



Appeal Decision

Site visit made on 4 August 2020

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 4 September 2020

Appeal Ref: APP/C2741/W/20/3252561

Haggwood Farm, Broad Highway, Wheldrake, York YO19 6BE

- 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 Mrs Race against the decision of City of York Council.
 - The application Ref 19/02735/FUL, dated 16 December 2019, was refused by notice dated 30 April 2020.
 - The development proposed is demolition of an existing dwelling, garage and outbuildings and construction of a replacement dwelling, garden shed and associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Publication Draft Local Plan (PDLP) was submitted for examination in May 2018. Although at an early stage in its preparation, weight can be afforded to its provisions, albeit that that weight is limited. The Council adopted the Development Control Local Plan (DCLP) in 2005 for development control purposes but do not seek to rely on its policies in this instance. I have determined the appeal accordingly.
3. Reference is made by both parties to an application for a lawful development certificate (LDC) for proposed PD extensions approved by the Council in 2017¹. Clarification was sought, and subsequently received, from both parties regarding the plans to which the approval related and I have determined this appeal accordingly.

Main Issues

4. The main issues are:
 - Whether or not the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposed development on the openness of the Green Belt; and
 - If the proposal is inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

¹ LPA Ref No: 17/02385/CPD – approved 12 December 2017

considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

5. The extent of the Green Belt (GB) around York is set out in policies Y1(C1) and YH9(C) of the Yorkshire and Humber Plan (YHP) Regional Spatial Strategy as being 'about 6 miles from York city centre'. It is not a matter of dispute that the appeal site lies within the GB.
6. Policy GB1 of the PDLP concerns development in the Green Belt around York. However, given its stage of preparation, I afford limited weight to the provisions of this policy. The Government's current approach to development in the GB is set out in the National Planning Policy Framework (the Framework)

Whether inappropriate

7. The construction of new buildings in the Green Belt (GB) should be regarded as inappropriate development² which is, by definition, harmful³ to the GB. Inappropriate development should not be approved except in very special circumstances². Any harm to the GB should be given substantial weight and 'very special circumstances' will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations⁴.
8. The Framework sets out a range of exceptions to the inappropriateness of the construction of new buildings in the GB. One of these is 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'⁵.
9. There is an existing detached dwelling located within the appeal site. There is no dispute between the main parties that that property, an extended single storey dwelling with additional living accommodation within the roof space, is a dwelling house or that the proposal, which seeks to replace it, would also be a dwelling house. Thus, the proposal would replace an existing dwelling with a new dwelling thereby satisfying the first strand of Framework paragraph 145(d).
10. However, the second strand of this paragraph 145(d) is that the replacement building of the same use is not materially larger than the one it replaces. The Framework offers no definition of what constitutes materially larger. There is no dispute that the proposed dwelling would be larger than that which it would replace, nor have the Council offered alternative calculations of the existing and proposed dwelling's metrics⁶.
11. The proposal would result in a replacement dwelling 7.5% larger in terms of volume, 26% larger in terms of footprint area and 33% larger in terms of floorspace than the existing dwelling⁷. Although the Council query the inclusion of existing outbuildings in the appellant's baseline calculation I note that this matter was considered in relation to the previous appeal at the appeal

² Paragraph 145 – National Planning Policy Framework

³ Paragraph 143 – National Planning Policy Framework

⁴ Paragraph 144 – National Planning Policy Framework

⁵ Paragraph 145 (d) – National Planning Policy Framework

⁶ Building volume, footprint and floor area

⁷ Paragraph 3.8, Table 1 – Wighton Architects 'Appeal Statement' Ref: Admin/CL/177_02/LA.01 04th May 2020

property⁸. I have not been presented with any compelling evidence that would lead me to conclude other than in accordance with the previous Inspector.

12. Whilst the increase in volume of the proposed replacement dwelling at 7.5% would not be particularly large of itself, the increases in footprint area and floorspace are more substantial. This can be explained, the appellant suggests, by the more efficient use of the building's volume, particularly in terms of utilising floorspace at upper floor level which would be less constrained than the roof space accommodation provided in the existing dormer bungalow. Whilst I consider the matter of openness below, I am satisfied that taking the three metrics of enlargement together the proposed replacement dwelling would be materially larger than the one it would replace. For these reasons, the proposed dwelling would not benefit from the exception provided at Framework paragraph 145(d) and would amount to inappropriate development in the Green Belt.
13. Although the weight that I give to PDLP policy GB1 is limited for the reasons I have set out above, the policy's supporting text refers to the principle of replacement dwellings in the Green Belt being acceptable if they are not materially larger than the one they replace. The proposed replacement dwelling would also be in conflict with PDLP policy GB1 and this lends weight, albeit limited in the terms described, to my conclusions in respect of the Framework's provisions regarding inappropriate development.

