



Appeal Decision

Site visit made on 19 May 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2020

Appeal Ref: APP/G2713/W/20/3245189

Mill House, York Road, Shipton by Beningbrough, York YO30 1BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Martine North against the decision of Hambleton District Council.
 - The application Ref 19/00785/MRC, dated 3 April 2019, was refused by notice dated 25 July 2019.
 - The application sought planning permission for demolition of existing garage/workshop and construction of replacement garage workshop with first floor office/accommodation ancillary to be used for domestic purposes ancillary to the main dwellinghouse without complying with a condition attached to planning permission Ref 17/01006/FUL, dated 3 July 2017.
 - The condition in dispute is No 2 which states that: the permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) and/or details received by Hambleton District Council on 8 May 2017 unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: in order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Development Plan Policy(ies) CP17 and DP32.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal was refused with reference to Policy DP9 of the Hambleton Local Development Framework Development Plan Document Development Policies February 2008 (Local Plan). Although Policy DP9 was not listed in the planning policies contained within section 3 of the Council Planning Officer's report, the Council have confirmed reference to Policy DP9 was omitted in error from this list. However, the main body of the Officer's report clearly refers to Policy DP9 and its requirements.

Background

3. The existing garage/workshop building is a single storey structure of brick and block construction with a pitched roof. It is sited adjacent to an open field and adjacent to the garden area to Mill House. The appeal site is located within the York Green Belt.

4. Planning permission was granted in 2014 and again in 2017 for the demolition of the existing garage/workshop building and its replacement with a new structure. I have not been provided with the full details of the 2014 permission.
5. The planning permission granted in 2017¹, which has not been implemented, would provide a replacement garage and workshop with first floor office accommodation.
6. Variation of condition 2 of the 2017 permission is sought to amend the design of the building in terms of its overall dimensions, form and mass. The appellant states that the changes are proposed because the approved scheme is not felt to be sympathetic to the existing property or the surrounding countryside.

Main Issues

7. Having regard to the above the main issues are:
 - i. whether the proposal amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
 - ii. The effect of the proposed development on openness;
 - iii. If the proposal is inappropriate development, whether 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 would be inappropriate development in the Green Belt

8. Policy DP9 of the Local Plan states that within the York Green Belt only development acceptable within the terms of national policy will be permitted.
9. Paragraph 145 of the National Planning Policy Framework (the Framework) sets out that the construction of new buildings should be regarded as inappropriate in the Green Belt. This is subject to a number of exceptions which includes 145 d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
10. There is no disagreement between the parties that the proposed building would be in the same use as the existing structure and in this respect the development would comply with paragraph 145 d) of the Framework.
11. When compared to the existing building, the dimensions of the proposed replacement structure, in terms of its height and width would be increased, so that its overall scale, bulk and mass would be materially larger. As a consequence, in accordance with paragraph 145 of the Framework the proposed building would be inappropriate development in the Green Belt. The Framework explains at paragraph 143 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

¹ 17/01006/FUL

Openness

12. The Framework advises that the essential characteristics of Green Belt are their openness and their permanence. The Planning Practice Guidance (PPG) advises that openness is capable of having both spatial and visual aspects.
13. The existing workshop/garage building is visible on the approach to Mill House along the A19. The replacement building would, because of its increased dimensions including the height to eaves and ridge level, take up more space. In addition, the structure would be more prominent than the existing structure in the landscape. Consequently, the proposed development would result in a small loss of openness of the Green Belt.

Other considerations

14. The approved scheme would increase the height, width and length of the existing building. The evidence indicates that in its consideration of the approved scheme the Council Planning Officer's report stated that the proposed garage would be substantial in terms of mass and bulk and located in a prominent position. Nevertheless, it also indicated that it was considered to be a suitable and appropriate replacement within the plot and within the scope of the NPPF Green Belt 'exceptions' being a building in the same use and not materially larger than the building it was to replace.
15. I have been provided with plans which compare the proposal and the approved development. The amended design would result in the overall length and floor space of the building being reduced when compared to the approved design. However, the eaves height and amount of first floor space would be increased. As a result, the amended design would be more prominent in the landscape and there would be a small loss of openness due to the additional bulk of the building at higher level when compared to the approved scheme. In accordance with the Framework I attach substantial weight to Green Belt harm.
16. The appellant does not provide any indication that the approved structure would be implemented even if the proposal were not approved. As I have set out earlier the appellant considers the approved design to be unsympathetic to the character of Mill House. Therefore, based on the evidence before me, the prospect of the extant permission being implemented would appear limited and consequently, I attach only moderate weight to the fall-back position of implementing the extant permission.
17. The Council consider that the design and appearance of the amended building reflects its rural context and I would agree that the building has a broadly rural aesthetic. Consequently, the development would meet the provisions of Policy C17 of the Local Plan, which seeks to achieve a high-quality design for buildings. However, this is a requirement of the development plan and this matter is neutral in the planning balance.
18. I appreciate that the Council's approach to considering replacement buildings at Church Lodge, The Cottage and the extant permission on the appeal site are similar. The proposal before me is for a different building and I have considered these details on their own merits in the context of national and local planning policy. Additionally, I have drawn comparisons with the extant permission to establish the weight to attach to it in the planning balance.

19. I acknowledge that the appellant considers that a new building of the same size as the existing building has practical limitations. However, I have found that the proposed building is materially larger than the one it replaces and would affect the openness of the Green Belt. This does not imply that only a building of the same size as the existing building would meet the requirements of Paragraph 145 d) of the Framework. This matter is neutral in the planning balance.

Green Belt balance

20. I have found that the proposal would be inappropriate development in the Green Belt. It would also result in a small loss of openness of the Green Belt. Any harm to Green Belt attracts substantial weight.
21. The harm by reason of inappropriateness, and any other harm, is not clearly outweighed by the other considerations set out above. Therefore, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

22. For the reasons given, the appeal is dismissed.

Diane Cragg

INSPECTOR