
Appeal Decision

Site visit made on 25 February 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2020

Appeal Ref: APP/C2741/W/19/3242886

Coney Garth Farm, Hull Road, Dunnington, York YO19 5LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Robinson against the decision of City of York Council.
 - The application Ref 18/02110/OUT, dated 12 September 2018, was refused by notice dated 14 November 2019.
 - The development proposed is Outline application for the relocation of an existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. There is no development plan for York, except for the saved policies YH9(C) and Y1(C1 and C2) of the Yorkshire and Humber Regional Spatial Strategy (RSS)¹. The saved policies relate to York's Green Belt which extends about 6 miles from the city centre, encompassing the appeal site. The Council approved the Development Control Local Plan (DCLP) for development control purposes in April 2005. This document and its policies do not form part of a statutory development plan for the purposes of S38(6) of the Planning and Compulsory Purchase Act 2004, but can form material considerations, albeit of limited weight. The Council refers to DCLP Policy GB1 in relation to the Green Belt. The Council also refers to Policy GB1 of the City of York Publication Draft Local Plan 2018 (PDLP), which was submitted for examination on 25 May 2018. Given its stage of preparation, I also afford limited weight to this emerging policy.
3. The application has been submitted in outline with all matters reserved for future consideration. I have dealt with the proposal on that basis, treating details such as those on the proposed block and elevations plans as an indication of the dwelling that would likely be erected on the site. It is clear that the main parties have considered the indicative plans from the point of view as to whether in principle harm would be caused to the openness of the Green Belt.
4. The appellant has raised concerns regarding the Council's handling of the case, and in particular with regard to email correspondence where it was indicated that officers were 'minded to approve' the original application before the Council had made its formal decision. However, this is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.

¹ Saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013

Main Issues

5. The main issues are:
- whether the proposal would represent inappropriate development in the Green Belt;
 - the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and
 - if the proposed development is inappropriate, 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 proposal.

Reasons

6. The appeal site is situated within an open field next to a group of agricultural buildings at the end of a country lane (Coneygarth Lane) accessed via the A1079 (Hull Road). The group of buildings comprise two large sheds, one smaller storage shed and a contiguous group of smaller buildings consisting of an apparently vacant, disused dwelling and dilapidated red-brick outbuildings. Both the appeal site and the nearby group of agricultural buildings are (save for a small wooded area on the other side of the Lane) surrounded by open agricultural land. The proposal relates to the provision of a new detached dwelling to replace the existing vacant dwelling which would be demolished (along with the smaller grouping of contiguous outbuildings) to make way for a large new agricultural building similar to those close by.

Whether inappropriate development

7. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for several specified exceptions. One such exception is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The Framework establishes two tests, firstly relating to the use, and then an objective assessment of the relative size of the existing and replacement building. The appeal proposal would be the same use, passing the first test. The second test is a matter of judgement based on the evidence of each case as the Framework does not define 'materially larger'.
8. The appellants argue the indicative dwelling would not be materially larger than the existing dwelling. Using the dimensions submitted by the appellant, the proposal would have a footprint of approximately 90 sqm whereas the existing dwelling has a footprint of approximately 89.9 sqm. In relation to the volume of the proposed and existing dwellings no figures have been provided by either the Appellant or the Council. However, based on the proposed elevations on the submitted plans and from what I observed of the existing dwelling on my site visit, I consider that the approximate volume of the proposal would be materially greater than that of the dwelling to be replaced. Indeed, the Council's delegated report estimates that the proposal would be approximately 11% larger, with the appellant estimating that it would be approximately 10% larger².
9. Accordingly, whilst the indicative proposal would not be significantly larger in terms of its footprint, it would be materially larger by a factor of approximately 10% when considering its volume and massing. As a result, I find that the indicative proposal would be materially larger than the existing dwelling to be replaced and

² See appellant's submitted Planning Statement (August 2018).

would therefore not fall within exception d) of Paragraph 145 of the Framework. To this extent, and in principle, the proposal would be inappropriate development within the Green Belt in conflict with the aims of the Framework.

10. I acknowledge that the submitted plans show only an indicative proposal. However, I do not have any other indicative plan(s) before me showing whether it would be possible to erect a different replacement dwelling on the site. Consequently, and even if I were to completely disregard the indicative plans for the purposes of considering the effect of the proposal on the Green Belt, I would conclude that I had insufficient information before me to reach a decision, in principle, that the development would not be inappropriate development in the Green Belt.

Openness and Green Belt purposes

11. The appellant argues that there is no requirement within the Framework for the replacement building to be located upon the same general footprint of the building to be replaced. However, as set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm and has both spatial and visual aspects.
12. The indicative replacement dwelling would be located a good distance from the site of the existing dwelling (and the contiguous linear group of dilapidated agricultural buildings beside it), within an open field where there is currently no development. In simple spatial terms, this would have a clear and demonstrable effect on the openness of the Green Belt by introducing development to land which is presently permanently open. The construction of a detached dwelling on the appeal site would therefore bring about built development where there is presently none.
13. I note the Appellant's point that the proposal would not be visible 'from any public viewpoint'. However, regardless of whether or not the proposal would be conspicuous from a public vantage point the fact remains that the indicative development would have an adverse effect on the openness of the Green Belt.
14. As a result, given the clear linkage between the undeveloped appeal site and the more open agricultural land surrounding it, I find that the indicative proposal would lead to a demonstrable loss of openness to the Green Belt causing significant harm. Furthermore, in principle the erection of a dwelling on the appeal site would lead to encroachment of development into the countryside, which would fail to serve the related Green Belt purpose and therefore it would clearly conflict with the fundamental aim of national Green Belt policy. Consequently, it would also conflict with the aims of Policy GB1 of the DCLP and Policy GB1 of the PDLP.

Other considerations

15. In support of the appeal scheme the appellant has argued that the proposal would provide an economic benefit in relation to the expansion of the existing agricultural business. I acknowledge that the proposal would potentially provide a limited economic benefit that weighs in favour of it.
16. The Appellant has cited the provision of a newly approved agricultural building on the footprint of the existing dwelling (and that of the neighbouring smaller group of dilapidated agricultural buildings) as a justification for the proposal as this would be less harmful to the openness of the Green Belt as the alternative (should the proposal be refused) would be to place the new agricultural building in the same

location as the appeal scheme. However, it is far from certain that this would be the case and I therefore afford this factor little weight.

17. The Appellant has also referred to an appeal decision³ to which I have had regard. Whilst it relates to the question of a replacement building in the Green Belt, there are differences in the circumstances of this case, including the relative sizes and locations of the existing and proposed dwellings. Accordingly, I do not draw direct comparisons with the appeal scheme before me which I have considered on its own merits. This decision does not therefore weigh in favour of the appeal scheme.

Planning balance and conclusion

18. 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, the indicative plans demonstrate that such a dwelling would have adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. If I were to completely disregard the indicative plans for the purposes of considering the effect of the proposal on Green Belt, I would conclude that I had insufficient information before me to reach a decision that the development would not be inappropriate development in the Green Belt. Either way, these are matters to which I afford substantial weight in the planning balance.
19. In the context of the above, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm. Principal amongst these is the fact that the proposal would provide a limited economic benefit in relation to the expansion of the existing agricultural business. Whilst I acknowledge this, and the other identified considerations put forward by the Appellant, the Framework makes it clear that all development in the Green Belt is subject to stringent national planning policy tests, which I have applied.
20. I therefore conclude that the identified other considerations put forward which weigh in favour of the proposal fail to clearly outweigh the substantial harm by reason of inappropriateness and the other harm that I have identified. In this case, the substantial weight to be given to Green Belt harm has not been clearly outweighed by the other considerations sufficient to demonstrate very special circumstances.
21. Accordingly, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

³ APP/C2741/W/18/3208493