
Appeal Decision

Site visit made on 25 May 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2021

Appeal Ref: APP/A4710/D/21/3269881

Highlee Top Farm, Highlee Lane, Ripponden, Sowerby Bridge HX4 ODE

- 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 L Smith against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/01056/HSE, dated 8 September 2020, was refused by notice dated 7 December 2020.
 - The development proposed is demolition of existing garage to facilitate two storey rear extension with dropped terrace.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The submitted evidence confirms that the appeal site is located within the Council's 'Bat Alert Area' where there is an increased likelihood of roosting bats and where it is reasonable for the undertaking of a survey to be required. The main parties have confirmed that no such survey has been undertaken. Although this has not been raised by the Council in its reasons for refusal, it is nonetheless a matter which is relevant to the determination of this appeal. The appeal is determined accordingly.

Main Issues

3. The main issues are:
 - whether or not the appeal proposal would constitute inappropriate development in the Green Belt;
 - the implications on the openness of the Green Belt;
 - the effect of the appeal proposal on protected species;
 - the effect of the appeal proposal on the character and appearance of the host building and the designated Special Landscape Area with particular regard to scale and design; and
 - should the appeal proposal constitute inappropriate development, whether or not any harm by reason of inappropriateness, and any other harm, would be clearly out-weighted by other considerations, so as to amount to the very special circumstances required to justify it.

Reasons

Whether or not the development would be inappropriate

4. The site is located within the Green Belt. Policy GNE 1 of the Replacement Calderdale Unitary Development Plan 2006 (the Local Plan) seeks to restrain development here. It pre-dates the National Planning Policy Framework and does not fully reflect current national Green Belt policy. Moreover, the Council's evidence confirms that it was not 'saved'. Therefore, the National Planning Policy Framework (the Framework) provides the current policy context to assess the appeal proposal against in Green Belt terms.
5. The fundamental aim of the National Planning Policy Framework (the Framework) is to keep the Green Belt land permanently open. The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. Furthermore, the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, although it sets out a series of exceptions. 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.
7. The original host building comprises a farmhouse and attached barn which has been converted into part of that dwelling. The submitted evidence confirms that an extension on the western side of the host building and the existing detached garage to the rear of it are later additions for the purposes of this assessment.
8. Unlike the proposed extension, the proposed recessing of the rear door access and dropped terrace will not by their very nature contribute to the increased size of the original building.
9. The overall height of the proposed extension would be set down from the ridge height of the original building. The proposed eaves level would not be too dissimilar to that of the host's rear elevation. The width of the appeal proposal would occupy a small proportion of that rear elevation. The length of the extension would be similar to the depth of the original building.
10. The use of glazed sections within the walls and roof would provide a visual break and some relief to the built form of the proposed extension. Such a contemporary design solution would enable the proposed extension to reflect the current massing and juxtaposition of the existing dwelling and the detached garage which it would replace.
11. In assessing the proportionality of the appeal proposal in relation to its host, and bearing in mind the previous extension, the Council has accepted in the officer report that the size of the resulting extension is acceptable in its own right. Given the evidence before me, in terms of its footprint, overall height and volume, I have no reason to deviate from that assessment.
12. The fact that the appeal proposal is larger than a previously permitted scheme is not relevant to the assessment of whether it meets the exception set out in paragraph 145 (c) of the Framework.

13. Consequently, I find that the appeal proposal when combined with the previous extension would not be a disproportionate addition over and above the size of the original building. Therefore, in terms of paragraph 145 of the Framework it meets exception (c).
14. For this reason, the appeal proposal would not constitute inappropriate development in Green Belt. Consequently, there is no conflict with the Framework in this regard.
15. One of the essential characteristics of Green Belt is its openness. The Court of Appeal has endorsed the conclusion that where development is found to be not inappropriate, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within it.
16. I have found that the appeal proposal is not inappropriate development. Consequently, there is no requirement to assess the impact on openness of the Green Belt in this instance or to require very special circumstances to justify the appeal proposal.

Protected species

17. The Council has stated that the appellant had been made aware of the potential for bats and the requirement for a bat survey to be submitted to support their planning application. Subsequently, however, the Council proceeded to validate the application without such a survey and no consultation was undertaken by the Council with a relevant specialist. No evidence has been presented to this appeal by the appellant in this respect.
18. The Council has stated that a planning condition could be imposed to address the absence of that survey. The appellant has not disputed this.
19. Nonetheless, paragraph 99 of Circular 06/2005 (the Circular) states that it is essential that the presence or otherwise of protected species is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Moreover, the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances.
20. The location of the appeal site within the Bat Alert Area, together with the nature of the host building and proposed demolition and building works, point to there being a reasonable likelihood for disturbance to a protected species to arise. In the absence of a survey it is not possible for me to quantify the impact on bats. A condition to require mitigation in the absence of a survey would not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to bats.
21. The imposition of a planning condition would not provide sufficient certainty that no harm would result in advance of my decision. Moreover, there are no exceptional circumstances that indicate otherwise in this particular case. Consequently, the requirements of the Circular would not be met.
22. In the absence of this evidence, I must conclude that it has not been demonstrated that the appeal proposal would not harm a protected species.
23. Paragraph 175 of the Framework states amongst other things that when determining planning applications if significant harm to biodiversity cannot be

avoided, adequately mitigated or as a last resort compensated for, then planning permission should be refused.

24. Policy NE 16 of the Local Plan states development will not be permitted if it would harm the habitat requirements of legally protected, rare or threatened wildlife species and the species themselves, unless provision is made to protect those species and their habitats.
25. The proposed development is contrary to that policy and also to the Framework. This is because the appeal proposal fails to demonstrate that its effects on the biodiversity of the site and surrounding area would not be harmful. This conflict carries significant weight against the appeal proposal.

Character and appearance

26. The appeal site is located within the Special Landscape Area (SLA) designated by Policy NE 12 of the Local Plan. The area is characterised by extensive swathes of undulating open countryside with sporadic groups of rural land use based buildings and individual rustic properties.
27. The host dwelling is located within generous grounds occupying an exposed elevated hillside position within a sporadic grouping of other properties. This means that it is clearly visible within the context of the wider countryside from short, medium and longer distance vantage points.
28. The host building is of natural stone and render construction with a stone slab roof. Its scale, form and design are representative of other buildings in this part of the SLA. The appeal property contributes positively to this valued landscape.
29. Paragraph 170 of the Framework states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
30. The appeal proposal would be contained wholly within the existing garden area of the host dwelling. This garden area does form part of this wider landscape which is afforded SLA status. However, the appeal proposal would not encroach into the open countryside.
31. Furthermore, the proposed extension would be located on the site of an existing detached double garage building. It would create a built form that is not too dissimilar to the existing garage. The appeal proposal would read as part of the existing building group. Moreover, I have already concluded that it would not be a disproportionate extension of the original building for the reasons which are set out earlier.
32. With the exception of the aluminium glazing frames, the proposed extension would be constructed from traditional materials to match the existing property and which are prevalent within the wider SLA. How they are incorporated as part of the overall design assists in reducing the mass of the proposed extension.
33. Paragraph 124 of the Framework recognises that good design is a key aspect of sustainable development. However, the appellant's quest for a design response which avoids pastiche development has led to a dispute over the proposed

- incorporation of large glazed areas to the roof and walls including the treatment of the opening which would face into the courtyard.
34. Paragraph 127 of the Framework states that decisions should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. Paragraph 131 of the Framework states that great weight should be given to outstanding or innovative designs which amongst other things help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
 35. It is evident that large openings are a typical design feature of other buildings in the area and are reflective of its agricultural history and character. The appeal proposal relates to a building which was constructed as a farmhouse and associated barn which form part of this local history and character.
 36. The proposed incorporation of glazed walls as part of the overall design references the large openings which are a characteristic of buildings in rural land based use. During my site inspection, I observed the use of glazing as a design solution to treat original large openings in other properties was apparent in the locality.
 37. As well as providing the proposed extension with a degree of transparency such treatment will also better reflect the existing built mass and juxtaposition between the original building and existing detached garage.
 38. The proposed window feature that would extend above eaves level on the elevation facing into the resulting courtyard would read as part of the large opening when viewed straight on. This references the variation in the property's existing eaves. From more oblique angles it would read against the bulk of the roof the existing dwelling as a small discreetly placed flat roofed dormer window. This feature's overall effect on the character and appearance of the host dwelling and wider area would not be of a magnitude that would be harmful.
 39. Overall, the contemporary design solution employed here, whilst different to the traditional design and appearance of the host building, would not be jarring with it or the wider rural valued landscape context and the appeal proposal would be subservient to its host.
 40. Consequently, the appeal proposal accords with the Framework's approach to design and local character.
 41. For these reasons, the appeal proposal would not harm the character and appearance of the host building or the SLA with particular regard to scale and design.
 42. The extension subject to this appeal would be located in a similar position to the previously permitted extension. The appeal scheme would be larger in terms of the finished height and length. Although the previous detailed plans are not before me, the Council has indicated that it was of a traditional design which reflected the appearance of the host building and that approach is preferred.
 43. Nonetheless, some time has elapsed since that permission was granted and it is unclear as to whether it is still extant. In any event, I have found that the

particular appeal proposal before me would not harm the character and appearance of the host building. It is not within the scope of this appeal to assess the merits of that legacy proposal. I therefore attribute no weight to it and my findings remain unaltered.

- 44. Policy NE 12 of the Local Plan states that development which would adversely affect landscape quality will not be permitted. Special attention should be paid to minimising the impact of development through detailed consideration of the siting, materials and design of the new development. This policy is broadly consistent with the Framework and carries full weight.
- 45. Policy BE 1 of the Local Plan states that development should respect or enhance the established character and appearance of existing buildings and their surroundings in terms of layout, scale, height, form, massing, siting, design and materials amongst other things. This policy is broadly consistent with the Framework and carries full weight.
- 46. In the absence of harm, the appeal proposal does not conflict with either of these policies.

Planning Balance

- 47. In Green Belt terms, the appeal proposal would not constitute inappropriate development within the terms set out in the Framework and implicitly it would not cause harm to the openness of the Green Belt. Therefore, very special circumstances need not be demonstrated in this instance. Accordingly, there is no conflict with the Framework in this regard. Furthermore, I have found no harm to the character and appearance of the host building or the SLA.
- 48. However, I have found that there is the potential for harm to be caused to biodiversity and in the absence of evidence to the contrary that would constitute an adverse impact.
- 49. This adverse impact would not be significantly and demonstrably outweighed by any benefits, when assessed against the policies of the Framework taken as a whole. Therefore, the appeal proposal does not meet the presumption in favour of development when assessed against paragraph 11 (d) of the Framework.
- 50. I have found no conflict with Policy NE 12 or BE 1 of the Local Plan. However, in the absence of a bat survey there is conflict with Policy NE 16 and with the development plan when taken as a whole. This carries significant weight and is not outweighed by other matters.

Conclusion

- 51. For the reasons given, I conclude that this appeal should be dismissed.

C Dillon

INSPECTOR