
Appeal Decision

Site visit made on 17 August 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2021

Appeal Ref: APP/E2734/D/21/3277255

Whingarth, Merrybank Lane, Huby LS17 0EN

- 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 Richard Craker against the decision of Harrogate Borough Council.
 - The application Ref: 21/00252/FUL, dated 22 January 2021, was refused by notice dated 31 March 2021.
 - The development proposed is the erection of an orangery and the erection of a new attached garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The revised National Planning Policy Framework (Framework) was published during the course of the appeal. The national planning policy it provides in relation to the Green Belt has not changed, as is relevant to this appeal. Accordingly, I have considered the appeal on this basis.

Main Issues

3. The main issues are a) whether the proposal would constitute inappropriate development in the Green Belt for the purposes of the Framework and the development plan policy, b) its effect on the openness of the Green Belt, and c) if it is inappropriate development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

4. The appeal property comprises a 2 storey detached house with a separate garage building. It lies at the end of a row of residential properties on Merrybank Lane. Fields are found to the side and rear of the appeal site, as well as on the opposite side of the road. It is located in rural surroundings and Merrybank Lane leads from the countryside into the more built up parts of the settlement of Huby. The site lies in the Green Belt.

Inappropriate Development

5. Paragraph 149 of the Framework states that the construction of new buildings is inappropriate in the Green Belt unless, amongst other exceptions, it involves 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.
6. Policy GS4 of the Council's Harrogate District Local Plan 2014 – 2035 (2020) reaffirms the extent of the Green Belt as shown on the policies map and states that proposals for development in the Green Belt will be determined in accordance with relevant national policy.
7. Neither the Framework nor Policy GS4 provide guidance over whether a proposal would constitute a disproportionate addition. The Council's House Extensions & Garages Design Guide Supplementary Planning Document (2005) refers to extensions up to a 50% ground floor area increase. However, the Framework refers to 'size'. I have also been referred to a 30% volume limit with regard to other appeal decisions, but this does not appear in policy or guidance. The application of these percentage figures carries limited weight in my decision.
8. The Framework defines an original building "*as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.*" Based on the evidence before me, I find that the original building constitutes the existing house. The Council Planning Officer Report sets out that the garage was a more recent addition and there is not substantive evidence before me to the contrary. With the proximity of the garage to the house and with its domestic related usage, it can also be deemed to be an extension.
9. The proposal would involve both the replacement of the garage and the erection of the orangery across much of the rear elevation of the existing house. The proposed orangery would also extend across part of the rear elevation of the proposed garage. Whilst both elements would be of a single storey height, the proposed orangery would project into the garden at a similar depth to the existing house, and the proposed garage would extend down much of the side elevation. The cumulative enlargement would be significant.
10. As the existing garage is not part of the original building, its size cannot be used to offset the size of the proposal, irrespective of whether or not the proposed garage is tantamount to moving the garage to a new location. The demolition of the garage simply means that its size is not taken into account when assessing the proposal under the exception.
11. Assessing proportionality with regard to the policy which the Framework sets out is principally a test based on size. This is a judgement for the decision-maker. The location and relationship to development outside of the site, and the plot ratio, are not matters that are to be taken account of under the exception. This is because it only refers to the size of the original building in respect of whether the extension or alteration of a building would constitute a disproportionate addition.
12. In drawing the above matters together, compared to what I consider what would have been the size of the original building, the proposed orangery and garage would constitute a disproportionate addition. As a result, the proposal

would not comply with this exception. No other exceptions in the Framework would apply.

13. I conclude that the proposal would constitute inappropriate development within the Green Belt, and so it would not comply with paragraph 149 of the Framework. For similar reasons, it would not comply with Policy GS4.

Openness

14. Under the Framework, openness is an essential characteristic of the Green Belt. In respect of the spatial aspect, the proposal would be sited on land within the site that is largely open and free from structures. It would alter the area of land so that it would contain the proposed orangery and garage. The land would become more enclosed by virtue of having these structures erected on it.
15. Concerning the visual aspect, the proposed garage would clearly be visible from Merrybank Lane to the front of the site. As it would be approached from Huby, it would also be apparent because of the gap formed by the field, even with roadside vegetation, and as this property is the first in the row. The effect on other properties in this row is to limit the visual effect, but only in as far as where they are found to one side of the site. Views from the next house towards Huby would be likely modest due to the intervening distance.
16. Compared to the existing garage, the proposal would result in a greater degree of enclosure of open land within the site. The existing garage is also set further back from the road and so has more limited visibility. Hence, its proposed replacement would not be of benefit to the openness. That the proposal would be ancillary in use, not result in additional infrastructure or intensification of use, or compromise the remaining outdoor amenity space, would not change the effect that would occur in relation to the spatial and visual implications.
17. Taking these factors together, the effect on the openness wrought by the change would be limited adverse. As such an effect would occur, the proposal would not preserve the openness of the Green Belt.

Other Considerations

18. The appellant has referred to the exercising of permitted development rights as a fallback position. As I have set out above, the proposed garage would raise matters in relation to the visual aspect of openness. Such an effect would be more limited under the fallback position because the existing garage would be retained. It does not justify the proposal.
19. It is not in dispute between the main parties that the proposal would not be unacceptable with regard to the effect on the character and appearance of the area. This is however a separate matter from the visual aspect of openness and the lack of harm in respect of character and appearance attracts neutral weight.
20. The appellant has also drawn my attention to other developments in this row of houses and expressed views on the Council's decision-making. The proposal is to be dealt with on its own merits though, as I have set out in my decision. The same applies as regards that the proposal is a resubmission that sought to address the Council's earlier concerns.

Conclusion

21. The proposal would be inappropriate development in the Green Belt. It would have a limited adverse impact on openness. Paragraph 148 of the Framework establishes that substantial weight should be given to any harm to the Green Belt. Other considerations which arise do not clearly outweigh the totality of the harm. Consequently, very special circumstances do not exist. Accordingly, I conclude that the appeal should be dismissed.

Darren Hendley

INSPECTOR