



Appeal Decision

Site visit made on 8 July 2020 by C McDonagh BA (Hons), MA

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/N4720/W/20/3245291

Owl Lodge, Selby Road, Garforth, Leeds LS25 2AQ

- 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 D Schneider against the decision of Leeds City Council.
 - The application Ref 19/06177/FU, dated 4 October 2019, was refused by notice dated 6 December 2019.
 - The development proposed is conversion and alterations of two outbuildings to form a new dwelling house (resubmission of application 19/03611/FU).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Leeds City Council against Mr D Schneider. This application is the subject of a separate Decision.

Appeal Procedure

3. 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.

Preliminary Matters

4. The appellant has submitted amended plans with their appeal. These plans include boundary treatments, reductions in the amount of hardstanding within the site and an area which the appellant suggests could result in biodiversity gain on 'deleted' curtilage. I have been asked to determine this appeal on the basis of these plans. I understand they were not originally submitted to the Council for consideration and the application was determined on the basis of the original plans, although the Council have since offered comment.
5. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application (Annexe M.1.1). If an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought (Annexe M.2.1).

6. In deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles' (Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]) and whether any prejudice would occur. Whilst I note that no neighbour objections were raised to the original application, interested parties would not be aware of the amended scheme and, for that reason, I consider that they would be prejudiced if I determined this appeal on the basis of those plans. Accordingly, I have determined this appeal on the basis of the plans originally submitted with the planning application, on which the Council made its decision.
7. An appeal decision¹ relating to a similar proposal at the same site was published days prior to the start date of this appeal. Given the similarities in both proposals, this is a material consideration and both parties were therefore given extra time to submit additional comments relating to this decision. I have taken into account comments made by the parties in relation to the appeal decision.
8. The application was initially refused on two grounds. However, following the decision made in the aforementioned appeal on the same site the Council has made it clear it wishes to withdraw the reason relating to future pressure to fell or lop nearby trees. I have dealt with the appeal on that basis.

Main Issues

9. In light of this, the main issues are as follows;
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework;
 - If the proposal would be inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

10. The appeal site comprises two outbuildings, a home office and a garage, set within the curtilage of Owl Lodge; a two-storey detached dwelling. The host dwelling has been extended to the rear and is attached to the nearest of these outbuildings. This link is proposed to be removed, with a new structure installed between the outbuildings to form an additional and separate dwelling
11. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions including those set out in paragraph 145. They include at 145 g), *the limited infilling or partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which*

¹ APP/N4720/W/19/3239700

would not have a greater impact on the openness than the existing development.

12. Paragraph 146 considers other forms of development that are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes 146(d), *the re-use of buildings provided that the buildings are of permanent and substantial construction*. I note there is no disagreement between the parties that the buildings are of substantial and permanent construction, either in the previous appeal decision or in the submissions I have read relating to this appeal. The main issue in this case therefore relates to the impact of the development on openness.
13. The proposed link to join the two outbuildings in the creation of the dwelling is slightly taller than the existing link, albeit with a smaller floor area. I appreciate this existing structure is to be removed; however, the volumetric increase and greater height of the proposal would have a limited, but nevertheless greater impact on openness of the Green Belt in spatial terms.
14. Assessment of openness can also relate to the impact of the manifestation of a use. The proposal, a substantial three bedroomed dwelling with the attendant domestic paraphernalia, parking and activity associated with the use would have a greater impact on openness than the current use which is ancillary to the main living accommodation in Owl Lodge. While I acknowledge that the site is currently in residential use, I am unconvinced that the scale of activity on site is likely to increase at a level commensurate with activity associated with the size of the dwelling now proposed.
15. In addition to that, the site would be subdivided into two distinct plots. Although there are no specific details of the proposed boundary treatments before me, I understand this could comprise hedgerows rather than fencing. While I appreciate that the details and appearance of boundary treatment could be conditioned, the subdivision of the plot, in addition to the increase in activity and paraphernalia would have a more significant effect on openness than the current arrangement.
16. Furthermore, works would be required to alter the access to the site in order to achieve the required visibility onto the A63 road. I acknowledge that the increased area of hardstanding at the site access would be screened to an extent by existing vegetation, albeit some of the existing hedge would be removed, but it would nevertheless be apparent from certain vantage points of Selby Road. The increase in hard surfacing and activity associated with the access would have a limited additional effect on openness.
17. The Landscape and Visual Impact Assessment (LVIA) concludes that there would be a negligible impact upon landscape character or visual amenity. However, no objection is raised by the Council to the impact of the proposal on the character and appearance of the area and given the scale of the proposal I have no reason to disagree with this finding. However, does not automatically follow that there would be no impact upon openness of the Green Belt, which is a different assessment. While the increase caused by the extension, boundary treatments, domestic paraphernalia and access improvements may be small individually, combined they would conflict with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.

18. Consequently, in terms of the requirements of the Framework, I find that the proposed development would be inappropriate development in the Green Belt.

Other considerations

19. I have been provided with examples of other similar developments in the Green Belt approved by the Council. While these examples include location plans, they provide little detail, such as the similarities with the development before me in terms of impact upon openness or the circumstances in which they were approved. In any event, I am required to reach conclusions based on the individual circumstances of this appeal and the approval of development elsewhere which is considered inappropriate or otherwise does not justify allowing inappropriate development. As such, I can attach little weight to these other developments.
20. The proposal would make a limited contribution to housing land supply and would be well located in terms of provision to services and public transport links. However, the weight to attach to this is limited given the proposal is for one house only.
21. It is suggested extensions or outbuildings could be erected within the site under permitted development rights set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. This has not been challenged by the Council and I have no reason to consider that permitted development rights do not exist. However, the appellant has not applied for a Certificate of Lawfulness for such development. Furthermore, the proposal before me is to create an additional separate dwelling, rather than an extension or a garden room. Therefore, while I accept that the floor area of such structures could be larger than that of the proposal, they would not be directly comparable with the appeal proposal in terms of use or impact on the openness of the Green Belt, and no certainty that the alternative developments would be carried out. Consequently, taking all these matters into account, the fallback position carries limited weight in favour of the proposal.
22. The appellant has also suggested that permitted development rights could be removed if this permission were granted. However, Paragraph 53 of the Framework states that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. The Planning Practice Guidance also advises that conditions restricting the future exercise of PD rights and conditions restricting future changes of use may not pass the tests of reasonableness or necessity. In this case the removal of PD rights would prevent further loss of openness once the development had been carried out. However, it would not mitigate the harm to openness the proposal would cause and would only come into effect once the development permitted had commenced. There would be nothing to prevent the appellant from further expanding the property using permitted development rights should they wish and then implementing the proposal. Therefore, this matter carries little weight.

Planning Balance

23. The proposal would be inappropriate development in the Green Belt as it would not preserve its openness thereby conflicting with the purposes of including land within it.

24. The Framework states that inappropriate development should not be approved except in very special circumstances. These 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.
25. As set out in the Framework substantial weight must be given to the any harm to the Green Belt. The considerations set out above carry limited weight both considered individually and cumulatively. As such, the harm identified would not be clearly outweighed by the other considerations set out above so as to amount to the very special circumstances required to justify the proposal

Recommendation

26. 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

27. 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