
Appeal Decision

Site visit made on 16 March 2015

by J L Cheesley BA(Hons) DIPTP MRTPI

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

Decision date: 28 March 2015

Appeal Ref: APP/H2265/A/14/2229036

**Foxbush Cottage, 107A Tonbridge Road, Hildenborough, Tonbridge,
Kent TN11 9HN**

- 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 Edward Simpson against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/14/03073/FL dated 29 August 2014 was refused by notice dated 25 November 2014.
 - The development proposed is garden office with store room above.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant appealed against non-determination of the planning application on 18 November 2014. The appellant was informed on 2 December 2014 that there were missing documents preventing registration of the appeal. Meanwhile a decision was issued by the Council on 25 November 2014. The registration of the appeal was not undertaken until 30 December 2014.
3. Under these circumstances, it is necessary for the appeal to be determined as a refusal of planning permission. I must emphasise that this has no bearing on the planning merits of the case or the way I have approached my determination of this appeal.

Main Issues

4. I consider the main issues to be:

whether the development amounts to inappropriate development in the Green Belt, and if so, 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; and

whether the development constitutes the creation of an independent dwelling and if so whether it is appropriate in this countryside location.

Reasons

Green Belt

5. The National Planning Policy Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. One of the purposes of including land within Green Belts is to safeguard the countryside from encroachment. The Framework explains that the replacement of a building is not inappropriate in the Green Belt provided the new building is in the same use and not materially larger than the one it replaces.
6. Policy CP3 in the Tonbridge and Malling Borough Council Core Strategy (2007) seeks to apply national Green Belt Policy.
7. The replacement building has already been constructed. I note that it replaces a previous shed on the same footprint. That shed had a sloping roof between some 2.5 to 3 metres in height. The replacement building has a first floor with the ridge of the highest gable reaching a maximum height of some 5 metres.
8. Due to the increase in height and bulk of the building above that it replaces, I consider that the building is materially larger than the one it replaces. Thus, it is inappropriate development, which the Framework states is, by definition, harmful to the Green Belt.
9. Whilst I am of no doubt that the development is inappropriate development in the Green Belt, added to the harm of being inappropriate development is the level of impact that the development has in diminishing the openness of this part of the Green Belt. In my opinion, the bulk, additional floorspace and height of the building consequently reduces the openness of this part of the Green Belt.

Independent Dwelling

10. Whether the development is tantamount to being an independent dwelling is a matter of fact and degree. The distinctive characteristic of a dwelling house is its ability to afford to those who use it the facilities required for day-to-day private domestic existence.
11. I realise that the first floor is accessed via a ladder and that further insulation would be required for residential accommodation. Nevertheless, in my opinion, the building, albeit small, is capable of being used independently. In particular, the provision of a kitchen area, shower room and carpeted first floor indicates that the building is capable of being used independently with no functional or practical linkage to the existing two residential buildings. Thus, the building is capable of being used as a separate dwelling. Therefore, I have determined the appeal before me in this respect.
12. The appeal site lies within the countryside. Core Strategy Policy CP14 restricts new development to that within a list of criteria. The objective of this policy is to preserve the character of the countryside and concentrate development in or adjoining existing built up areas. The building is capable of being used as a separate dwelling and does not meet the requirements of Core Strategy Policy CP14, which seeks to restrict development in the countryside. Thus, I consider

that the development has an adverse effect on the character of the countryside and is not appropriate in this countryside location.

Other Considerations

13. I note that the building is required for room for children to study and wider family needs. Whilst I sympathise with this situation, such requirements could be argued by many people wishing to expand accommodation in the Green Belt. Therefore, I have attributed limited weight to these matters in my determination of this appeal.
14. I realise that the building is well screened from public view. Views within the Green Belt are distinctly different to openness. Thus, I have attributed limited weight to this matter in my determination of this appeal.

Conclusion

15. It is necessary to determine whether there are other considerations which clearly outweigh the harm to the Green Belt and any other harm, hereby justifying the development on the basis of very special circumstances. For the reasons stated above, in my opinion the considerations advanced in support of the appeal development do not clearly outweigh the harm it causes to the Green Belt and to the character of the countryside. In conclusion, I am of the opinion that there are no material factors that would amount to the very special circumstances needed to clearly outweigh the presumption against inappropriate development in the Green Belt. Therefore, the development is contrary to policy in the Framework and Core Strategy Policies CP3 and CP14.
16. In reaching my conclusion, I have had regard to all matters raised. For the reasons stated above, I dismiss the appeal.

J L Cheesley

INSPECTOR