

---

## Appeal Decision

Site visit made on 8 June 2020 by Hilary Senior BA (Hons) MCD MRTPI

**by Susan Ashworth BA (Hons) BPL MRTPI**

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

**Decision date: 30 June 2020**

---

**Appeal Ref: APP/Z4718/D/20/3247194**

**3 Corn Mill Cottage, Corn Mill Bottom, Long Lane, Shelley HD8 8JJ**

- 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 & Mrs Gibson against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2019/62/94069/E, dated 12 December 2019, was refused by notice dated 10 February 2020.
  - The development proposed is formation of sub-terranean garage and alterations to patio.
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - the effect on the openness of the Green Belt;
  - the effect of the proposal on the character and appearance of 3 Corn Mill Cottage
  - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

### Reasons

*Whether the proposal would be inappropriate development*

4. 3 Cornhill Cottage lies within the Green Belt and is a previously extended stone and slate built detached dwelling accessed off an unadopted highway, which is also a public right of way, in the hamlet of Corn Mill Bottom. The dwelling is built on a sloping site, such that the ground floor of the rear elevation is above

the ground level of the garden area and there are cellars under the original property. The dwelling has recently been extended under planning approval 2017/93294 allowing side and rear extensions and a substantial raised patio. The proposal before me seeks the creation of a garage in the space underneath the patio and a garage door opening in the retaining wall to the side. Other minor amendments to the patio and retaining wall are sought to regularise the existing position on site. Vehicular access to the garage would be taken from a track at the side of the property which has been surfaced with hardcore.

5. The Framework establishes that new buildings in the Green Belt are inappropriate, except in certain circumstances including where they involve an extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building as set out in paragraph 145c. Original building, the Framework explains, is a building as it existed on 1 July 1948 or, if it was constructed after that date, as it was built originally. Policy LP57 of the Kirklees Local Plan seeks to protect the Green Belt by only allowing limited extensions. The cumulative impact of previous extensions is taken into account in line with the Framework.
6. The Framework does not explain what a disproportionate addition means. An assessment of whether the proposal would be disproportionate to the original building is therefore a matter of planning judgement.
7. I note from the planning history of the site that the building, which was originally a pair of cottages, was a modest structure. Since 1948 it appears to have been altered considerably by means of single storey extensions to the front, rear and sides. Although I note that some of those earlier extensions have been removed, the permitted part two-storey, part single-storey extension which wraps around the side and rear of the building represents a sizeable increase in the volume, floorspace and footprint of the building. Whilst no mathematical calculations have been carried out by either party, I note that at the time permission was granted, the Council considered the proposal to be at the limit of what might be considered a proportionate extension to the original dwelling. From all I have seen I concur with that view.
8. I understand that the construction of the extensions required the land to the rear of the property to be excavated, due to the sloping nature of the site, to create the foundations. This has left an extensive void underneath the patio in addition to cellars which were previously indicated. The space has internal staircase access to and from the ground floor of the house. The domestic use of the space, whilst not increasing the footprint of the dwelling, significantly increases its floorspace and volume. Consequently, added to the extensions already constructed, the creation and use of the space for domestic purposes represents a disproportionate increase in the size of the original dwelling.
9. I understand that the void was shown on some of the drawings associated with the approved scheme and that it was not required by condition to be back filled once the development was complete. Nevertheless, I note that, as confirmed by email, it was the appellant's intention at that time of the previous application to infill the space. Moreover, it is clear from all I have read that this was the basis on which the Council considered that application. Accordingly, the fact that there was no condition on the previous planning permission carries little weight in my consideration.

10. Consequently, on the basis of all I have seen and read, the proposal would constitute a disproportionate addition to the dwelling and would not therefore fall within exception set out in paragraph 145c of the Framework. It would therefore be inappropriate development in the Green Belt.
11. In accordance with the paragraph 143 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Effect on openness*

12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness and permanence are essential characteristics of the Green Belt.
13. Taking into account the development to extend the rear and side of the dwelling and to introduce a raised patio, the physical changes to the building in this appeal proposal are limited in extent.
14. However, whilst I note the appellant's willingness to return the access track to a grassed surface it seems to me that there would be an, albeit limited, increase in the use the track by domestic vehicles in order to gain access to the garage. The manifestation of the use in this respect would have an effect on openness.
15. In terms of the effect of the development on the openness of the Green Belt as a whole, any harm would be limited.

#### *Character and appearance*

16. The permitted retaining wall is a simply designed and constructed linear feature demarking the extent of the built development. Whilst acknowledging that the proposed external changes to the patio are limited when compared to the approved scheme, the changes to the side retaining wall to allow the installation of a timber garage door, including the curved entrance way, introduces a more urban and engineered feature, more typical of a suburban location, and does not therefore reflect the rural character of the host dwelling.
17. Moreover, it seems to me that provision of the garage door in the wall would indicate the domestic use of the space and would be apparent from within the public realm. Whether or not the hardsurfacing requires planning permission is a matter for the Council but nevertheless it seems to me that it is an urbanising feature which further extends the apparent area of the residential development. Accordingly, the proposal would result in an enlarged dwelling which would have a sprawling form which would not reflect the scale and traditional appearance of the host building. In addition, taking into account the previous extensions to the property the additional volume created by the garage would not be subservient to the original building.
18. For the reasons set out, the proposal would therefore harm the character and appearance of the host dwelling and would be contrary to Policy LP24 of the Kirklees Local Plan (2019) which seeks to ensure that extensions are subservient to and in keeping with the original building.

#### *Other considerations*

19. The Framework states that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
20. The appellant suggests that using the garage to park vehicles will limit the amount of external surface level parking in the Green Belt. In addition, an electric vehicle charging point would be installed within the garage, out of public view. These elements taken together carry limited weight in support of the proposal.
21. In addition, both parties have indicated that they consider the proposal would not harm the living conditions of other nearby residents, or impact on highway safety. A Flood Risk Assessment and ecological study accompany the appeal and conclude that the proposal meets the relevant guidance. From what I have seen and read I have no reason to come to a different conclusion on these matters. However, they are neutral matters in the planning balance rather than carrying weight in favour of the scheme.

### **Very Special Circumstances and Conclusion**

22. The Green Belt serves five purposes including assisting in safeguarding the countryside from encroachment, preserving the setting and special character of historic towns and assisting in urban regeneration by encouraging the recycling of derelict and other urban land.
23. For the reasons set out above, the development constitutes inappropriate development in the Green Belt. Furthermore, there would be limited harm to the openness of the Green Belt. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt. In addition to that is the harm to the character and appearance of the dwelling, which carries significant weight against the proposal.
24. As set out above, other considerations put forward in support of the proposal attract limited weight. Consequently, they do not clearly outweigh the substantial harm as set out above. Therefore, I conclude that the very special circumstances needed to justify the development in the Green Belt have not been demonstrated. As such the proposal would conflict with the Framework, and Policy LP57 of the Kirklees Local Plan (2019).

### **Recommendation**

25. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

*Hilary Senior*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

26. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*Susan Ashworth*

INSPECTOR

