



Appeal Decision

Site visit made on 10 December 2019

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2020

Appeal Ref: APP/N4720/W/19/3237806

Site to the west of Wetherby Road, near Scarcroft Easting (x): 436556, Northing (y): 442091

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr D Rawlinson against Leeds City Council.
 - The application Ref 19/00251/FU, is dated 16 January 2019.
 - The development proposed is the erection of an exceptional and outstanding dwelling.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matter

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, the Council's statement of case includes the reasons why the planning application would have been refused had it been empowered to do so. I have also taken into account the appellant's statement of case and representations received from interested parties. I have drawn on this, together with other evidence before me, to inform the main issues in this appeal.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on biodiversity;
 - the effect of the proposal on the character and appearance of the area; and
 - if it 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

Inappropriate Development

4. The appeal site is situated in the Green Belt. The National Planning Policy Framework (the Framework) says (paragraph 145) that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. This is generally reflected in saved Policy N33 of the Leeds Unitary Development Plan Review (UDP) 2006, which also provides a list of exceptions. In so far as they are relevant to this appeal, these are largely similar to the exceptions set out in the Framework. I find therefore that saved Policy N33 is broadly consistent with the Framework and is not out of date despite its differences.
5. There is no dispute between the main parties that the proposed development does not fall within any of the exceptions identified in the Framework or Policy N33 of the UDP as being not inappropriate. Accordingly, the proposed development would comprise inappropriate development in the Green Belt and would therefore be at odds with Policy N33 of the UDP and paragraph 145 of the Framework in this regard.

Openness and Green Belt Purposes

6. A fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. This openness is an essential characteristic of the Green Belt and has a spatial and visual aspect.
7. The appeal site is a wooded area, immediately to the north of Scarcroft and considered open countryside for planning purposes. The construction of a dwelling on the site would result in built development where there is presently none, albeit there are remains of an old property. From a spatial aspect, the footprint of the dwelling, its bulk and the accompanying domestic accoutrements, such as the car port, would inevitably lead to a significant loss of openness.
8. From a visual aspect, even with additional planting the building and accompanying domestic paraphernalia would be visible, particularly in winter months, from public views. Moreover, the site would be used much more intensively in association with a new dwelling compared with its existing woodland function. The visible manifestations of the building and its use would visibly reduce the openness of the Green Belt in this location.
9. Green Belt purposes that appear to be served by the designation of the appeal site include checking unrestricted sprawl and safeguarding the countryside from encroachment. On the basis that I have characterised the site as open countryside rather than as part of the settlement and considering my findings on the visual and spatial aspect, the proposal would impact on the related Green Belt purposes.
10. I therefore conclude that the proposal would lead to a significant loss of Green Belt openness and would impact on the purposes of including the land within the Green Belt. Therefore, it would be contrary to the relevant Green Belt guidance within the Framework.

