
Appeal Decision

Site visit made on 10 November 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2021

Appeal Ref: APP/N4720/W/20/3255143

Land adjacent to Grove Manor Cottage, Whetherby Road, Scarcroft, Leeds LS14 3HJ

- 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 Thomas Furse-Roberts against the decision of Leeds City Council.
 - The application Ref 19/07537/FUL, dated 27 November 2019, was refused by notice dated 18 February 2020.
 - The development proposed is erection of 1 no. single residential dwelling. This is a self-build project and will comply with the definition of self-build and custom housebuilding in the Self Build and Custom House Building Act 2015 (as amended).
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Decision

1. The appeal is dismissed.

Procedure Issues

2. I have taken the site address from the Council's decision notice, which is also set out in Section D of the Planning Appeal Form as this appears to correctly identify the appeal site.
3. I have also had regard, and in accordance with Paragraph 30 of the National Planning Policy Framework, 2019 (the Framework) in this appeal decision to the Scarcroft Neighbourhood Plan, adopted 5 March 2019, which the Council refer to in their appeal evidence.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether the proposal would preserve or enhance the character or appearance of the Conservation Area, having regard to the implications for the retention and health of protected trees on the site; and
 - 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

Inappropriate development

5. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. The exception which is set out at paragraph 145(e) of the Framework, is limited infilling in villages. Saved Policy N33 of the Leeds City Council Unitary Development Plan 2006 (UDP) permits limited infilling in villages, which is consistent with the wording in the Framework. There is no definition in the Framework of limited infilling, Saved Policy GB2 of which the Council confirms is a non-strategic policy sets out that infilling will only be permitted in the Green Belt where it satisfies three criteria.
7. As such, Saved Policy GB2 is broadly consistent with the aims of the Framework, in protecting and controlling development in the Green Belt. The Framework at paragraph 28 advises that non-strategic policies should be used to set out more detailed policies for specific areas, including development types, establishing design principles, conserving and enhancing the natural environment and historic environment and setting out other development management policies.
8. The appeal site consists of a parcel of greenfield land and the proposed dwelling would be set back considerably from Wetherby Road. Despite an access point into the site, it can be clearly identified as being behind existing properties at Manor Cottages as the majority of the site and the position of the proposed dwelling is aligned behind them to the rear of Manor Cottage Mews. Access is taken from Wetherby Road which leads onto the private land. This appears as a driveway which opens up into a courtyard area with vehicle parking. The appellant contends that due to covenants on the land to access Wetherby Road it should be considered as a roadway.
9. Whilst this may be the case, covenants are private matters and, it does not necessarily mean it should be considered in broad planning terms as being a 'roadway' for the purposes of Saved Policy GB2. Having observed at the time of the site visit the appearance of the access in my opinion is one of a driveway, of which establishes a relationship from Wetherby Road to the existing courtyard area for the purpose of access and vehicle parking leading to the wider appeal site, positioned at the end of it. Therefore, I would disagree with the appellants assessment that by way of an established access point to the land and that no alterations are proposed to it, it should be considered as a roadway. Even, if I were to consider the appellant's contentions, the site would not front the roadway.
10. Furthermore, I acknowledge that the previous appeal decision¹ for the appeal site was some time ago and that the national policy context has changed. However, it clearly still has comparisons with the scheme before me including

¹ APP/N4720/A/11/2157028

that the street scene and access has relatively remained the same and Saved Policy GB2 criteria is still relevant. Therefore, I have no reason to disagree with the Inspector's overall conclusion, albeit different descriptive wording. The Inspector in that decision stated that *"Firstly it does not front a road. The access drive cannot said to be a road, and even if it could, the site does not front it. The road terminates at the low wall, with the site beyond. This does not seem to me what is meant by having a "frontage to the road"*.

