The Planning Inspectorate

Appeal Decisions

Site visit made on 26 January 2012

by Peter Willows BA DipUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 February 2012

Appeal Ref: APP/H1033/A/11/2161492
Woodseats Farm, Woodseats Lane, Charlesworth, Glossop SK13 5DR

- 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 D Vincent against the decision of High Peak Borough Council.
- The application Ref HPK/2011/0403, dated 22 July 2011, was refused by notice dated 16 September 2011
- The development proposed is described as 'reconstruction and extension of outbuilding to form single storey domestic garage'.

Appeal Ref: APP/H1033/C/11/2163790
Woodseats Farm, Woodseats Lane, Charlesworth, Glossop SK13 5DR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D Vincent against an enforcement notice issued by High Peak Borough Council.
- The Council's reference is Enf 177.
- The notice was issued on 22 September 2011.
- The breach of planning control as alleged in the notice is: *Without planning permission the erection of part of a building that is shown for the purposes of identification and the avoidance of doubt in the attached photograph marked ENWF 2 (the Building).*
- The requirements of the notice are: *Completely demolish and remove the Building from the Red Land, including any associated footings, foundations, hard standings, building materials and rubble.*
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

Decisions

APP/H1033/A/11/2161492

1. The appeal is dismissed.

APP/H1033/C/11/2163790

2. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. I shall refer throughout to appeal ref APP/H1033/A/11/2161492 as 'the Planning Appeal' and to appeal ref APP/H1033/C/11/2163790 as 'the Enforcement Appeal'.

4. In his grounds of appeal concerning Ground (a) of the Enforcement Appeal, the appellant refers to the proposal to reduce the height of the building. However, the Enforcement Notice is directed at the building as it exists. Therefore, while the proposed alteration is relevant in relation to Ground (f) and also in respect of the Planning Appeal, I have considered Ground (a) of the Enforcement Appeal on the basis of the breach of planning control alleged, rather than the modified form of development suggested.

5. The appellant suggests that the red line defining the site on the plan attached to the enforcement notice should be amended to show only the area of the unauthorised building. However, the plan, together with the accompanying photograph of the unauthorised building and the matters set out in the enforcement notice leave no room for doubt as to the building at which the notice is directed. The appellant has not identified any specific way in which the extent of the site makes the requirements of the notice excessively onerous. I am therefore satisfied that the plan serves its purpose adequately without causing any injustice to the appellant.

The Planning Appeal

Main Issues

6. The site falls within an area of Green Belt. Accordingly, the main issues are:

   - Whether the proposal is inappropriate development for the purposes of Planning Policy Guidance Note 2 *Green Belts* (PPG2) and development plan policy;
   - The effect of the development on the openness of the Green Belt and the purposes of including land within it; 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.

Reasons

Whether the proposal is inappropriate within the Green Belt

7. Although the development is referred to as being the reconstruction and extension of an outbuilding, the structure I saw on site appeared almost entirely new, with only a very small section of the previous structure remaining. Therefore, as a matter of fact and degree, I regard it as a new building, and have evaluated it on that basis.

8. Planning Policy Guidance Note 2 *Green Belts* (PPG2) advises at Paragraph 3.4 that, with a number of exceptions, the construction of new buildings within the Green Belt is inappropriate. Policy OC2 of the adopted High Peak Local Plan follows this general approach. Although the exceptions listed include the limited extension of existing dwellings, there is no provision in either the PPG or in OC2 for freestanding buildings for use in connection with a dwelling, as is proposed in this case, and I see nothing in either to suggest an underlying intention to permit such structures. Nor do any of the other exceptions apply. The reference in OC2 to 'other development' does not apply to new buildings, which are dealt with in the preceding section. It is therefore clear that this proposal amounts to inappropriate development within the Green Belt.

9. PPG2 advises that inappropriate development is, by definition, harmful to the Green Belt. Such development should not be permitted except in very special circumstances. I give substantial weight to the harm arising due to the inappropriate nature of the development.

Openness and purposes of the Green Belt

10. PPG2 states at Paragraph 1.4 that the most important attribute of Green Belts is their openness, and also advises at Paragraph 1.5 that one of the purposes of including land in the Green Belt is to safeguard the countryside from encroachment.

11. The building is about 8.4m long and 7.4m wide. However, it is proposed to reduce it to 4m in height. The appellant advises that this would give it an eaves level below the height of the building it has replaced. Judging from a photograph submitted with the appeal, this appears to be so. Nevertheless, to the ridge, the new building would be higher. It also has a greater floor area than the building it has replaced. Furthermore, it projects further northward than the previous building, encroaching onto land beyond the area the appellant claims as part of the 'dwelling curtilage', which the previous building was contained within.

12. Taking account of the previous building and the reduction in roof height, I conclude that the overall effect on the openness of the Green Belt and the purposes of including land within it would be very slight. Furthermore, the building is located amongst other structures, which limits its prominence. Nevertheless, in view of the advice in PPG2, these matters add, to a small extent, to the harm arising from the proposal.

Other Considerations

13. It is argued that the proposal accords with Local Plan Policy H14, which is concerned with ancillary domestic buildings. However, while compliance with H14 means that there is no additional harm, the Council's case does not rely on that policy and I do not regard it as a significant point in favour of the proposal.

14. The appellant states that the previous building was in poor condition. However, it is also stated that the building could have been repaired. I therefore attach little weight to this factor.

15. It is claimed that the building could be reconstructed 3m to the south, in which case it would fall entirely within the curtilage of the dwellinghouse, and be permitted development as a consequence. However, I must consider the proposal before me. A new building constructed as suggested would have a different visual effect, relating more closely to the dwelling. Moreover, and setting aside the question of whether or not such a scheme would, in fact, be permitted development, it can by no means be certain that the appellant would carry it out. This consideration therefore merits very little weight.

16. From the information before me I do not accept the suggestion that the proposed building represents a significant improvement over the previous one due to its design. From the limited information before me the simple, low form and materials of the previous building appear to have been in keeping with its rural setting.

Conclusion

17. Having considered all matters raised in support of the proposal I conclude that, collectively, they do not amount to very special circumstances that clearly outweigh the totality of the harm I have identified in relation to the Green Belt. Accordingly, I find that the proposal is at odds with local plan policy OC2 and with the guidance in PPG2.

18. For these reasons, and having considered all other matters raised, I conclude that the appeal should be dismissed.

The Enforcement Appeal

Ground (a)

19. The development at which the enforcement notice is aimed is fundamentally the same as the Planning Appeal proposal, with the single exception that the building as it currently exists is higher than is proposed in relation to the Planning Appeal. Consequently, the building as it exists has a marginally greater effect on the openness of the Green Belt, and is therefore, to that very limited extent, more harmful. In all other respects, the effect of the proposal is the same, and the case put forward by the appellant is fundamentally the same as well. Therefore, for the same reasons I have set out in relation to the Planning Appeal, I conclude that the appeal on Ground (a) of the Enforcement Appeal should not succeed.

Ground (f)

20. The gist of the appellant's case is that a reduction in the height of the building or the demolition of those elements beyond the footprint of the previous building, would achieve the purposes of the notice. Even if the main structure is removed, it is argued, no useful purpose would be served by removing the raft foundation for the building or the building materials from the site.

21. Section 173 of the Act indicates that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. In the enforcement notice the Council has not specifically indicated which of those two purposes it seeks to achieve. However, since the notice requires the complete removal of the building, it appears that the purpose is to remedy the breach of planning control. This purpose could only be achieved by the removal of the unauthorised building along the lines specified in the notice.

22. In any event, I have already considered the proposal to reduce the height of the building in relation to the Planning Appeal, but have concluded that the appeal should be dismissed. While I have noted the suggestion that the building could be further reduced in size, I have no scheme to show the building in such a reduced form, and cannot, therefore, properly evaluate this suggestion. Retaining the raft foundation or the building materials on the site would harm the amenities of the Green Belt, contrary to advice within PPG2. I cannot assume, on the information before me, that any materials remaining on the site would be put to use in the near future.

23. For these reasons, the appeal on ground (f) fails.

Conclusion

24. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Peter Willows

INSPECTOR