



Appeal Decision

Site visit made on 6 August 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2019

Appeal Ref: APP/C2741/W/19/3229287

Premier Inn, Clifton Park Avenue, York YO30 5PA

- 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 Graham Hedley of Whitbread Plc against the decision of City of York Council.
 - The application Ref 18/01422/FUL, dated 22 June 2018, was refused by notice dated 16 January 2019.
 - The development proposed is described as: 'Proposed extension to the existing hotel to provide additional bedrooms and alterations to the existing internal layout to provide an additional 2 bedrooms. Associated alterations to car parking'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy, which set out the general extent of the York Green Belt.
3. Both main parties refer to the City of York Publication Draft Local Plan 2018 (the Emerging Plan) and to the City of York Draft Local Plan 2005 (the 2005 Draft LP), which has been approved by the Council for development control purposes. As neither of these plans have been formally adopted, I have given them little weight.
4. Paragraph 11(d)(i) of the National Planning Policy Framework (the Framework) states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 of the Framework makes clear that 'areas or assets of particular importance' includes land designated as Green Belt. Therefore, Paragraph 11 of the Framework does not indicate a presumption in favour of development in this case.
5. The Council refer to 2no. protected Sycamore trees (T1748 and T1750) to the south of the host building on its decision notice. However, during the course of the appeal both parties have made reference to a Copper Beech tree (T1746) in their appeal submissions. Therefore, I consider that neither party would be prejudiced in taking into account the effect of the proposed development on T1746 in the determination of this appeal.
6. For clarity and completeness, I have taken the name of the appellant from the appeal form.

Main Issues

7. The main issues are as follows:

- whether the proposal would be inappropriate development in the Green Belt;
- the effect of the development on the character and appearance of the area; and,
- the effect of the development on protected trees.

Reasons

Inappropriate development

8. Paragraph 145 of the Framework advises that Local Planning Authorities should regard the construction of new buildings as inappropriate in Green Belt, subject to a list of exceptions.
9. Both parties refer to paragraph 145 g) of the Framework regarding limited infilling or the partial or complete redevelopment of previously developed land. The term “infilling” is not defined in the Framework. I find that the proposed development does not constitute a form of ‘infilling’ development as it is an extension of an existing building. However, another of the exceptions listed at paragraph 145 c) of the Framework is for the extension of a building provided that it does not result in disproportionate additions over and above the size of the ‘original building’.
10. The Framework itself does not define ‘disproportionate’. This is therefore ultimately a matter for the decision taker, with much depending on the individual circumstances of the proposal. However, a conclusion on this matter cannot be arrived at purely on a mathematical calculation as a single factor as the test is primarily an objective one based on size, as referenced by the Framework.
11. The Council has drawn my attention to a judgment¹ which confirmed that openness is ‘open-textured’ with a visual as well as spatial aspect to the assessment of it, amongst other things. Both main parties have brought to my attention another judgement² which confirmed that consideration of impact or harm to the Green Belt resulting from the proposed change is fundamental to the assessment of ‘greater impact on the openness of the Green Belt’. I consider that both of these judgments are material considerations in the assessment of this appeal.
12. The appellant asserts that the host building has not been extended since it was originally constructed, which has not been disputed by the Council. The proposed 2-storey extension would be located to the left of the existing building when viewing it from the front. It would not extend beyond the existing rear elevation, but it would project further forward than the main front elevation of the building and covered entrance. The extension would comprise 16 no. additional bedrooms located over both the ground and first floor. The proposed development would add some 285m² of footprint and 1971m³ of volume, equating to a 37% and a 35% increase over the original building

¹ Turner v Secretary of State for Communities and Local Government and another (2016 EWCA Civ 466)

² Euro Garages Limited v Secretary of State for Communities and Local Government and another (2018 EWHC 1753)

respectively. These percentage increases have been accepted by the Council in the Officer Report.

13. The amount of development proposed is notable, but I recognise that this is primarily due to the size of the host building. Nevertheless, I find that the arrangement of the extension would relate well to the existing building, especially as the existing building has not been the subject of previous extensions, and although the extension projects towards the public house, it would not significantly close a valuable gap between buildings. Furthermore, I find the proposed development would not be readily visible from public viewpoints, especially from Shipton Road being set back from the road by a notable distance and the intervening landscaping. Given this, and my observations on site, I am of the view that the addition of the proposed extension when compared to the host building would not result in a disproportionate addition over and above the size of the original building.
14. Therefore, I find that the proposal would not be inappropriate development in the Green Belt and would accord with the provisions of the Framework. With respect to openness and the purposes of the Green Belt, given my findings that the proposal would not be inappropriate development in the Green Belt, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it. Additionally, as the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances.