Effect on the openness of the Green Belt

14. Great importance is attached to Green Belts by the Government, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open⁹. Openness is an essential characteristic of the Green Belt and to which there is both a spatial as well as visual aspect. There is of course already a dwelling at the appeal site and the appeal proposal seeks permission for a replacement dwelling. As I have set out above, the proposed replacement would be materially larger.
15. The appeal property is a dormer bungalow of modest scale and modest appearance. Although living accommodation is predominantly at ground floor level, the dormer window on the southeast facing side of the building demonstrates some limited first floor accommodation. With a single storey 'wing', single storey extensions and additions and a detached garage the dwelling has something of a U-shaped form. A large domestic lawn lies to the north of the property, with smaller lawn areas encircling the remaining three sides of the dwelling.
16. The proposed replacement dwelling would share a broadly similar, if slightly less pronounced, U-shaped plan form. By moving the replacement's footprint closer to the Broad Highway frontage, the extent of the building's outward spread to the southeast and southwest of the plot would be reduced when compared with the existing dormer bungalow and its extensions and outbuildings.
17. However, it would also be sited substantially closer to the Broad Highway frontage increasing its physical and visual presence from this standpoint. Although the ridge level of this single storey element would be lower, and the

⁸ APP/C2741/W/18/3211341

⁹ Paragraph 135 – National Planning Policy Framework

eaves level no higher, than those of the existing building, and despite the presence of the currently over-grown hedge along this frontage, the increased proximity of the building to the roadside would noticeably increase the visual presence of the building. Rather than one comfortably sited within, and at ease with, the perimeter of its plot, the proposed dwelling would be more overtly and more closely located to Broad Highway.

18. Not only would the building be located closer to the Broad Highway frontage than is currently the case, but it would incorporate a substantial central two storey element. Although the ridge level of this element of the building would be no higher than that of the existing building, it would create a full first floor level. The additional bulk and massing of this element would be significantly more intrusive than that of the existing dormer bungalow's roof.
19. Whilst the hipped eastern end of this element of the building would mitigate this to a degree, particularly in views of the east-facing elevation, the longer views on approach from the north and south are more open due to the surrounding area's generally flat topography and open landscape. From there, the additional bulk and massing of the first floor elevations would be more clearly visible, their greater height and extent more prominent given the general paucity of surrounding buildings in this open setting. It would, as a consequence, result in it having a more prominent and intrusive presence than does the existing building.
20. For these reasons, I conclude that the proposed dwelling would result in a moderate loss of Green Belt openness. One of the five purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The additional bulk and massing of the two storey element's first floor elevations would result in a more substantial and bulkier dwelling with a greater visual and physical presence than the existing dwelling. The consequence is that the resulting moderate loss of openness would fail to safeguard the countryside from encroachment, which is one of the purposes of the Green Belt as set out in the Framework.

Other considerations

21. The possibility of extension to the existing building under 'permitted development rights' (PD) has been cited by the appellant as providing a fallback position, my attention drawn to an application for a lawful development certificate (LDC) for proposed PD extensions to the existing building¹⁰. The dimensions, areas and volumes of the LDC scheme, the appeal proposal and the existing dwelling are not disputed by the Council. Nor is it disputed that the LDC scheme would provide extensions and enlargement significantly greater than the comparable metrics of the existing dwelling and the appeal proposal.
22. It is stated that there can be no doubt as to the appellant's desire to provide enlarged and modernised accommodation at Haggwood Farm. A previous proposal for its replacement and subsequent appeal, and an LDC for the extension and modernisation of the existing building suggest to me that there is a degree of intent to develop the site to provide enhanced living accommodation. Whilst acknowledged by the appellant as not being an optimal solution, the LDC scheme would nevertheless provide a broadly similar

¹⁰ LPA Ref No: 17/02385/CPD – approved 12 December 2017

accommodation to that proposed in the appeal scheme in terms of numbers of bedrooms, open-plan kitchen / dining area, separate living room and utility.