11. Taking in to account the above, it would therefore not meet criterion (i) that the site has a frontage to the road.
12. The second criterion of Saved Policy GB2 requires that a site has a small gap bounded by existing development. I acknowledge that there is existing residential development in close proximity of the site, and it appears there have been some alterations to nearby residential curtilages. However, the built form of the majority of residential development is some distance away particularly towards the south east and directly to the east. Neither, does the assumption that the countryside is not readily visible due to high boundary treatments surrounding the appeal site mean it should be considered as a 'small gap'. This is also supported by the previous Inspector's decision, which states *'the site is not a small gap bound by existing development'*. As such, it would therefore, not meet criterion (ii).
13. The third criteria of Saved Policy GB2 relates to a proposal being in scale and character with the surrounding area and does not consolidate ribbon development. The proposed development would be for a self-build single storey detached dwelling of an acceptable design with traditional materials and would not form ribbon development. The Council consider the proposals would meet the said criteria, and, as such I have no reason to disagree. It would therefore satisfy Saved Policy GB2 (iii).
14. For the reasons given above, the proposal does not satisfy the criteria of Saved Policy GB2(i) and GB2(ii) of the UDP. Furthermore, it does not meet any exception in that of the Framework, with reference to paragraph 145(e), as it would not form limited infilling in villages.
15. As the appeal scheme would not meet any of the exceptions in paragraph 145 of the Framework, it would form inappropriate development in the Green Belt.

Openness

16. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual and spatial element.
17. The appeal site is situated to the rear of Manor Cottage Mews and comprises of a parcel of land which is not occupied by any built form. The erection of a sizeable single storey detached dwelling with car parking, hardstanding, associated domestic paraphernalia and loss of trees would therefore have an adverse impact on openness. Whilst the site is not clearly visible from public views along Wetherby Road, there would be glancing views from the access and it would be viewed from the immediate street scene including those

surrounding properties, given the proposal is for built form, it would be clearly discernible in those views.

18. For the above reasons, the proposed development would harm the openness of the Green Belt in both visual and spatial terms. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Heritage Asset and Trees

19. The site is located within the Scarcroft Conservation Area (CA) and while the effect of the proposed development in terms of the design of the building itself on the character and appearance of the CA is not in dispute, I am mindful of my statutory duty in this regard. The Council have no objections to the proposal in this regard. Given the materials of construction are suitable, appropriate scale and massing for the dwelling, fenestration respects the rural character and echoes features of traditional agricultural structures. I see no reason to disagree with this assessment.
20. However, the appeal site is heavily overgrown and has mature tree planting in and around the boundaries with a boundary hedge towards the garden areas of Manor Cottage Mews. Although overgrown the greenspace and the presence of those mature trees and hedge positively contributes to the setting of the area. The proposals would lead to the loss of a number of plant species, single trees and those contained within groups. The individual trees are identified as, Sycamore (T5, T15, T16) and English Elm (T10) and identified groups containing Sycamore, Downy Birch (G11) and Ash, Scots Pine, Cypress (G22).
21. The 'Tree Data' evidence submitted with the application indicates that the trees all have a retention category of C, indicating trees of low quality with an estimated life expectancy of 10+ years but of a fair condition. The 'Tree Management' suggests that these are removed to enable the scheme than there being an issue with the trees themselves and potentially a further Sycamore would require some works (T6).
22. As such, the removal of these would obviously lead to a change in character and appearance of the site which is within the CA with the loss of some tree cover and a change to the spacious setting of the mature trees. It would be perceived as a negative impact on the visual amenities and appearance of the CA.
23. I have not been provided with any substantive evidence relating to the declared 'LCC Climate Change Emergency' or 'The Woodland Carbon Guarantee'. However, the Framework, places great emphasis on conserving and enhancing the natural environment. Therefore, the loss of trees including their coverage would result in considerable adverse impact to the existing natural screening of the site from its surroundings and would be detrimental to the natural and historic environment of which the site forms and it would significantly impact on the visual amenities of the setting and surrounding historic CA.
24. Whilst the harm would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the

- significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There would be little public benefit to outweigh the harm found to the significance of the CA
25. Furthermore, the loss of mature trees would impact on the existing biodiversity/habitats particularly as the site has not been maintained for some time. I acknowledge, the onus of tree maintenance is one for the appellant to decide whether they wish to maintain trees at the site or not, and some replacement planting is proposed, however there is no evidence before me of dangerous trees at the site and these matters do not outweigh the removal of the existing mature trees.
26. The Council are concerned with the distance of the development to trees and it does not conform with the guidance contained in the Leeds City Council Guideline Distances from Development to Trees, 2011 (GDDT). I note the appellant's comments in disputing this matter and document. However, it would appear that it is acknowledged that there would be some encroachment and root protection areas infringed. Furthermore, it would appear that there would be significant encroachment into construction areas for the proposed dwelling given the proximity and number of trees surrounding it. The evidence is limited in regard to hard surfacing areas, levels, services and that sufficient construction space can be provided without causing significant harm to those existing trees to be retained. As such, there is insufficient information to lead me to a different conclusion on these matters.
27. I note the Council's concerns in relation to the co-existence of the trees and the proposed dwelling, given their proximity and the likelihood for there to be pressure from future residents of the dwelling for further tree removal and pruning due to the perceived risk of trees falling and/or over shading of the dwelling and their garden. In any case the CA status, would protect some of the remaining trees from being felled.
28. For the reasons given above I conclude the proposed development would lead to an unacceptable loss of mature trees and would therefore fail to preserve the character and appearance of the CA. It would be contrary to LD1 and GP5 of the UDP. These policies require development proposals to resolve detailed planning considerations including landscaping and avoid problems of environmental intrusions, loss of amenity; landscape should reflect the scale and form of adjacent development and the character of the area; protect existing vegetation, including shrubs, hedges and trees; sufficient space is to be allowed around buildings to enable existing trees to be retained in a healthy condition.
29. It would also be at odds with the Council's tree guidance GDDT, and supplementary planning guidance 'neighbourhoods for living' 2003, with regard to local character key objectives.

Other Considerations

30. The appellant contends that the provision of a self-build dwelling is a positive benefit in favour of the scheme. The Government within Planning Policy Guidance (PPG) support such schemes to increase this type of development and places a legal duty on local planning authorities to enable such development. The definition of 'self-build and custom-build housing' is set out

in the Framework², and is based on the legal definitions contained in section 1(A1) and (A2) within the Self-build and Custom Housebuilding Act 2015 (as amended).

31. The Act requires each relevant authority to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding. As set out in the PPG³ an Authority has 3 years to demonstrate that sufficient suitable permissions have been granted to meet a base period's demand. There is no substantive evidence before me to suggest that the proposal would comply with the relevant legal definitions of self-building housing, or that it would meet a currently identified Council need. As such, I give this consideration no weight.
32. Although the proposed development would not cause any harm to the living conditions of neighbouring properties including overshadowing, outlook, privacy and overlooking, 2 letters of support and the parish council comments, these considerations do not outweigh the harm caused by the development. Furthermore, the 3 objection letters received were from properties at Manor Cottage Mews, who are directly affected by the proposals unlike those forming the 2 support letters.
33. The appellant's evidence references several appeal decisions; however I have been provided with limited details of each of those and so cannot be certain they are comparable in any form to the proposals before me. In any event, the appeal is necessarily determined on its individual merits on the basis of the evidence before me.
34. I accept that there would be some environmental benefits as the site has been degrading over the years and there appears to have been limited tree maintenance. In the appellant's evidence reference is made to fly tipping and criminality. I have no evidence to suggest that such activities have taken place at the site or that the site could be classed as derelict land. As such, I give these considerations no weight.
35. Some economic benefits would arise from, for example, the purchase of building materials during the construction period. Future occupiers would also contribute to the local economy and towards the viability of local services. However, again given the modest scale of the development such benefits would be limited.

Planning Balance and Conclusion

36. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness, which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
37. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified including the harm to the CA with the loss of mature trees. Consequently, the very special circumstances necessary to justify the development do not exist.

² Annex 2 of the Framework refers to the definition of a 'self-build and custom-build housing'.

³ Paragraph: 023 Reference ID: 57-023-201760728: Revision date: 28 07 2017

38. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
39. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR