
Appeal Decision

Site visit made on 20 August 2020 by C McDonagh BA (Hons) MA MRTPI

by Susan Ashworth BA (Hons) BPI MRTPI

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

Decision date: 30 September 2020

Appeal Ref: APP/N2739/W/20/3250355

Land Off Sir John's Lane, Sherburn In Elmet LS25

- 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 Darren Kemp against the decision of Selby District Council.
 - The application Ref 2019/1012/FUL, dated 30 September 2019, was refused by notice dated 30 January 2020.
 - The development proposed is described as "Erect 5 stables joined together which will be on skids and erection of one building which has already been started. The buildings will be on a plot of land with no change of use. Gate posts concreted and wooden fence".
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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.
3. There is a disagreement between the main parties about whether the proposal constitutes a change of use of the land. The stables and associated outbuilding are intended to support the keeping of horses on the land. There is no evidence before me that horses were kept on the land until recently or that such a use has had planning permission. The Council determined the application on the basis that it included a change of use of the land and so shall I.

Main Issues

4. The appeal site is within the Green Belt and in lies close proximity to All Saints Church, a Grade I Listed building. The site is also a Scheduled Ancient Monument.
5. The main issues for consideration in this appeal are therefore as follows:
 - 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 of the development on the setting of the Grade I Listed Building and on the Scheduled Ancient Monument (SAM);
 - The effect of the development on the character and appearance of the area;

- 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 inappropriate development in Green Belt

6. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 states that the construction of new buildings in the Green Belt is inappropriate unless it meets one of the seven specified exceptions. Exceptions include 145(b), the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation, among others; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. There is no dispute between the parties that the proposal is for the retention of, and proposed erection of, buildings that would be used in connection with outdoor recreation. Furthermore, the proposal would meet the requirements for stabling horses and ponies as set out in the appellant's evidence, and consequently it would provide appropriate facilities for outdoor recreation for a proposed change of use of the land.
8. However, in order to establish whether or not the proposal would result in inappropriate development in the Green Belt I am also required, under paragraph 145 (b), to assess its impact on openness of the Green Belt and whether or not it conflicts with the purposes of including land within it.
9. Openness, in Green Belt terms, can be taken to mean the absence of built development. Prior to the commencement of development, the site was an open field. The storage building has therefore reduced openness in spatial terms. In visual terms, the existing building is located at the entrance of the field set against the boundary with Sir John's Lane, which is lined with both mature hedging and a stone wall. The building is of a similar height to the hedge, although given its depth it was clearly visible when travelling along this road in both directions. The fences installed to sub-divide the field into paddocks were also readily visible given their expanse into the field from the entrance. In combination, these elements have reduced openness of the Green Belt both visually and spatially.
10. The proposed stables, due to their height, scale and proximity to Sir John's Lane, combined with the tarmac required to facilitate on-site parking, circulation space and improvements to the access, would cause further spatial and visual harm to the Green Belt and openness would be further reduced. Accordingly, the proposal would not comply with paragraph 145(b) of the Framework and would constitute inappropriate development in the Green Belt.

Setting of the Grade I Listed Building and effect on the SAM

11. Both All Saints Church and the SAM are heritage assets of the highest importance. While the proposals are limited in scale, the appellant has made no assessment of the impacts of the development on the heritage assets as required by paragraph 189 of the Framework.