23. The Council have queried the appellant's intent to implement the LDC scheme, questioning the cost-effectiveness of wholesale extension and alteration to the existing property. However, the LDC plans submitted as a point of comparison with the existing dwelling and proposed replacement do not suggest a level of internal alteration as extensive or as disruptive as the Council suggests. The LDC scheme might not provide the contemporary form of living that may be possible within the proposed replacement, and is indeed acknowledged as not being the appellant's first choice, but I do not consider the LDC scheme to be incompatible with the appellant's aspirations as expressed in the appeal proposal. There is, I conclude, a real prospect that the LDC scheme may be implemented should the appeal proposal fail.
24. However, although the LDC extensions would be greater than those offered by the replacement dwelling in terms of volume, footprint and floor area, their impact on Green Belt openness would be less pronounced than the numbers might suggest. The single storey extension on the southwest elevation and the enlarged dormer window on the southeast roof elevation would reduce openness but neither individually nor cumulatively would that reduction be significant or harmful. The flat roofed extension on the southeast elevation would be large and would dominate that elevation, and its blank flank elevation to Broad Highway would be a somewhat incongruous addition to the property.
25. However, both elements are low level in height, returning around or only slightly above existing eaves level on the main house. Whilst the dormer window enlargement would add additional bulk and massing to the southeast facing roof slope, there is already a dormer window there and the house roof would largely retain its pleasantly modest proportions. Crucially, this element of the LDC scheme, and indeed the scheme in its totality, would avoid the excessive bulk and height that the replacement dwelling's full first floor elevations would introduce. The ground floor elements of the LDC extensions would be reasonably discretely located on the existing house, whilst this scheme would also avoid the repositioning of the dwelling noticeably and harmfully closer to Broad Highway as proposed in the current instance.
26. Thus, whether considered as individual elements or taken together as a single scheme of extensions, the LDC scheme would not be as visually prominent as the proposed replacement dwelling. I accept that in terms of volume, footprint and floor area the LDC scheme would be substantially greater than the existing dwelling and likely to reduce Green Belt openness as a consequence. However, despite the LDC scheme having a greater footprint, floor area and volume than the proposed replacement dwelling I am not persuaded, for the reasons that I have set out, that it would be less harmful to Green Belt openness than the replacement dwelling.
27. On the basis of the evidence I am satisfied that the LDC scheme would provide a valid fallback position for the appellant. I am also satisfied that the general form, amount and type of accommodation within the LDC scheme would be sufficiently comparable to that proposed by the replacement so as to give a reasonable indication of the likelihood of its implementation should the current appeal fail. However, the weight that I can give the LDC scheme as a fallback position in support of the proposal is limited as it would be demonstrably more

harmful to Green Belt openness than the proposed replacement dwelling would be.

28. The Council raise no objection to the contemporary design approach adopted for the proposed replacement dwelling. I do not disagree; rather my concerns regarding the replacement dwelling are set out above in terms of it being materially larger and having a moderate harmful impact on Green Belt openness. Nor, subject to the imposition of suitably worded conditions, do the Council object to the proposal in terms of impact upon biodiversity and ecology, neighbour amenity and living conditions, landscaping, flood risk, drainage, contamination and access, parking or cycle storage. However, whilst I do not disagree, I am not persuaded that the proposal is an exemplar in any of these factors. They are therefore, in my judgement, neutral considerations which weigh neither in support of, or against, the proposal.
29. The proposed replacement dwelling would, it is argued, provide an opportunity for the development of a more energy efficient dwelling than an extended and altered version of the existing dwelling. However, any improvement in efficiency is likely to be modest given the proposal only relates to a single dwelling and has not, in any event, been quantified against either the existing dwelling or the LDC extended dwelling. I can only give this factor limited weight.
30. The appellant also makes reference to advice provided in 2017¹¹ by the Council regarding the Council's approach to replacement buildings in the Green Belt. Guidance and advice regarding the acceptability of a 10% enlargement figure is noted therein by the appellant, but I have not been directed towards any written policy or guidance to suggest that 10% is anything other than a broad rule of thumb figure. In any event, informal pre-application advice is given without prejudice and cannot pre-determine the outcome of any subsequent formal application for planning permission. Whilst this may well be a matter of frustration for the appellant, given the nature of pre-application advice, it carries limited weight in this instance.

Conclusion

31. As the proposed replacement dwelling would be materially larger than the building which it is proposed to replace, it would be inappropriate development in the Green Belt. This is, by definition, harmful. The proposed replacement dwelling would also result in a moderate loss of Green Belt openness. I give these factors significant weight.
32. The appellant has drawn my attention to the provisions of paragraphs 10 and 11 of The Framework and the Council's interpretation thereof. Where the development plan policies are absent or out of date, the presumption in favour of sustainable development set out in paragraph 11 is qualified by paragraph 11(d)(i). I have concluded that the provisions of section 13 of the Framework, and particularly paragraphs 134 and 143 to 145 (incl) provide a clear reason for refusal of the proposal for the purposes of Framework paragraph 11(d)(i) and footnote 6.
33. I accept that the LDC scheme provides the appellant with a fallback position for the extension of the existing dwelling. The totality of the LDC scheme would

¹¹ Extract provided at paragraph 3.60 of Wighton Architects 'Appeal Statement'

add greater floor area, footprint and volume to the existing dwelling than the proposed replacement dwelling would be larger in comparison to the existing dwelling. However, for the reasons I have set out above, I am not persuaded that the fallback position carries compelling weight in favour of the appeal proposal.

34. I give only limited weight to the appellant's unquantified submissions regarding potential energy efficiencies arising from the proposed replacement dwelling, whilst the absence of harm arising from other material considerations cited in the Council's officer report are neutral factors. Together, these factors do not outweigh the harm that the proposal would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
35. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR