East View, which is a semi-detached house situated within the Urban Boundary of Whitworth. The
The appeal site lies outside the Urban Boundary and is designated as Green Belt. It is currently occupied by 2 buildings, together with various areas of hardstanding and vegetation. To the north west of the buildings, land which is also within the appellant’s ownership rises steeply towards a large single storey building. To the south east is a long distance recreational route which provides clear views of the structures on the appeal site and of No 4 East View. The proposal would involve the demolition of the 2 existing structures and the introduction of a 2 bed bungalow.

4. Paragraphs 87-89 of the National Planning Policy Framework (NPPF) state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.

5. The listed exceptions include the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. The appellant states that the site is previously developed land and that the proposal falls within this exception.

6. The NPPF defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. The definition excludes, amongst other things, land that is or has been occupied by agricultural buildings, land in built-up areas such as private residential gardens and land that was previously developed but where the remains of the permanent or fixed surface structure have blended into the landscape in the process of time.

7. There are 2 buildings within the appeal site. The larger is a garage which the Council describes as non domestic in size and design. Mr Eagan stated that the previous owner of the site was a car mechanic and that he used the garage as his work place and I noted at my site visit that it was equipped with an inspection pit. Mr Eagan, who purchased No 4 East View and the adjoining land in 1998, has used the garage for the breeding of dogs, albeit on a small scale. Although the Council pointed out that the access doors of the garage face No 4 East View and that it could be argued that the garage may form part of the domestic curtilage of No 4 it was accepted at the hearing that the site of the garage probably fell within the definition of previously developed land. In any event I agree with the appellant that even if it was considered to be in domestic use, it is difficult to see how it could fall within “land in built-up areas such as private residential gardens” when the Urban Boundary incorporates No 4 East View and its garden but excludes the appeal site.

8. The Council contends that the other building within the site, described as dilapidated, is agricultural and is not a permanent structure. However, the appellant confirmed that the building was present on the site at the time of his purchase in 1998 and that prior to that time it was used for the stabling of
horses. He produced a photograph showing the structure with stable doors and on the evidence before me, including my own inspection of the building, there is nothing which would lead me to doubt that the building was used for the stabling of horses in the past. The Council accepted that, unless the horses were being used for agricultural purposes, the stabling of horses would not be an agricultural use. Furthermore, although in a state of disrepair, it was clear from my site visit that the building was constructed on a thick concrete base, with 3 sides of concrete panels with timber above, a wooden front and with a brick internal partition. In my view it could not be described as a temporary structure and cannot be excluded from the definition of previously developed land through any lack of permanence. Similarly it could not be said to have blended into the landscape. Accordingly I conclude that the land occupied by both the buildings falls within the definition of previously developed land.

9. The Council also contends that although some of the site could be considered to constitute previously developed land, the predominant categorisation is Greenfield. However, there are areas of hardstanding by the 2 structures and only a small part of the appeal site is not developed. The majority of the land which rises up the hillside towards the other building within the appellant’s ownership, and which could be argued forms part of the planning unit, does not form part of the appeal site. In my opinion the land within the appeal site which is not occupied by the 2 buildings or hardstanding forms the curtilage of those buildings. I therefore conclude that the appeal site is previously developed land.

10. To fall within the exception in paragraph of 89 of the NPPF the development must not have a greater impact on the openness of the Green Belt and the purpose of including land within it. The appellant states that the footprint of the existing 2 buildings is 75.5 square metres and that of the proposed bungalow would be 74.9 square metres. The bungalow would be 4.325m to the ridge and 3.2m to the eaves, whereas the height of the existing garage was estimated at about 5m. These figures were accepted by the Council and I therefore accept that the proposed bungalow would have a slightly smaller footprint and volume than the existing buildings.

11. The Council stated that its main concern is that the gap between the buildings would be lost and that that would have an urbanising effect. However, the garage extends over 13m from the existing conservatory to No 4 East View and the second building is beyond the garage. The bungalow would extend about 15m from the conservatory and although it would be one solid structure, it would not extend as far into the site as the existing structures. Given that it would also be lower than the garage I consider that the impact on the openness of the Green Belt would be slightly reduced. I do not accept that there would be an urbanising effect.

