
Appeal Decision

Site visit made on 18 February 2014

by Chris Preston BA (Hons) BPI MRTPI

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

Decision date: 28 March 2014

Appeal Ref: APP/K3415/A/13/2206291

Springhill Farm, Walsall Road, Springhill, Lichfield WS14 0BX

- 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 Aamer Waheed against the decision of Lichfield District Council.
 - The application Ref 13/00627/COU, dated 09 June 2013, was refused by notice dated 12 September 2013.
 - The development proposed is change of use of agricultural farm shed to mausoleum.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description given on the application form describes the development as a change of use of an agricultural farm shed to a mausoleum. For reasons fully set out within the main body of my decision, I consider that the proposal would not only constitute a change of use but would also require substantial new building work. Within their decision, the Council described the development as reconstruction and enlargement of existing agricultural building to form mausoleum.
3. However, as described within the officer report, amended plans were received prior to the application being determined which reduced the scale of the proposed building so that it was no larger than the existing structure. Taking all of these factors into account, I consider that an accurate description of the proposal is: change of use and alteration of agricultural farm shed to form mausoleum. I have considered the appeal on that basis.

Main Issues

4. The main issues are:
 - (a) Whether the proposal represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - (b) The effect of the proposal on the openness of the Green Belt; and
 - (c) If the proposal is inappropriate development 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 Represents Inappropriate Development Within Green Belt

5. Paragraph 90 of the Framework states that development involving the re-use of buildings within the Green Belt is not inappropriate, provided that the development preserves the openness of the Green Belt, does not conflict with the purpose of including land within it and that the buildings are of permanent and substantial construction.
6. In line with paragraph 90 of the Framework, saved policy E.4 of the Lichfield District Local Plan (1998) allows for the re-use of buildings which are of permanent and substantial construction, with a proviso that any such development is consistent with policy DC.4. Insofar as it relates to the re-use of buildings within Green Belt, policy DC.4 requires, amongst other things, that the buildings are of substantial construction and capable of conversion without major or complete re-construction.
7. The requirement within policy DC.4 that buildings are capable of conversion without major or complete re-construction is not replicated within the Framework. However, to my mind, for a building to be 're-used', it is inherent that the principle elements of the structure would be retained as part of any conversion. If major or complete reconstruction was proposed, vis-à-vis policy DC.4, this would amount to a substantially new building as opposed to the re-use of an existing one. In this sense, I am satisfied that the contents of policies E.4 and DC.4 are consistent with the aims of national policy and have given significant weight to these saved policies, in line with the requirements of paragraph 215 of the Framework.
8. The appeal relates to a disused agricultural building which is estimated by the appellant to be approximately 35 years old. The rear section of the structure is enclosed on three sides but the front half is open to the elements, with the exception of a low wall running between the steel supports on the eastern facing elevation. The walled elevations comprise a mixture of brickwork and blockwork, with a roof of corrugated sheet metal, supported by a steel framework. In essence, the building is a modest, open sided, agricultural store with a relatively lightweight frame and roof materials.
9. As evidenced by the proposed plans, very extensive alterations would be required in order to form the proposed mausoleum. The open sided elements would be enclosed with new blockwork, the entire exterior would be re-clad, internal partitions would be erected, a new glazed entrance feature would be installed and a new slate roof would be erected. The roof would overhang the walled elevations by a substantial degree, a feature that may require alterations to the existing steel framework. The completed building would take on a much more permanent and substantial character and no element of the existing store would be visible in the external elevations.
10. In view of the above, although the building is of a permanent nature, I do not consider that it is of substantial construction in the terms required by the Framework or policies E.4 and DC.4 of the Local Plan. It is open-sided and of comparatively lightweight construction and, consequently, is not capable of re-use as a mausoleum in its current form. The structure would only be capable of housing the proposed facility after very extensive alteration (either through cladding or re-building) of all four walls and the roof, plus substantial internal work. In my view, this would amount to major reconstruction and not re-use of an existing building as set out in paragraph 90 of the Framework or required by policies E.4 and DC.4.

