
Appeal Decision

Site visit made on 16 March 2017

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 06 April 2017

Appeal Ref: APP/A4710/W/17/3167345

Lightlie Royd, Lightcliffe Royd Lane, Barkisland, Sowerby Bridge, HX4 0BU

- 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 and Mrs A&M Prosser against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 15/01665/FUL, dated 23 December 2015, was refused by notice dated 21 July 2016.
 - The development proposed is a barn conversion to form two dwellings and one garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposed development would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt and the Green Belt purposes;
 - the effect of the development on the visual amenity of the Green Belt and the character and appearance of the area;
 - the effect of the development on the living conditions of the occupiers of the existing dwelling with particular regard to privacy;
 - 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

3. The appeal site forms an agricultural building located to the south of Lightcliffe Royd Lane. The building lies to the east of a group of existing dwellings. Lightlie Royd the closest dwelling and the attached cottage form Grade II listed buildings. The site lies in the Green Belt.
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Inappropriate development

4. Paragraph 90 of the Framework provides guidance on forms of development that would not be inappropriate in the Green Belt. This includes the re use of buildings provided that the buildings are of permanent and substantial construction.
5. Saved Policy GNE1 of the Replacement Calderdale Unitary Development Plan (RCUDP) 2006 aims to contain the urban area and states that a Green Belt will be maintained around the main built up areas. The Plan seeks to restrain development outside urban areas through the general extent of the Green Belt. Saved Policy NE4 concerns the conversion or change of use of buildings in the Green Belt and permits such development provided that it meets certain criteria. Most relevant to the appeal case is (ii) that the buildings are of permanent and substantial construction and are capable of conversion without major or complete reconstruction and (iii) that the conversion would not have a materially greater impact than the current use on the openness of the Green Belt and the purposes of including land in it or on the character of the countryside. I consider the above saved policies, whilst they pre date the Framework, are broadly consistent with it. They therefore attract significant weight in the determination of this appeal.
6. In this case there is dispute between the parties in respect of whether the building is capable of conversion. A structural survey has been provided by the appellant. Whilst this demonstrates that the steel framed portal shed structure of the building is sound and stable, it also shows that the blockwork retaining wall at the rear of the barn together with the other blockwork walls need reconstruction as they are showing defects and signs of structural movement. In addition the roof timbers would need to be upgraded to take the additional loads of a slate roof.
7. The proposed scheme would therefore require the rebuilding of all external blockwork walls, removal of existing steel cladding, cladding the exterior with stone and a new roof with reinforced purlins. Whilst I accept that the structural frame is sound the remainder of the building requires reconstruction. The appeal scheme would therefore amount to more than a conversion of the building. It would in effect result in the construction of a new building and would not comprise the re-use of a building of permanent and substantial construction. The development would therefore conflict with paragraph 90 of the Framework and Saved Policy NE4 (ii) of the RCUDP and form inappropriate development in the Green Belt.
8. Inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. The Framework in paragraph 88 advises that substantial weight is given to any harm to the Green Belt. 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.

Openness and Green Belt purposes

9. Paragraph 79 of the Framework states the essential characteristics of Green Belts are their openness and permanence. I note from the appellant's evidence that the scheme includes an entrance lobby extension. Whilst this would increase the footprint of the building this would be offset by a corresponding

reduction in footprint of the existing garage next to the barn. Consequently the overall footprint of the building would be similar.

10. In terms of volume however, the proposal includes an increase in the height of the garage and also the lean to element of the main barn to accommodate the lobby. The proposal also includes an external terrace area to the north of the building and landscaped garden areas to serve the dwellings. The additional volume of the proposed building together with the terrace and garden areas would extend development into currently undeveloped parts of the site. This would adversely affect the openness of the Green Belt. The proposal would therefore fail to comply with Saved Policy NE4 of the RCUDP which in part (iii) aims to protect the openness of the Green Belt. Furthermore the proposal would conflict with one of the purposes of the Green Belt, to safeguard the countryside from encroachment.

Visual amenity and character and appearance.