Character and appearance

15. The proposal comprises a 2-storey extension that would extend from the existing side elevation of the host building, in turn extending beyond and wrapping around the front elevation, not exceeding its height, and replicating existing design features present. Although, the proposed extension deviates from the main axis of the existing footprint, it does so sympathetically, complementing the host building. The articulation of the proposed roof and the introduction of 2 gables creates visual interest on the side elevation. Whilst concern has been raised to the number of windows that would be introduced on the proposed side elevation, I find that these fenestration details are similar to that present on the existing building.
16. The Council accepts that on balance, the proposal is considered to be acceptable in terms of design and impact on the general character and appearance of the local environment. I share this observation. I therefore conclude that the proposed development would be a high-quality building, which would not detract from the character and appearance of the surrounding area. The proposed development would therefore accord with the design, character and appearance aims of the Framework.

Protected trees

17. The appellant's Arboricultural Impact Assessment³ (AIA) identifies that the tree population on site is made up of a mix of broadleaved, and coniferous trees, and the trees of most significance are arguably the mature Copper Beech (T1746) left of the host building when viewing it from the front and 4No.

³ Arboricultural Impact Assessment, undertaken by Tree Care Consultancy dated 19 July 2018

Sycamores (T1748 - T1751) to the front of the host building. All of these trees are subject to a Tree Preservation Order⁴ (TPO). A Rowan tree (T1747) that has been identified for removal as part of the proposal is considered by the Council to be unlikely subject of the TPO due to its age and is considered more likely to be a replacement for a previously approved removal.

18. T1746 and T1750 are category 'B' trees and the evidence before me indicates that these trees are currently in good condition with an expected 20+ years life expectancy. T1748 is a category 'C' tree rated lower in quality with life expectancy in excess of 10 years. I note that the scheme has been amended since it was originally submitted to the Council as it included a larger area of car parking close to T1746 that required the removal of T1747. However, the subsequent amendments to the drawings removes the proposed larger area of car parking close to T1746 and therefore the need to remove T1747, although this category 'C' tree is still identified for removal on the amended drawing. There is no dispute raised by the Council to the categories applied to the trees in the AIA submitted by the appellant. I have little reason to disagree.
19. I note that T1750 has its entire Root Protection Area (RPA) located within the grassed area of the 'island'. I therefore find that the proposed development would not represent additional encroachment to the RPA of this tree. As a consequence, I find that the proposed encroachment into the RPA of this tree using accepted techniques would not necessarily cause any long term to this tree. This could be controlled by a suitably worded condition. However, both T1746 and T1748 already experience some encroachment from existing development.
20. With regards to Copper Beech T1746, I note that the appellant recognises that the adjacent road already intrudes into the RPA of this tree, but considers that its roots will have adapted too and actively colonised the underlying surface, likely to a greater depth than might ordinarily be the case. The appellant concludes that T1746 is robust and the proposed development is unlikely to compromise its viability. However, on the evidence before me I cannot be certain of the total amount of the RPA of T1746 that would be affected by both existing and the proposed development. Thus, I cannot be certain that the amount of development that would collectively affect the RPA of this tree would not cause it significant harm.
21. Sycamore tree T1748 is identified by the appellant as being lower in quality likely as a consequence of other unknown factors that will continue to impact on this tree irrespective of the proposed development. Whilst, T1748 may be lower in quality than the other Sycamore trees identified as T1749, T1750 and T1751, I find that it nevertheless adds some value to this group of trees, which collectively, contribute positively to the overall visual amenity of the area. It has been asserted that an opportunity now exists to replace the existing Grasscrete surface with the suggested Bodpave 40 surface treatment and that a further incursion in the RPA of T1748 is unlikely to result in a significant reduction in the life expectancy of this tree. However, I note the British Standard guidance⁵, in particular paragraph 7.4 which advises that no construction, including the installation of new hard surfacing, occurs within the RPA of veteran trees. I consider that both T1746 and T1748 are both veteran trees.

⁴ TPO 173/1991-A1

⁵ BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations

22. Therefore, on the evidence before me I cannot be certain that the proposed development would not significantly harm protected trees T1746 and T1748. I find that the proposed development is highly likely to result in the deterioration of these protected trees, reducing their anticipated and respective life expectancies to the detriment of the TPO and the wider woodland character surrounding the appeal site. I therefore conclude that the proposed development would have a harmful effect on protected trees. The proposal thus fails to accord with the character, appearance and environmental aims of the Framework.

Other Matters

23. I acknowledge that the proposed development would make some positive contribution to supply of tourist accommodation and that it would bring some social and economic benefits to the area through the provision of the additional hotel bedrooms and during the construction phase of the development. Additionally, an increase in the number of associated jobs and employment opportunities could be created. However, I find these benefits to be relatively limited and not sufficient to outweigh or alter the harm identified in respect of my conclusions on the main issues. I have considered this proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR