



Appeal Decision

Site visit made on 4 January 2024

by **C Rafferty LLB (Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 18 January 2024

Appeal Ref: APP/G4240/W/23/3322142

Land adjacent to 30 Ivy Cottages, Tameside, Denton M34 7PZ

- 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 Ms Julie Bowers against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 22/01041/FUL, dated 18 October 2022, was refused by notice dated 23 February 2023.
 - The development proposed is the change of use of existing two bedroom annex to a residential dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of existing two bedroom annex to a residential dwelling at land adjacent to 30 Ivy Cottages, Tameside, Denton M34 7PZ in accordance with the terms of application Ref 22/01041/FUL, dated 18 October 2022 subject to the following conditions:
 1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Plans and Elevations dated 6 September 2022; and Proposed Plans and Elevations incorporating Proposed Site Plan dated 6 September 2022.
 3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted within Part 1 of Schedule 2, Classes A, B, C, D, and E inclusive of that order shall be constructed on the site unless express planning permission has first been granted for such development.

Preliminary Matters

2. The description of development has been taken from the Council's decision notice as this is a more accurate description of the proposal.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach. Where I have referred to provisions of the Framework below, I have done so with numbering from the revised version.

Main Issues

4. The main issues are whether the proposal:
 - 1) would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - 2) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether the proposal is inappropriate development

5. The appeal site comprises the side garden at No. 30 Ivy Cottages, within which a detached single storey outbuilding is located. The outbuilding was constructed as kennelling for dogs incidental to the residential use of the main dwelling at No. 30. Temporary consent for the use of the outbuilding for residential purposes was previously granted, but this has been expired for some time. I observed on site that the internally the outbuilding remains laid out for residential use.
6. The site is located within the Green Belt. The Framework states at paragraph 154 that construction of new buildings in the Green Belt should be regarded as inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, this is subject to a number of exceptions including at paragraph 155, which states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes, among other things, the re-use of buildings provided that the buildings are of permanent and substantial construction. This position is reflected in Policies OL1 and OL2 of the Tameside Unitary Development Plan Adopted Statement 2004 (the UDP).
7. The proposal seeks to change the use of the outbuilding to a separate residential dwelling. The main parties agree that the main elements of the existing building are structurally sound and will accommodate the proposed conversion. Based on my observations I have no reason to disagree. Accordingly, the proposal would reuse a building of permanent and substantial construction. As such, the question as to whether the proposal would be inappropriate development depends on whether it would preserve openness and not conflict with the purposes of including land within the Green Belt.
8. The Framework states that "*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*" It has also been established that openness has both a spatial and visual aspect.
9. The main parties agree the proposal would not increase the footprint of the building, and plans show that the scale, dimensions and external treatments of the outbuilding would remain as per the current situation. The proposal would involve the subdivision of the site, which I observed has already been undertaken, with boundary fencing separating the outbuilding from the wider garden space of No. 30. However, there is extensive screening of the site as a result of the boundary treatments, such that there is limited visibility of the outbuilding, the garden space

or the dividing boundary fencing within the immediate or wider area, including from the adjacent right of way. In this regard the proposal, both in terms of the change of use of the outbuilding and in approving the sub-division of the site, would have no material effect on the visual or spatial openness of the Green Belt.

10. I acknowledge that the proposal would create a separate and independent dwelling. This would inevitably result in additional comings and goings, including increased parking, and the presence of further residential paraphernalia. While a more intensive residential use can impact openness, in this case the site already has a residential use as the side garden No. 30, and both the site itself and the outbuilding are within close proximity to an established terraced row of existing dwellings. Due to the scale and nature of the single dwelling proposed, the likely level of parking and additional movements and domestic paraphernalia would be limited. Although two parking spaces would be provided to future residents of the scheme, this would re-use the current, in-curtilage parking present opposite the site. Accordingly, I overall find that, taking account of to the nature of this specific site and its surroundings, openness would be preserved both from a visual and spatial perspective.
11. My attention has been drawn to a previous appeal decision at the site, which related to the use of the outbuilding as a two bedroom bungalow but no substantive details on that proposal have been provided. In any event, I must determine the appeal as it appears before me and on its own, specific circumstances and reference to other decisions will carry limited weight. In my planning judgement the proposal would preserve the openness of the Green Belt in this particular location.
12. With regard to the purposes of including land within the Green Belt, there would be no additional urban sprawl or encroachment into the countryside resulting from the proposal for the reasons outlined above. It would have no effect on merging of neighbouring towns or the setting and special character of historic towns. While no urban regeneration is involved, the proposed development would reuse an existing building. Accordingly, the proposal would not conflict with the purposes of including land within the Green Belt
13. For the reasons given, the proposal would not be inappropriate development in the Green Belt. As such, it would comply with the provisions of paragraph 155 of the Framework and Policies OL1 and OL2 of the UDP. Accordingly, there is no need for me to assess whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to very special circumstances.

Other Matters

14. I note the concerns of interested parties relating to highway safety. As outlined above, due to its scale the proposal is likely to result in limited increased trips to and from the site, with off street parking spaces provided. The Council did not find that it would lead to highway safety implications and, based on my observations, I have no reason to disagree.
15. Concerns were also raised regarding the potential for the proposal to create a precedent for further development. However, each application is to be decided on its own merits in accordance with national and local policy, as I have done in this case.

Conditions

16. Suggested conditions were not provided by either of the main parties but I note reference to conditions within the Officer's Report by certain consultees, to which I have had regard. While it was suggested that conversion works should be restricted to certain hours, given the similarity between the existing and proposed internal and external layout and appearance of the scheme and based on my observations on site, these works are likely to be limited so as not to cause undue disturbance such that a condition of this nature would not be necessary in this case.
17. Reference has been made to a condition requiring the provision of cycle spaces at the site and to a note regarding the responsibility to properly address contaminated land issues, including safe development and secure occupancy. However, no substantive or policy justifications for such conditions have been provided, and I note that the Officer's Report does not raise concerns in these regards. On the evidence before me, I have no reason to conclude that such conditions are necessary in this case.
18. In addition to requiring commencement within the standard statutory period, I have imposed a condition requiring compliance with the plans in the interests of clarity. A condition specifying materials is not necessary, as these are noted on the plans. The Framework advises that conditions should not be used to restrict permitted development rights unless there is clear justification to do so. The effect of permitted development works could result in additional built form at the site which could have an adverse effect on the openness of the site. Consequently, I am satisfied that these rights should be removed in the interests of the protection of the Green Belt. The main parties have had the opportunity to provide their comments on this condition, and their responses have been taken into account.

Conclusion

19. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed, subject to the conditions at paragraph 1 of this decision.

C Rafferty

INSPECTOR