



Appeal Decision

Site visit made on 3 August 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/E2734/D/20/3252682

The Fold, Briggate, Nesfield, Ilkley LS29 0BS

- 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 Ms Gemma Smith against the decision of Harrogate Borough Council.
 - The application Ref 19/05262/FUL, dated 22 December 2019, was refused by notice dated 2 March 2020.
 - The development proposed is construction of first floor extension, replacement of flat roof with pitched roof. Alterations to fenestration (rear and side elevation).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application which accurately describes the proposal.
3. The Harrogate District Local Plan 2014-2035 (HDLP) was formally adopted on 4 March 2020. This replaces both the Harrogate District Local Plan (2001, as altered 2004) and the Harrogate District Core Strategy (2009), such that the policies of those plans cited on the decision notice are no longer part of the development plan and have no weight. I have therefore determined the appeal having regard to the relevant policies within the HDLP. As the appeal was submitted after the date of adoption the interested parties have had the opportunity to comment on the implications of this during the appeal. As such, no party has been prejudiced in the appeal process by the adoption.

Main Issues

4. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;

- The effect of the proposal on the living conditions of the occupants of Fairy Cottage with particular reference to shadowing, outlook and privacy; 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

5. Paragraph 145 of the Framework lists certain forms of development which are not regarded as inappropriate within the Green Belt. This includes the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework defines the original building as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. In this respect, the size of the original property prior to any additional extensions is material to the assessment of the proposal before me.
6. The Framework does not define a disproportionate addition and I have not been referred to any local definition within the HDLP, although the Council has referred to a threshold of a 30% increase in volume used by other Councils. The Council's House Extensions & Garages Design Guide Supplementary Planning Document (SPD) states that in Green Belts house extensions that extend the ground floor area of the original house by more than 50% will not normally be permitted unless there is an exceptional household need.
7. The appellant does not dispute the Council's calculations of either the original building, existing extensions to the original building or the amount currently proposed. Although the existing extensions to the ground floor area of the original host property have exceeded 50%, I note that the proposal would not extend the ground floor, bringing no specific conflict with the SPD.
8. However, when considering whether an extension is disproportionate compared to the original dwelling, it is necessary as part of the planning judgement to consider the scale, bulk, massing and built form that would result from the changes sought. To this end, the Council indicates that the proposal, when taken cumulatively with previous additions, would increase the volume of the original dwelling by around 60%.
9. At this amount, the proposal, in combination with previous extensions, would amount to a disproportionate addition over and above the size of the original building. It would therefore be inappropriate development for the purposes of Green Belt policy. I have come to this conclusion even though it is a small extension, with no increase to the footprint of the building at the ground floor and would not result in the creation, or potential creation, of a new dwelling,
10. In this regard, it would conflict with the relevant requirements of the Framework. The Framework directs that inappropriate development is, by definition, harmful to the Green Belt and substantial weight should be afforded to any such harm. The Council refer to Policy HP8 of the HDLP in reason 1 of its decision notice. However, this relates to the protection and enhancement of community facilities and is not therefore relevant to the appeal proposal.

Openness

11. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and has both spatial and visual aspects.
12. The proposal would appear subservient in scale to the property but would still result in additional bulk and massing to the building. As such, although the proposal would be to the rear of the property it would, nonetheless, result in a small reduction in openness. Whilst small, this adds to the harm that I have already identified by reason of inappropriateness and to the conflict with the relevant guidance in the Framework.

Living conditions

13. The attached neighbouring property (Fairy Cottage) has a dormer window near the proposed extension. Views from the window look out across the landscape and currently encompass the appeal property and the sloping roof of the host property.
14. The proposal would bring built form closer to the window resulting in a partial loss of view. However, most of the view of the landscape would remain. Moreover, the extent of the proposed built form that would be visible would recede when stepped back within the room. As such, I do not consider that the proposed extension would be so dominant to be overbearing. Moreover, due to the slope of the roof of Fairy Cottage, in my view, the proposal would not create a sense of enclosure that would significantly harm the outlook from this room.
15. With regards to overshadowing I have no substantive evidence before me as to the extent of any such effects. However, considering the orientation of the proposed extension relative to the dormer window, height of the sun, setback of the extension from the dormer window and the height of the proposed extension, any shadowing is not likely to be substantial overall.
16. With regards to privacy, I was able to stand at the point of the proposed utility room window. The proposed window would be near to the neighbouring dormer and although it was not possible to see into the neighbouring room, it would have been possible to view someone standing at the dormer window. However, I note the appellant's suggestion to use obscure glazing which would ensure that there would be no overlooking possible. This could be controlled by way of a condition.
17. Concluding on this main issue, the proposal would have no impact on any other room within Fairy Cottage and even if the room's function altered from its previous use of a bathroom, the proposal would not harm the living conditions of the occupants of Fairy Cottage with particular reference to shadowing, outlook and privacy.
18. The proposal would therefore comply with the requirements of Policy HP4 and HS8 of the HDLP and the SPD. These stipulate, amongst other things, that development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of neighbours. The proposal would also comply with the requirements of paragraph 127 of the Framework in this respect which seeks, amongst other things, to ensure good standards of living conditions for existing occupants.

Other considerations

19. The Framework states '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. I have had regard to the personal circumstances outlined by the appellant's agent. However, the existing first floor layout plan show an en-suite in the location of the proposed wardrobe serving the bedroom. As such, from the evidence before me this facility existed already. Moreover, no substantive evidence has been provided to suggest that other ways to achieve the appellant's aims or minimise the extent of built form have been investigated and discounted. I am also mindful that the development proposed is likely to remain long after the personal circumstances cease to be a material planning consideration. As such and having regard to my duties under the Public Sector Equality Duty contained in the Equality Act 2010, although the proposal may improve living conditions, I afford this consideration only limited weight.
21. I recognise that the proposal would be a small-scale addition to the existing building and other properties have been altered and extended to varying degrees. However, from the information provided permission at Fairy Cottage was granted prior to both the Framework and the HDLP. As such, the policies and circumstances relevant at that time are not directly comparable to those before me. Moreover, I do not have the full details of the circumstances that led to other extensions being accepted and cannot be certain that the circumstances are the same.
22. I have, in any case, reached my own conclusions on the appeal proposal based on the evidence before me. The host property has also been extended substantially. Any disproportionate extensions that exist at other properties should not therefore be used as a precedent to allow further incremental disproportionate additions. I therefore give limited weight to this matter in support of the proposal.
23. The appeal site lies within the Nesfield Conservation Area (CA). As such, I have had regard to the special duty placed on decision makers in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I note that the Council consider the proposal would not harm the character and appearance of the CA and I have no reason to disagree. Given its scale, fenestration, materials and roof form, along with its location to the rear I am satisfied that it would preserve its character and appearance.
24. The proposal would also incorporate features that would make a small improvement to the appearance of the rear of the host property such as the replacement fenestration. However, I am not convinced that the proposed extension specifically would be an improvement on the current built form, and this does not therefore add weight in favour of the proposal.
25. No other harms have been identified by the Council. However, the lack of harm in these respects', weighs neither for or against the proposal. Consequently, and drawing all the above together, these other considerations do not clearly outweigh the identified harm to the Green Belt so as to amount to the very special circumstances necessary to justify the development.

Other Matters

26. Concerns regarding the processing of the application, including matters relating to communication with the Council 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.
27. I note the appellant's reference to the presumption in favour of sustainable development. However, this presumption does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusal. Areas in the Green Belt are an example of such areas and the proposal is contrary to the relevant paragraphs of the Framework in this regard.

Conclusion

28. In summary, although the proposal would not harm the living conditions of the occupants of Fairy Cottage, the appeal proposal would be inappropriate development in the terms set out in the Framework and would lead to a small loss of openness to the Green Belt. These issues are not outweighed by the other considerations advanced by the appellant so as to amount to very special circumstances.
29. Therefore, for all the reasons given above the appeal is dismissed.

Robert Walker

INSPECTOR