12. The Council also refers to the retaining wall and I note the discrepancies on the plans with regard to its proposed height. However, even if 1.75m in height, it would be only a short length of wall and at my site visit I noted the existing wall which would be to the rear of the proposed patio area. I do not accept that the proposed retaining wall would have a significant impact on openness. Furthermore, although I agree that the access and parking spaces would have some impact on openness, the majority of the proposed access would not be within the Green Belt. Overall I consider that the development would not have a greater impact on the openness of the Green Belt than the existing
development. Similarly, given the existence of buildings on the site, there would be no impact on the purposes of including land within the Green Belt.

13. I accept that the proposal would appear prominent in views from the recreational route. I also note that, although at the time of my site visit it was not possible to see the site from the main road due to the leaves on trees, the site is likely to be visible from the main road in the winter. However, the existing buildings on the site are similarly prominent and when approached from the countryside the appeal site already appears as part of the built up area. I do not accept the Council’s view that the existing structures appear appropriate to a countryside location. They do not have an agricultural appearance and are seen in the context of the neighbouring urban development and with a backdrop of the structure higher up the hill. The bungalow would have a small residential curtilage and I agree with the appellant that the result would be a visual improvement.

14. I therefore conclude that the proposal would not constitute inappropriate development in the Green Belt and would not cause harm to the character and appearance of the site or the surrounding area. The proposal would not be contrary to the provisions of the NPPF. Although the decision notice lists a number of policies in the Council’s adopted Core Strategy it was agreed at the hearing that they did not add to the advice in the NPPF. Furthermore, although there was some discussion at the hearing regarding whether or not the Council could demonstrate a 5 year supply of housing, I do not consider it necessary to reach a conclusion on this matter. Nor is it necessary for me to consider whether there are any other considerations which could constitute very special circumstances.

15. The Council has proposed a number of conditions. In addition to the standard time limit condition I agree that, in the interests of the character and appearance of the development and the surrounding area, conditions requiring approval of finished floor levels, of the retaining wall, of facing and roofing materials, of boundary treatments and of hardsurfacing are required. I also agree that in the interests of the living conditions of occupiers of neighbouring properties a condition should restrict hours of construction. For the same reason and in the interests of highway safety parking spaces should be made available prior to occupation of the dwelling. Given the situation of the site within the Green Belt and its prominence in views from the recreational route I agree that it is necessary and reasonable to restrict permitted development rights in this case. For the avoidance of doubt and in the interests of proper planning a condition is needed to ensure that development is carried out in accordance with the approved plan.

16. Subject to these conditions, I conclude that, for the reasons given, this appeal should be allowed.

Alison Lea
INSPECTOR
SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) No development shall take place until details of the existing and proposed levels across the site and relative to adjoining land, together with the finished floor levels of the dwelling hereby permitted, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and there shall be no variation in levels without the prior written approval of the local planning authority.

3) No development shall take place until details of the position, design, materials and type of boundary treatment and any fencing or means of enclosure within the site have been submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed prior to first occupation of the dwelling or in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

4) No development shall take place until samples of the facing and roofing materials to be used in the dwelling and the materials to be used in the construction of the patio area and area of hardstanding have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

5) The parking spaces shown on Plan 1 shall be provided and made available for use prior to first occupation of the dwelling hereby permitted and shall thereafter be retained solely for the parking of vehicles.

6) Any construction works associated with the development hereby approved shall not take place except between the hours of 0700 hours and 1900 hours Monday to Friday and 0800 hours and 1300 hours on Saturdays. No construction shall take place on Sundays, Public Holidays or Bank Holidays.

7) Except as otherwise provided for in these conditions the development hereby permitted shall be carried out in accordance with the approved plan marked Plan 1.

8) Notwithstanding the details shown on Plan 1, no development shall take place until details of the retaining wall have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details.

9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no garages, extensions, alterations, porches, garden sheds or out buildings shall be erected or undertaken other than those expressly authorised by this permission.
APPEARANCES

FOR THE APPELLANT:

Mr S Hartley Chartered Planner and Surveyor
Mr Eagan

FOR THE LOCAL PLANNING AUTHORITY:

Mr I Colville Counsel
Mr S Stray Planning Manager

PLANS

A Plan 1