12. Setting is described in the Framework as 'the surroundings in which a heritage asset is experienced'. The Church is clearly visible from the site and the development would therefore be positioned within the setting of the Listed Building. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires, in considering whether to grant permission for development which affects a listed building or its setting, that special regard should be had to the desirability of preserving the building or its setting.
13. All Saints Church dates from the 12th Century. Its significance derives mainly from its age, architectural detailing and development. The listing description of the SAM indicates part of its significance derives from the interrelationship between the two sites and their shared history. In addition, the church has been sited in an elevated position, designed to be seen from wide ranging views. Accordingly, the setting of the building makes a considerable contribution to its significance as a heritage asset. The openness of the field previously allowed an uncluttered view of the church and thereby made a positive contribution to its setting.
14. While the storage building is set at a reasonable distance from the church, its built form, the bulk of the stables and the fencing would result in a considerable amount of clutter and a reduction in the open space between the site and the heritage asset. This would diminish its setting and the reflective qualities of the space, eroding the historic connection between the appeal site and the church. While it is proposed the stable would be moveable, it seems to me its effect on the setting of the Listed Building would be similar wherever on the site it was placed.
15. For the above reasons, the proposal would not preserve the setting of the Listed Building and as such would not meet the statutory requirements of the Act.
16. The appeal site contains the archaeological remains of King Athelstan's Palace which dates from around before the year 1000. Evidently there are only around 150 Bishop's Palaces identified in England and their scarcity makes them nationally important. There are few physical features of the Palace visible above ground. However, earthworks and trenches are evident from above and their presence reflects the original form of the palace. While I appreciate Historic England have not objected to the proposal, this appears to be on the basis that the stables are moved regularly to avoid wear on or erosion of the Scheduled Monument. On the basis of the evidence before me I have no reason to disagree.
17. However, the site has a tranquil character which enhances the experience of the heritage asset and contributes to its significance by providing a reflective and quiet environment. The proposal would introduce activity and structures into the area and would thereby have a negative impact on its significance and on the ability to appreciate the heritage asset. Accordingly, the proposal would not preserve the SAM.
18. In terms of the approach of the Framework the harm to the heritage assets as a result of the proposal would be less than substantial. In line with the requirements of paragraph 196 of the Framework this degree of harm needs to be weighed against the public benefits of the proposal. No public benefits have been cited in this case.

19. In addition, for the above reasons, the development conflicts with Policy SP18 of the CS, which aims to conserve historic assets which contribute to the distinct character of the district.

Character and appearance of the area

20. The appeal site lies within a Locally Important Landscape Area (LILA). Policy ENV15 of the CS advises particular attention should be paid to the design, layout and landscaping of development in these areas and the use of materials in order to minimise its impact. The area has a semi-rural character given its edge of village location, with the openness of the field and those surrounding it contributing positively to the area.
21. The scale of the storage building causes it to be highly visible when travelling along Sir John's Lane in both directions. The quality and appearance of the external materials are incongruous with the semi-rural location on the edge of the village within an agricultural field. While there may also have been some consideration to weather conditions, I am unconvinced that more appropriate materials would not be equally weatherproof. The proposed stables would be constructed from materials more in keeping with the proposed use of the building and its location. Nevertheless, its scale would mean it would be highly visible along the edge of the field lining Sir John's Lane, adding considerable mass to an open setting.
22. The fences are in stark contrast to the more traditional use of dry-stone wall boundary treatment around the edge of the field and add to the cluttered appearance of the site. Whilst fencing may not in itself require planning permission it is clearly part of the proposal before me.
23. My attention is drawn to works required by the Highway Authority to ensure the development has adequate access from the highway and to provide parking and turning provision within the field. Whilst traffic associated with the proposal would be limited, the need to excavate part of the field and lay tarmac to facilitate the proposal would cause a substantial urbanising effect on the field and further harm its qualities in this semi-rural location.
24. To conclude on this main issue, the development would cause harm to the character and appearance of the area, contrary to Policies ENV1 and ENV15 of the CS. Together, these seek to conserve and enhance the character and quality of LILAs.

Other considerations

25. I acknowledge the need for adequate shelter and sub-dividing the field for the welfare of the horses and donkeys kept here. However, in the particular circumstances of this case, I give little weight to any benefits in that respect as the land is not currently in lawful equine use. I note the appellant states the stables could be reduced in height to aid in their integration. However, I am unconvinced that this would overcome the harm I have identified but nevertheless, alternative plans are not before me and as such I cannot afford this any weight in the planning balance. I note the appellant would re-use surface water to maintain the land. This matter carries limited weight in favour of the proposal.

Very Special Circumstances and Conclusion

26. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. I have found that the proposal would be inappropriate development in the Green Belt and that it would be harmful to the openness of the Green Belt. These matters carry substantial weight.
27. In addition, the proposal would harm the setting of the Listed Building and the SAM, and thereby their significance as heritage assets, for the reasons set out. The Framework is clear that great weight should be given to a designated heritage asset's conservation. The more important the asset, the greater the weight should be. Both the Listed Building and the SAM are of national importance such that the harm the proposal would cause to it carries substantial weight. In addition, there would be harm to the character and appearance of the area which carries further, limited weight.
28. As explained above I give limited weight to the material considerations cited in support of the proposal and conclude that, taken individually and together, they do not outweigh the totality of the harm the scheme would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
29. As such the proposal would conflict with Policy SP3 of the CS and with Green Belt policy as set out in paragraphs 143 - 145 of the Framework.

Recommendation

30. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

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

S Ashworth

INSPECTOR