



Appeal Decision

Site visit made on 6 January 2022

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2022

Appeal Ref: APP/D1265/D/21/3281061

1 Old Down Cottages, Junction On B3078 North Of Horton Inn To Bagmans Lane, Horton BH21 7HL

- 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 M Reeves against the decision of Dorset Council.
 - The application Ref 3/20/2262/HOU, dated 16 December 2020, was refused by notice dated 7 July 2021.
 - The development proposed is demolition of existing garage extension and construction of new side and rear extensions providing new dementia care annex accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The schedule of drawings on the decision notice includes a Location Plan numbered 1793-00-22 F. The Council has clarified, however, that the Location Plan numbered 1793-00-00 F, which was submitted with the appeal, was the one it considered when determining the application. Consequently, I have determined the appeal on the basis of this drawing.
3. The Council's reasons for refusal refer to paragraphs 133-134 and 143-145 of the National Planning Policy Framework (2019). During the appeal, on 20 July 2021, the Government published its revised National Planning Policy Framework (the Framework). In the revised version the paragraphs are renumbered 137-138 and 147-149, but otherwise remain unaltered. The appeal timetable has allowed both parties the opportunity to make comments relating to the updated Framework.

Main Issues

4. The main issues are:
 - a) Whether the proposal is inappropriate development in the Green Belt having regard to the Framework and development plan policy;
 - b) The effect of the development on the openness of the Green Belt;
 - c) Whether the scale and layout of the accommodation would enable its incorporation as part of the existing dwelling; and,
 - d) If the development is inappropriate, 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

Whether the proposal is inappropriate development

5. The appeal property is one of a pair of semi-detached cottages of similar design, with a low eaves line, broken by dormer windows that light the first-floor accommodation. The building has an attached garage on its side elevation, but it is single storey, with a low-level roof. Consequently, the symmetry of the original semi-detached pair of cottages can still be readily perceived. Old Down House, a larger detached house of two full storeys plus dormer windows, lies close to the pair of cottages to the south east. This tight group of three houses is surrounded by expansive open countryside, and lies within the South East Dorset Green Belt.
6. The Framework states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 149 of the Framework makes it clear that, other than in specified circumstances, new buildings are inappropriate development. However, paragraph 149c) clarifies that an extension to an existing building is not inappropriate development, provided that it does not result in disproportionate additions over and above the size of the original building. The Framework glossary defines "original building" as "*a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally*".
7. Policy GB3 of the East Dorset Local Plan (2002) (the Local Plan) predates the Framework, but is consistent with national advice, insofar as it seeks to preserve the openness of the Green Belt, without precluding proportionate extensions to existing dwellings. Paragraph 6.102 of the supporting text states that whether an extension is disproportionate or not will be assessed on the criteria set out in the Policy. However, whether the extension exceeds 50% of the residential floor area of the dwelling, as it existed on designation of the Green Belt in 1980, will be used as a general guideline.
8. The proposal involves the demolition of the existing garage and the construction of a two-storey extension in its place, together with a single-storey extension to the rear of the existing house. There is significant difference between the parties' evidence regarding the extent to which this would enlarge the original building. This principally relates to whether the floorspace of the garage should be included as part of the original building. There is no definitive evidence before me to identify when the garage was built. However, based on my own observations, it does appear to be a comparatively recent addition. In the absence of any evidence that it was built prior to 1948, I conclude that it does not form part of the original building for the purposes of the Framework. The Council's general guideline refers to the dwelling as it existed in 1980. Again, in the absence of any evidence, I cannot conclude that the garage was in existence at that time.
9. On this basis, the Council calculates that the proposals would involve a 111% increase in the volume of the original building. Whilst I do not have details of the way in which this figure was reached, totalling the floorspace figures on the submitted plans gives a figure of 76.9 square metres for the original dwelling and 85.4 square metres for the extensions (omitting the storage areas under the eaves). This also represents a 111% increase. It is therefore evident that the proposals would considerably exceed the Council's guideline figure of 50%, and would be a very substantial enlargement of the original building.

