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## Appeal Decision

Site Visit made on 29 June 2021

**by A Edgington BSc (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 July 2021**

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**Appeal Ref: APP/N4720/D/21/3275861**

**Friars Cragg, Linton Common, Linton, Wetherby, LS22 4JD**

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- 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 and Mrs Hastings against the decision of Leeds City Council.
  - The application Ref 20/08424/FU, dated 16 December 2020, was refused by notice dated 4 March 2021.
  - The development proposed is extensions to property.
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### Decision

1. The appeal is allowed and planning permission is granted for extensions to property at Friars Cragg, Linton Common, Linton, Wetherby, LS22 4JD in accordance with the terms of the application, Ref 20/08424/FU, dated 16 December 2020, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building
  - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg. No 20.0004 EL(0) 001; Dwg. No 20.0004 PL(0) 002.

### Main Issues

2. The main issues are:
  - Whether the development 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 openness of the Green Belt; 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.

## **Main Issues**

### *Inappropriate development*

3. Friars Cragg is a single storey dwelling with accommodation in the roof space and a two storey rear annex separated from the host dwelling by a single storey link. It is situated on a sloping plot of the edge of Linton, and is one of a long line of detached dwellings lining Linton Common. It has been considerably extended since its construction in 1953, with extensions amounting to a 61 per cent volume increase. The proposed extensions of this appeal would add a further 11 per cent.
4. The Framework states that inappropriate development in the Green Belt is harmful, and that substantial weight should be given to that harm. Paragraph 145 of the Framework lists exceptions including 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. The Council's Householder Design Guide (HDG) sets out that in order to be considered as a limited extension the extensions should not exceed 30 per cent of the original dwelling's volume.
5. The scale of development would amount to more than the 30 per cent allowed in the HDG. Even if the Council did not have a volumetric threshold, I would conclude that the extensions would be disproportionate when compared to the original dwelling. The development would therefore fail to meet the exceptions set out in Paragraph 145 of the Framework as well as exceptions set out in Policy N33 of the Unitary Development Plan<sup>1</sup> (UDP), which is also concerned with the protection of the Green Belt. The proposals would therefore constitute inappropriate development.

### *Openness*

6. The development would comprise the filling in of an existing void between the main body of the house and the annex, which is built into the steeply sloping garden to the rear. This would lead to a loss of spatial openness.
7. However, I noted that views of the development would be limited to within Friar Cragg's rear garden. Moreover, the steep bank to the rear of the building line rises much higher than the buildings forming the frontage. As such the development would have negligible visual impact from the public domain or the gardens of immediate neighbours. The harm to visual openness would be minor as a consequence of the proximity of the steep bank to the rear, and the lack of visibility from the public realm.
8. Nonetheless, as noted above, all harm in the Green Belt is to be given substantial weight.

### *Other considerations*

9. A proposal for permitted development<sup>2</sup> comprising a substantial two storey extension and a flat roof dormer was considered by the Council but refused on the grounds that the dormer would take the overall volume of roof extensions to above the threshold of 50 cubic metres and because there was no indication that similar materials would be used. On the basis of what is before me I see no reason to disagree with the Council in this regard.

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<sup>1</sup> Review 2006

<sup>2</sup> 21/01620/CLP

10. However, if considered in isolation, the two-storey extension and its substantial hipped roof would conform with the requirements for permitted development if considered in isolation.
11. Friars Cragg has two bedrooms on the first floor, one in the annex and one on the ground floor. The proposals before me would accommodate four bedrooms on an extended first floor. The permitted development proposal would not provide a link between the original dwelling and the annex, but there would be three bedrooms on the first floor. Even without the dormer window extension, a two storey rear extension implemented as permitted development would represent a significant improvement in the current rather disjointed arrangement of accommodation.
12. The plans indicate that there is about 3 metres between the dwelling's rear elevation and the retaining wall at the base of the steep rear garden. As such I am not satisfied that the two-storey extension could be built with concertina doors on its rear face. Nonetheless, I am satisfied that a substantial rear extension, broadly similar to what is shown on this drawing, could be accommodated. Consequently, I conclude that there are valid permitted development options that would go some way to achieving what the appellants seek.
13. Furthermore, having reviewed the plans and the dimensions of the two storey extension set out in the fall-back scheme I am satisfied that even with some minor design changes the volume of such an extension could be significantly in excess of the 56 cubic metres of the appeal proposals. Such an extension would also be very bulky, dominate the host dwelling's rear elevation and sit awkwardly with Friar Cragg's underlying design and typology. It would therefore detract from the openness to the rear of the host dwelling to a greater degree than the appeal proposals.
14. The courts have found that for a fall-back position to carry material weight, its implementation has to be a real prospect, but it does not have to be probable or likely. An Inspector for another appeal<sup>3</sup> has concluded that the demonstration of a real prospect of a fall-back scheme being implemented is not predicated upon an existing permission or prior approval. In this case I conclude that in the absence of permission for the appeal proposals, it is highly likely that an extension would be sought under the permitted development route. In that case the totality of harm arising from inappropriateness and loss of openness to the Green Belt would be greater than if Friars Cragg was extended through the appeal proposals.

#### *Other matters*

15. The appellants have provided a Unilateral Undertaking (UU) setting out that the appellants would provide a commitment not to apply for further permitted development if the appeal was allowed. However, the Council has not indicated in its questionnaire that restrictions on permitted development would be deemed necessary if the appeal was allowed and the absence of such an undertaking is not included in the reasons for refusal.
16. Moreover, permitted development rights have not been withdrawn from Green Belt in the Town and Country Planning (General Permitted Development)

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<sup>3</sup> APP/M1710/W/20/3258256

(England) (Amendment) Order 2020, and this approach is supported by Paragraph 53 of the Framework and Planning Practice Guidance. As such, as there are no clear reasons for the removal of permitted development rights I see no need to consider the UU further, and it weighs neither for nor against the appeal.

### *Conditions*

17. I have imposed a condition requiring the materials to be used to match those in the existing building in order to safeguard the character and appearance of the area. I have also imposed the standard time condition, as well as a condition specifying the approved drawings for the avoidance of doubt.

### **Conclusion**

18. Paragraph 143 of the Framework states that inappropriate development should not be approved except in very special circumstances. Paragraph 144 states 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.
19. I have found above that the totality of harm arising from the appeal extension by reason of inappropriateness and loss of openness would be clearly outweighed by the harm to the Green Belt arising from what might be built as permitted development. As such very special circumstances exist. For these reasons the appeal is allowed.

*A Edgington*

INSPECTOR