11. Notwithstanding his position regarding the re-use of the building, the appellant also contends that a mausoleum would constitute an appropriate facility at a cemetery. Paragraph 89 of the Framework establishes that new buildings within the Green Belt are inappropriate unless, amongst other things, they relate to the provision of *appropriate* facilities for outdoor sport, outdoor recreation and for cemeteries, as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Emerging policy NR2 of the emerging Lichfield District Local Plan: Our Strategy (2012) (the emerging Local Plan) essentially replicates these criteria.
12. The test within saved policy E.4 differs from that in the Framework. The policy allows an exemption to the presumption against Green Belt development for purposes of outdoor sport, outdoor recreation or cemeteries but requires that new buildings are *essential* facilities. The two words have distinctly different meanings. Given this conflict, I attach little weight to the requirement of saved policy E.4 in this regard and have considered the matter before me on the basis of the test set out within the Framework and policy NR2 of the emerging Local Plan.
13. Regardless of the above no cemetery currently exists at the site. Although planning permission was granted in 2010 the cemetery is not operational at the present time. I note that conditions relating to the cemetery required the access arrangements to be upgraded, including the construction of a new round-a-bout, prior to the commencement of work on the cemetery. These access improvements have not been completed and there is little evidence on site of any substantial work being undertaken, either in relation to the access arrangements or other elements of the proposal. On the evidence before me, there is no indication of when the cemetery will be brought into active use.
14. Therefore, I consider that the appeal before me is essentially a free standing proposal for the change of use and reconstruction of an agricultural building to form a mausoleum. The building is situated on land which did not form part of the cemetery proposal. Were I minded to allow the appeal, the Council has put forward a condition to the effect that the mausoleum should not be operated independently of the adjacent burial ground. However, such a condition would not prevent the building works associated with the mausoleum from taking place and being completed in advance of the cemetery being brought into active use. Equally, the condition could not impose a requirement to ensure that the cemetery was brought into use in a particular timescale. Therefore, the condition would not prevent the proposed building works from taking place within the Green Belt, in the absence of a cemetery on the adjacent site.
15. In these circumstances, I do not consider that the proposal before me can be considered as an appropriate facility for a cemetery for the purposes of paragraph 89 of the Framework. The proposal would involve substantial reconstruction of an existing building and the building works proposed would not fall within a category of development considered to be appropriate under paragraphs 89 or 90 of the Framework.
16. In view of the above, I conclude that the proposal would be inappropriate development which is, by definition, harmful to the Green Belt. In line with paragraph 88 of the Framework, I attach substantial weight to this matter.
17. In reaching this conclusion I have taken account of previous appeal decisions relating to the site, including the previous inspector's findings regarding the re-use of a former agricultural building to form a reception building (considered in relation to appeal reference APP/K3415/A/09/2113244). That proposal also involved re-cladding the original building and other work. In that instance, the inspector

considered that a reception building would form an essential facility in relation to the cemetery and therefore took a pragmatic approach to the amount of work required to facilitate re-use of the building. He concluded that it was preferable to allow the conversion of the existing building than to construct a new but smaller essential building elsewhere on the site.

18. In my view, the circumstances of the case before me are not comparable to that proposal. In essence, a cemetery is an open use of land, considered to be appropriate within Green Belt. A reception building is clearly a facility that is directly related to and ancillary to the principal function of the site as a cemetery. A mausoleum is a different concept, which requires the erection of a building to house burial vaults. In this case, the proposed building is a substantial structure which is located outside of the application site for the proposed cemetery. Although the end use of the mausoleum and cemetery are essentially the same, the two uses could operate independently of each other. Therefore, as set out above, I am not satisfied that the proposal represents an appropriate facility at a cemetery for the purposes of the Framework. In contrast, the previous inspector considered that a reception building would be an essential facility and considered the re-use of the building, including the proposed alterations, on that basis.
19. Consequently, given the context in which that previous decision was made, I do not consider that it sets a precedent for the matter before me.

Openness of the Green Belt

20. The reconfigured building would be no greater in size than the existing building on the site. The height would match the existing structure, as would the length and depth of the main building. The overall volume would be slightly reduced as a result of the removal of two small existing lean-to structures. However, I consider that the benefit to the openness of the Green Belt brought about by this reduction in volume would be off-set by the overhanging roof, which would increase the visual bulk of the building, and the construction of walls enclosing the front and side of the structure. As described above, the front section is largely open, a feature that allows views through the building and minimises its impact in the local landscape. In contrast, the proposed building would be fully enclosed with a more substantial roof, providing a significantly more substantial appearance.
21. Therefore, despite the slight reduction in volume, I consider that the overall impact of the development would result in a slight loss of openness to the Green Belt. However, this loss would be minimal and the harm to the Green Belt arising from it would therefore be limited.

Other Considerations

22. Paragraph 88 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh this harm. The appellant notes that the facility would generate employment for two full time staff. Chapter 3 of the Framework supports sustainable economic growth in rural areas and the employment opportunities related to the proposal represent a positive material consideration in favour of the scheme. However, the number of jobs is relatively small and the weight I attach to this benefit is therefore limited.
23. The appellant contends that the proposal would result in a significant improvement in the appearance of the existing building. Within its decision notice, the Council has referred to policy BE1 of the emerging Local Plan which requires, amongst other things, that development should carefully respect the character of the surrounding area in terms of layout, size, scale, architectural design and public

- views; design requirements that are consistent with the aims of chapter 7 of the Framework. However, they do not contest the appellant's points relating to the visual benefits of the proposed scheme within their subsequent statement.
24. Although somewhat dilapidated, the existing structure is typical of a lightweight farm building that one would expect to find in the rural landscape. The appearance of the reconstructed building would be less agrarian, being designed to replicate the style of the cemetery reception building for which planning permission has been granted. Thus, whilst the proposal would bring a greater level of tidiness and architectural uniformity to the site, this would come at the loss of its existing rural character. Therefore, whilst the alterations would not harm the character of the area, or contravene policy BE1 of the emerging Local Plan or the design related requirements of the Framework, I do not consider that they would enhance the surrounding environment.
25. In the light of this, I conclude that the other considerations put forward which weigh in favour of the proposal fail to clearly outweigh the harm that I have identified.
26. Were I minded to allow the appeal, I am satisfied that a condition could be imposed to ensure that measures were incorporated into the construction of the building to prevent any impact on the living conditions of adjacent occupiers by way of odour and to prevent any potential contamination or public health issues relating to the use of chemicals associated with the building. Therefore, concerns of interested parties in this respect have not added weight to my decision to dismiss the appeal.
27. I have also noted comments relating to the lack of an established need for the proposed facility; a point contested by the appellant. However, I can find nothing within local or national planning policy that requires a demonstration of need to support such proposals. Consequently, I have considered the appeal on the merits of the proposal before me, as set out above.

Conclusion

28. In conclusion, I have identified that the development would be inappropriate development within the Green Belt, as defined by the Framework. Consequently, by definition, it would be harmful to the Green Belt. I also find that the development would have a limited but adverse impact upon the openness of the Green Belt and that the external alterations would not enhance the character of the area. As explained above, I give only limited weight to the economic benefits in favour of the proposal and consider that these benefits do not outweigh the harm that I have identified. Consequently, there are no very special circumstances necessary to justify development in the Green Belt.
29. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed. The Government's Planning Practice Guidance was published on 6 March 2014. The content of the Guidance has been considered but in the light of the facts of this case the document does not alter my conclusions.

Chris Preston

INSPECTOR