10. To determine whether such a substantial extension would constitute a disproportionate addition, Policy GB3 requires consideration of its impact on the openness of the Green Belt (an issue that I will turn to later in this decision), and its relationship with the existing dwelling. The proposed two-storey extension would be the same height as the original dwelling, and would almost double the length of the existing ridge. It would entirely conceal the end elevation of the existing house, and the single storey extension would cover most of the ground floor element of the rear elevation. The original cottage would, therefore, be largely subsumed by the proposed extensions.
11. The significant elongation of the front elevation would be at the same eaves and ridge levels as the existing dwelling, so would not be subservient to it. The provision of two further dormers would result in an apparent doubling of the size of the cottage. Consequently, the scale and proportions of the original cottage would be radically altered, resulting in a loss of the symmetry and balance of the semi-detached pair. Taken together, the size of the extensions would dominate the existing dwelling, so would be contrary to criterion (b) of Policy GB3 of the Local Plan.
12. In view of the scale of the extensions relative to the original building, and in view of their dominance over the existing cottage, I conclude that they would be disproportionate. In arriving at this view, I have had regard to the various appeal decisions that have been drawn to my attention. However, I note that these relate to proposals in different local authority areas where development plan policies may differ. I have been provided with copies of two decision letters. One of these related to a large house in a village, where the proposal complied with a development plan policy that allowed exceptions to a 30% limit on extensions. In the other case, the Inspector found that the extension would be disproportionate, but concluded that there were very special circumstances that justified allowing the appeal. Consequently, none of the cases are sufficiently comparable to the scheme before me to alter my conclusion that the appeal proposal would be disproportionate.
13. I therefore conclude that the extension would be inappropriate development that is, by definition, harmful to the Green Belt. In accordance with paragraph 148 of the Framework, this is a matter to which I attach substantial weight.

The effect of the development on the openness of the Green Belt

14. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl, by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
15. Even taking account of the area currently occupied by the garage, the overall footprint of development on the site would be increased as a result of the proposal. I am mindful, however, that there is an extant planning permission¹ for a flat-roofed single-storey extension covering the same footprint as that now proposed. In view of this implementable fallback position, it is only the impact of the additional storey on openness that needs to be considered. Nevertheless, the first-floor element would be both taller and bulkier than either the garage or the permitted single-storey extension. This would result in

¹ LPA Ref: 3/20/0678/HOU

a significant increase in the amount of development on the site and a loss of spatial openness to the Green Belt.

16. The Supreme Court has held², however, that openness does not imply freedom from any form of development, and that, as well as the spatial dimension, visual impacts may also be a factor in considering the impact on openness. The increased height of the roof would be readily seen from immediately in front of the cottages, and would reduce the apparent openness that could be perceived through and beyond the site. The existing building can also be seen across open fields from the south west. The additional first floor extension would reduce views through the site to the woodland beyond, and would consolidate the isolated cluster of development in an otherwise open landscape.
17. There would, therefore, be a loss of spatial and visual openness to the Green Belt, which would be contrary to criterion (a) of Policy GB3 of the Local Plan, and to Framework policy, both of which seek to protect openness. However, the scale of the loss would be small, and its impact would be further reduced by the location of the site within an existing cluster of buildings. The harm to openness is, therefore, a matter which attracts only limited weight.