Biodiversity

11. Part of the woodland is listed on the priority habitat inventory of deciduous woodland. The appeal site is also listed as a Leeds Wildlife Habitat Network, covered by a group Tree Preservation Order (TPO) and listed as Local Green Infrastructure within the Scarcroft Neighbourhood Development Plan (2018-2033) (NDP). The woodland contains, amongst other things, Oak, Ash and dog's mercury. Moreover, the site has potential ecological value for protected bat and bird species.
12. The proposal would result in the loss of several trees, some to facilitate the development with others removed for safety reasons. Moreover, a number of trees would be pruned specifically to enable the development. The introduction of the dwelling would see built form, light and activity where there is none. The physical loss of habitat, the built form and its associated activity would have the potential to effect protected species within the woodland.
13. Circular 06/2005 states that the presence of protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it *'...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'* (paragraph 99). This is reinforced in advice within the Planning Practice Guidance (PPG). The appellant's evidence recommends both bird and bat surveys, however none have been undertaken, conflicting with this advice.
14. The appellant puts forward a number of mitigation measures including, amongst other things, the removal of invasive weeds along with additional tree planting, habitat creation and improved management of the woodland. I recognise that the woodland is not in a favourable condition at present and that such measures have the potential to provide biodiversity benefits. However, the extent of these benefits and any harm is unquantified with no metrics used in the supporting evidence. Moreover, in the absence of survey work to understand the potential effects on protected species, I have no substantive evidence before me to reach a conclusion that the proposal would achieve the biodiversity net gain that the proposal aspires to.
15. I cannot, therefore, be satisfied that the proposal would not have a harmful effect on biodiversity. The proposal would therefore conflict with Policy GP5 of the UDP, Policies G8 and G9 of the 2014 Leeds Core Strategy (as amended by the Core Strategy Selective Review 2019) (CS) and Policy GE2 of the Scarcroft NDP.
16. These policies, amongst other things, require that developments avoid loss or harm to locally important and UK priority habitats, except in exceptional circumstances and that any harm can be mitigated through appropriate measures and a net gain in biodiversity is secured. It would also fail to accord with the Framework where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Character and Appearance

17. The appeal site sits within a Special Landscape Area, as defined by the UDP. A public bridleway passes through and along the edge of the site. This allows views into the site and through to the suburban housing within Scarcroft and views out to the countryside toward the housing at Wayside Mount. The natural green corridor of the woodland, and its contrast with the agricultural fields and housing, creates a strong boundary edge to this part of the settlement.
18. I recognise that considerable care has been taken with the design of the dwelling which stems from the concept of a woodland cabin in a forest opening. It draws from the woodland setting incorporating, amongst other things, a glazed ground floor designed to feel part of the woodland floor, structural columns signifying tree trunks and upper rooms reflecting a woodland canopy. The design has been the subject of 2 assessments by the independent design review body Yorkshire & Humber Design Review Service (YHDRS). The Framework advocates the use of design review panels and states, that in assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.
19. The YHDRS's latest review of the proposal found the design to be highly innovative, with a strong relationship with its woodland setting. It also felt that the proposal represents a great opportunity for landscape enhancement with potential for positive uplift to the landscape from every conceivable point. Further work was recommended from a landscape perspective. The YHDRS also felt that the architectural metaphor had not yet been fully captured in the structure. The proposal has evolved since this feedback prior to the submission of the application.
20. The Council's own design review, by 2 qualified architects, felt that the design was not without merit, however ultimately did not deliver on its original concept and felt the use of steel would be inappropriate. Moreover, the Council's Landscape Officer objected to the proposal based on the effects on trees, the bridleway and the character and appearance of the woodland.
21. The landscaping proposed would improve the character and appearance of parts of the woodland. Moreover, improvements to its accessibility would have the potential to increase the appreciation of this landscaping. However, the appeal site would also, in parts, acquire a more manicured and developed appearance than it has at present.
22. I recognise that the building design and landscaping have sought to be sympathetic to its surroundings. However, the presence of the built form, hardstanding, formal access and gate, car port (and cars), light from the building and the activity from its occupation would all combine to significantly alter the character of that part of the woodland. This would be clear, to varying degrees, from the A58 and bridleway. Notwithstanding the views of the YHDRS, in my view, this would significantly erode the character and appearance of the woodland as a natural, undeveloped green corridor and its contribution as a strong boundary edge to this part of the settlement.
23. The proposed dwelling would be positioned close to several trees which appear in good condition and are proposed to be pruned on one side specifically to facilitate the development. I share the Council's concerns that the distance of

the proposed house to these trees could lead to future pressure to undertake further works. This could undermine their aesthetical value and contribution they currently make to this part of the woodland.

24. I consider the design of the building to be of a high quality and would be of an interesting composition and appearance. It would contrast with the housing bordering the woodland and incorporate unusual design features including, amongst other things, a cantilevered first floor section and steel panels. Whilst I recognise the architectural interest of the building this does not, on balance, outweigh my concerns regarding the harm, to the character and appearance of this woodland as a natural, undeveloped green corridor and its contribution as a strong boundary edge to this part of the settlement.
25. The proposal would therefore conflict with Policies GP5, N37 and LD1 of the UDP, Policy H2 and P10 of the CS, Policies GE1, H2 and BE4 of the Scarcroft NDP and Policy Land2 of the Natural Resources and Waste Development Plan Document adopted 2013. These policies, amongst other things, aim to ensure that development and any associated landscaping is appropriate to the form and character of the area including respecting local distinctiveness, trees and natural assets. These policies are broadly consistent with the Framework, and therefore any conflict with it is a matter of significant weight.
26. The proposal would also conflict with the Council's Guideline Distances from Development to Trees Securing Space for Existing and New Trees guidance, updated 2011, which recommends distances between houses and trees.

Other Considerations

27. Paragraph 144 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 the harm.
28. The appellant has drawn my attention to another appeal decision¹ in which an Inspector determined that the exceptional design quality of the scheme, coupled with landscape and biodiversity management measures, would meet the high standards set under paragraph 55 of the now superseded 2012 Framework. He considered in that case this amounted to very special circumstances. Paragraph 79 is now the relevant paragraph of the Framework. This sets out that new isolated homes in the countryside should be avoided unless there are special circumstances such as the exceptional quality or innovative nature of the design of the dwelling.
29. The appeal site falls outside of the settlement and is considered countryside for planning purposes. However, the suburban housing bordering the woodland is frequently visible from the bridleway and there remains a visual connection with the settlement. As previously described the appeal site forms a strong boundary edge to this part of the settlement. It is physically connected to the settlement by a short walk from the existing pedestrian connections along the A58 and via Malthouse Close. Moreover, bus stops are a short walk along the busy A58 and also contribute to this sense of connection. The combination of these factors means that the proposal would not amount to an 'isolated home', in my judgement and would not fall to be considered under Paragraph 79 of the Framework.

¹ Appeal Ref: APP/R3650/W/15/3140645

30. In reaching this conclusion I have considered the other appeal examples highlighted by the appellant of sites assessed under paragraph 79 of the Framework. However, each case has its own unique circumstances in terms of the relationship between the respective site and settlement and I have subsequently reached my own conclusion based on the evidence before me.
31. Moreover, even if the proposal was to be considered in the context of paragraph 79 of the Framework, given my previous findings the proposal would not, in my view, be sensitive to the defining characteristics of the local area. It would therefore fail one of the tests within paragraph 79.
32. I recognise that the proposal would minimise energy consumption and incorporate a number of energy saving features which would exceed current standards. The proposal would also deliver an additional dwelling and have economic and social benefits. A net gain of a single dwelling would only have limited benefits, and I attach limited weight to the benefits in that regard.
33. The Council do not object to the proposal in terms of the effect on the living conditions of either existing occupiers of nearby residential properties, or future occupiers of the proposed dwelling. Moreover, it considers that suitable access and parking arrangements can be established subject to conditions, and I have no reason to disagree. Given the proposal is for a single dwelling it is unlikely to result in unacceptable levels of traffic or noise. These are neutral matters weighing neither for or against the proposal.
34. Concerns regarding the processing of the application, including matters relating to communication are not issues that I can assess as part of this appeal. The validity or not of such matters do not affect the planning merits or effects of the proposal before me.

Conclusion

35. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on openness, the Green Belt purpose and harm to the character and appearance of the area. Moreover, it has not been adequately demonstrated that protected species or their habitats would not be harmed as a result of the appeal proposal.
36. Substantial weight should be given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
37. As explained above I give only limited weight to the benefits of this single dwelling and I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
38. For the reasons given above the appeal is dismissed and planning permission is refused.

Robert Walker

INSPECTOR