11. The Council's second reason for refusal refers to the scale and design of the proposal which they consider would create an incongruous feature discordant with the character and visual amenity of the area. However I note that the Council does not dispute that the conversion scheme would visually improve the appearance of the building and appear more in keeping with the surrounding area.
12. The proposed two dwellings would relate to the existing built development on the site. Landscaping proposals form part of the scheme which would assist to screen and break up views of the development. I therefore consider that the appeal proposal would not have a materially detrimental effect on the wider visual amenity of the Green Belt or the character and appearance of the surrounding countryside.
13. I therefore find no conflict with Saved Policy BE1 which aims to promote good design and ensure developments make a positive contribution to the quality of the existing environment. The proposal would also not conflict with Saved Policy NE4 which seeks to ensure that conversions of buildings in the Green Belt do not have an adverse impact on the appearance or amenity of the countryside.

Living conditions

14. The larger of the two proposed dwellings would have two ground floor kitchen /dining room windows, a first floor bedroom window and an ensuite window on the north western elevation facing the host dwelling, Lightlie Royd. The separation distance would be around 11 metres. On the corresponding facing elevation, Lightlie Royd has a ground floor kitchen window, a kitchen door and two other windows serving habitable rooms and rooflights serving rooms on an upper floor.
15. I am advised by the Council that Annex A of the UDP requires a separation distance of 15 metres. There is therefore a shortfall of 4 metres. However I observed on my site visit that the existing windows in Lightlie Royd are small and do not provide clear views into the dwelling. I therefore consider that the separation distance between the two dwellings would be acceptable to safeguard privacy. The proposed development would therefore not result in material harm to the living conditions of the occupiers of the nearby dwelling.

I therefore find no conflict with Saved Policy BE2 of the RCUDP which aims to ensure that development proposals do not significantly affect privacy and paragraph 17 of the Framework which seeks a good standard of amenity for all existing and future occupiers of land and buildings.

Other considerations

16. In support of the proposal the appellant has argued that the appeal proposes to bring back into use an agricultural building in some disrepair. Whilst I accept the building needs some repair it is not in such a state that it is causing visual harm and it is still able to be used for storage. I consider this matter to form a neutral consideration.
17. I agree that the scheme is designed in matching materials and the design will improve the appearance of the existing functional barn. These factors add some support to the scheme.
18. The appellant makes reference to the contribution of the proposal to housing supply, especially as the Council cannot demonstrate a five year supply of deliverable housing land. However, as the proposal comprises two dwellings, the scale of these benefits would be small and therefore only attract limited weight in favour of the appeal.

Other Matters

19. Lightlie Royd and the neighbouring cottage form Grade II listed buildings. There is a legal duty set down in section 66 (1) of the Planning (Listed Building and Conservation Area) Act 1990 to have special regard to the desirability of preserving a listed building and its setting or any features of special architectural or historic significance. Whilst not forming a reason for refusal, the Council has expressed the view that the appeal proposal would as a result of the scale and design cause harm to the setting of the nearby listed dwellings.
20. The Council accepts that the existing barn has a negative impact on the setting of the neighbouring properties. As I have already outlined above, the appeal proposal would result in a development more in keeping with the architectural style and materials of the listed dwellings. They form a tight group of buildings and whilst I accept that the proposed new dwellings would be close to them, they would retain the same separation distance as the existing barn. In my view the appeal scheme would therefore have no greater impact on the setting of the listed dwellings. The setting of the listed buildings would be preserved and the proposal would therefore accord with saved Policy BE15 of the RCUDP and Section 12 of the Framework.

Conclusion and Planning Balance

21. The Framework indicates 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 the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
22. I find the lack of harm to the visual amenity of the Green Belt and the character and appearance of the area as well as the lack of harm to the living conditions of the occupiers of nearby dwellings to form neutral factors which do

not weigh for or against the proposal. Taking all the relevant matters into account, I consider that the harm by reason of inappropriateness and the harm to openness are clearly not outweighed by the other considerations outlined above. Consequently, the very special circumstances necessary to justify the development do not exist. As a result there is conflict with the development plan and the Framework as a whole.

23. Even though the Council cannot demonstrate a 5 year housing land supply, given my finding above, and with reference to footnote 9 from the Framework, specific policies in the Framework indicate that the development should be restricted. As such, the presumption in favour of sustainable development as envisaged by the first limb of the fourth bullet point of paragraph 14 of the Framework does not apply.
24. For the reasons given above and having regard to all other matters raised, I dismiss the appeal.

Helen Hockenhull

INSPECTOR