Scale and layout of the accommodation

18. The extensions would provide a living area with kitchen facilities, a dayroom, and a shower room on the ground floor. It would have its own staircase to a first floor containing a bedroom with an ensuite bathroom. Furthermore, it would have a separate external door and entrance hall. It would, therefore, contain all of the facilities necessary to support a self-contained residential use. There would be no internal link between the extension and the original dwelling at first floor level, and the plans are inconclusive as to whether such a link would be provided on the ground floor. Without such a link, the accommodation would be entirely self-contained.
19. Nevertheless, the intended use of the accommodation is stated to be for occupation by a dependent relative, who would have a functional connection with the main dwelling. They would have meals in the main accommodation and use the laundry facilities, as well as spending leisure time in the main house and garden. In this regard, I saw that the hedge dividing the front and rear gardens (shown on the existing plans) has been removed. Used in this way, the accommodation would not result in the creation of a separate dwelling.
20. Policy HODEV4 of the Local Plan permits extensions to existing dwellings to provide semi self-contained accommodation where a separate dwelling would not be acceptable. This is subject to their dependence on the original dwelling being established by physical arrangements and, where necessary, a planning condition. The Policy also requires that the incorporation of the accommodation as part of the existing dwelling, when no longer required for its original purpose, is secured.
21. Notwithstanding the stated intentions of the appellant, without an internal ground floor link, dependence on the original dwelling would not be established by physical arrangements. Consequently, the layout of the accommodation would allow an independent use to be established when it was no longer

² R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

needed for its original purpose. Therefore, had I been minded to allow the appeal, a condition would have been necessary to ensure that such a link was provided, and maintained. Subject to such a condition, I conclude that the proposal would accord with criteria (b) and (c) of Policy HODEV4 of the Local Plan. However, as I have found that the scale of the extensions would dominate the existing dwelling, and harm the openness of the Green Belt, the proposal would not accord with criterion (a), so there would be conflict with Policy HODEV4 when read as a whole.

Other considerations

22. The accommodation is proposed for a family member who has dementia care needs. The family need them to be close-by so that they can help with their care. This would be a demonstrable benefit of the scheme that could carry considerable weight. However, the extant planning permission would include a bed-sitting room, day room and bathroom, so would already meet the need for semi self-contained accommodation for the dependent relative. The appeal scheme would provide an additional first-floor bedroom, which could be used by carers. The appellant states that the size of the annexe and the amount and layout of facilities is commensurate with the dementia care needs of the intended occupant. However, there is no evidence to demonstrate that those needs could not be met through a reconfiguration of the accommodation within the footprint and volume of the permitted scheme. Consequently, the weight that I can give to this benefit is significantly reduced.
23. The appellant contends that a four-metre rear extension could be added to the dwelling as permitted development, which would have a greater footprint than the first-floor accommodation proposed. This, it is argued, represents a fallback position that would be more harmful to the openness of the Green Belt. However, such an extension would have to be single storey to comply with the limitations imposed by the legislation. Consequently, it would be hidden from most views behind the existing house, or by the boundary hedge. It would, therefore, have a lesser visual impact on the openness of the Green Belt than the first-floor extension, albeit that the spatial impact may be marginally greater. Overall, therefore, the potential fallback position would not be more harmful, so carries little weight in my overall assessment.
24. It is also suggested that the provision of the annex as an extension to the existing dwelling would be preferable to a separate detached outbuilding, which would have a greater impact on the openness of the Green Belt. However, no fallback position has been established to demonstrate that a self-contained residential building could be constructed within the curtilage as permitted development. I therefore give this prospect little weight.
25. The appellant highlights the Council's acceptance that there would be no harm to the character of the Area of Great Landscape Value. However, the absence of harm is not a positive factor in the scheme's favour, and it does not equate to a lack of harm to the openness of the Green Belt.

The Green Belt Balance

26. I have concluded that the proposed extension would be disproportionate, and therefore inappropriate development that would conflict with national and local policy to protect the Green Belt. It would also be harmful to the openness of

the Green Belt, although the scale of the harm means this is a matter of limited weight.

27. There would be benefits through the provision of accommodation for a dependent relative. However, the weight I ascribe to these benefits is reduced, as they could be secured through implementation of the extant planning permission.
28. I have afforded little weight to the suggested fallback positions, as one has not been demonstrated, and the other would not be more harmful to the Green Belt than the appeal scheme.
29. Consequently, there are no other considerations in favour of the development that clearly outweigh the presumption against inappropriate development in the Green Belt and the substantial weight that the Framework requires to be attached to such harm. The very special circumstances necessary to justify the proposal do not, therefore, exist.

Conclusion

30. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR