



Appeal Decision

Site visit made on 14 December 2021

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/E2734/D/21/3275654

Fishpool Farm, Leathley Lane, Leathley LS21 2JY

- 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 T Scarrott against the decision of Harrogate Borough Council.
 - The application Ref: 21/00855/FUL, dated 2 March 2021, was refused by notice dated 27 April 2021.
 - The development proposed is link extension and replacement opening to south elevation of existing outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. This replaced the 2019 version. My Decision is made in the context of the revised Framework.
3. Fishpool Farm is a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 advises that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition, Chapter 16 of the Framework advises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
4. An application for listed building consent for the works, that also comprise the proposed development which is the subject of this appeal, was granted consent by the Council in April 2021¹. Given the proposed link's subservient height, size and scale along with its contemporary, but sympathetic, design and materials, I have no reason to take a different view from the Council in that the proposal would have a neutral effect on the special interest of the listed building and would sustain its significance as a designated heritage asset. As such, it would meet the requirements of the Act and the Framework. I have therefore focused my considerations of the appeal proposal in relation to the appeal site's location within the Green Belt.

¹ Application Ref: 21/00856/LB. Proposed link extension and replacement opening to south elevation of existing outbuilding. Granted 27 April 2021.

5. The Council's reason for refusal cites conflict with Policy G4 of the Harrogate District Local Plan 2014-2035, adopted March 2020 (the HDLP). However, the Council's delegated report refers to Policy GS4 of the HDLP, which concerns development within the Green Belt and is relevant to the reason for refusal. Therefore, I have taken the reference to Policy G4 as an error and determined the appeal against Policy GS4 of the HDLP. I am satisfied that no parties' interests have been prejudiced by this approach.

Main Issues

6. 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; 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

7. Fishpool Farm dates from the mid-18th century and is Grade II listed. It is a detached, two-storey property constructed of coursed gritstone with a Westmorland slate roof. The building sits well back from the highway and is situated in a generous plot within a wider pastoral setting. The existing single-storey outbuilding is positioned immediately adjacent to Fishpool Farm's eastern gable.
8. The appeal proposal includes the construction of a link extension between Fishpool Farm and the outbuilding along with the replacement of a window with a door on the outbuilding's south elevation to facilitate its use as additional domestic accommodation. The Council has not raised any concerns regarding the principle of the proposed alteration and/or use of the outbuilding and I have no reason to disagree.
9. The contentious element of the proposal is the proposed link between Fishpool Farm and the outbuilding. The appellants state that it would possess a footprint of 12.69m² and a volume of 39.82m³ and would be constructed of timber and glass.

Whether inappropriate development in the Green Belt

10. Paragraph 147 of 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 sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, subject to a number of exceptions including c) 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. Policy GS4 of the HDLP states that proposals for development in the Green Belt will be determined in accordance with relevant national policy.
11. In relation to exception c), the glossary to the Framework 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.' I note that the Council does not explicitly

clarify how it has defined the 'original building' and that there are contradictory statements on this matter within its delegated report. I have also had regard to the appellants' submission that, although based on an 18th century farmhouse, Fishpool Farm in its current iteration was effectively created in the early 1990s and so could be the baseline for the assessment of the 'original building.' However, from the evidence before me, the current iteration of Fishpool Farm did not wholly replace the mid-18th century building. Therefore, given the above, I have taken the 'original building' of Fishpool Farm to be the building as it existed on 1 July 1948 and determined the appeal on this basis.

12. In addition, the Framework and Policy GS4 of the HDLP do not provide a definition of what constitutes 'a disproportionate addition over and above the size of the original building.' In its delegated report the Council refers to guidance within its House Extensions and Garages Design Guide Supplementary Planning Document, 2005 (HE&G SPD). This advises that 'extensions will be permitted in the green belt only where it is shown that the scale, location and design would not detract from the open character and visual amenity of the green belt'; and that 'in Green Belts house extensions that extend the ground floor area of the original house by more than 50% will not normally be permitted unless there is an exceptional household need.'
13. However, as highlighted by the appellants with reference to a recent appeal decision of mine² and as acknowledged by the Council, the HE&G SPD predates the Framework and the HDLP and does not fully accord with the policy guidance contained within them regarding the extension or alteration of buildings within the Green Belt. This reduces the weight that can be attached to the guidance contained within the HE&G SPD on this issue. Similarly, although the Council refers to a generally accepted threshold of a 30% increase in volume, no appeal decisions have been cited to corroborate this.
14. Taking the above in to account, I concur with the appellants' assertion and the submitted appeal decisions³ in so far as that whether a proposal would result in disproportionate additions over and above the size of the original building is a matter of planning judgement. In addition, that each case should be judged on its own merits with reference to the specific context of the site. However, I am not persuaded by their argument that a numerical approach to the calculation is 'often all but irrelevant', but rather that it can form an important part of an assessment under this exception.
15. It is clear that exception c) requires consideration of whether a proposal would, when taken in combination with any previous additions to the original building, result in a disproportionate addition in terms of its 'size.' In undertaking this exercise, regard should be had to the overall size increase in terms of volume and external dimensions as well as floorspace. Furthermore, assessments of the visual impact of a proposal or any effects on the openness of the Green Belt are separate exercises. It may logically follow that a small extension could potentially represent a disproportionate addition if the building has previously been extended.
16. From the evidence before me, the original building of Fishpool Farm has been extended, principally in the early 1990s. However, there are omissions,

² Appeal Ref: APP/E2734/D/21/3267287.

³ Appeal Refs: APP/E2734/D/21/3267287; APP/B3030/D/19/3241277; APP/E2734/D/19/3232163; and APP/E2734/D/20/3252682.

ambiguities and/or discrepancies within and between the parties' evidence regarding the figures presented in relation to the size of the original building, the previous extensions and the proposed link, and how they have been reached.

17. The principal figures presented by both parties which allow some degree of comparison, and therefore reassurance in terms of accuracy, relate to volume. The Council asserts that the combined volume of the previous extensions post 1948, the outbuilding to be converted and the proposed link would amount to a 80.02% increase in the volume of the original building. Conversely, on the same calculation basis, the appellants contend that the increase in volume would be 76% and that, if the outbuilding were discounted, it would result in a volume increase of 51%.
18. Whilst I note the appellants' comment that the outbuilding is a building which replaced an earlier outbuilding on the Fishpool Farm property, no details on this matter have been provided. I have no reason to question that the existing outbuilding was not constructed on the site after 1 July 1948 and, given its close proximity to Fishpool Farm and having regard to case law which has determined that outbuildings can be considered as extensions, I consider that it is reasonable to include it within any assessment under exception c).
19. Having regard to the appellants' calculation, a sum total increase in the volume of the original building of 76% would be wholly disproportionate. Even if I were to accept the omission of the existing outbuilding in the calculation, a cumulative increase in the volume of the original building of 51% would still be appreciable. Moreover, even putting aside a purely numerical assessment, in considering the collective increase in the size of the original building reasonably and objectively, the proposed link would, in my planning judgement, result in a disproportionate addition. It would therefore be inappropriate and, by definition, harmful.
20. I appreciate that the proposed link, of itself, would be modest in footprint and volume and its form and materials would be subservient and lightweight relative to the stone and slate structures of Fishpool Farm and the outbuilding. Nevertheless, the assessment requires previous extensions to the original building to be taken into account, they cannot be ignored. Furthermore, the assessment should not be conflated with other discrete exercises such as evaluating the visual impact of the proposal or any effects on the openness of the Green Belt.
21. I have considered the appeal decisions cited by the appellants relating to the assessment of proportionality⁴. It is evident that, similar to my approach in this appeal, the Inspectors determining those cases applied a degree of planning judgement. However, importantly, of those that were allowed, none of the proposals resulted in an increase in the volume of the original building of over 70% and only one concerned an increase of just over 50%. On this basis, they are not comparable to the appeal before me. Furthermore, of those that were dismissed, all of them assessed the site-specific implications of the proposals when considered in conjunction with existing extensions in relation to the 'size'

⁴ Appeal Refs Disproportionality: APP/E2734/D/21/3267287; APP/M1520/D/20/3251477; APP/P5870/D/18/3196834; and APP/B3030/D/19/3241277. Appeal Refs Visual Implications: APP/E2734/D/19/3232163; and APP/E2734/D/20/3252682; and APP/E2734/D/19/3230295.

of the original dwelling, concluding that they all resulted in disproportionate additions. This reflects the approach I have taken with this appeal.

22. I also note the recent decision by the Council which allowed a glazed link between two adjacent buildings within the Green Belt⁵. However, it would appear that the context and planning history of that site meant that the proposed link would not create a disproportionate addition, which is not the case with the appeal before me.
23. Accordingly, I find that the proposal would be inappropriate development in the Green Belt having regard to the Framework and Policy GS4 of the HDLP.

Effect on openness

24. Paragraph 137 of the Framework identifies 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. Openness has both spatial and visual aspects.
25. The proposed link, even though being of lightweight design and materials, would introduce built form between two buildings on the appeal site where currently there is none, thus reducing the spatial aspect of the openness of the Green Belt. I note the appellants' comment that where development alters the openness of the Green Belt it does not follow that the effects will be harmful and I have had regard to the submitted caselaw which supports this view⁶. Nevertheless, my judgment based on the circumstances of this case is that the coupling of the currently separate buildings through the permanent infill and closure of the space between them would contribute to the eastern elongation of the property and the incremental erosion of the spatial openness of the Green Belt. Therefore, whilst localised and limited in its extent, the proposed link would result in harm to the spatial aspect of the openness of the Green Belt.
26. The position and form of the proposed link would mean that it would not be conspicuous in views from the public highway, considerably moderating its effect on the visual aspect of the openness of the Green Belt. Whilst it would be visible in views from a nearby public right of way, given the structure's siting and form, the visual aspect of the openness of the Green Belt would be largely preserved.
27. In view of the above points, I conclude that, even though the proposed link would not materially harm the visual aspect of the openness of the Green Belt, it would not preserve and would have a harmful effect on the spatial aspect of the openness of the Green Belt.

Other considerations

28. The Framework is clear that substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations⁷.

⁵ Application Ref: 20/02849/FUL.

⁶ Case Law: Turner v. SSCLG [2016] EWCA Civ 466; Samuel Smith Old Brewery (Tadcaster) Oxtan Farm v North Yorkshire County Council [2018] EWCA Civ 489 and Euro Garages Ltd v SSCLG [2018] EWHC 1753.

⁷ Paragraph 148.

29. The appellants confirm that the proposal is to provide long term living accommodation for an elderly, mobility-impaired, relative. They submit that it would allow them to support and manage their relative's requirements prior to them reaching 'crisis point' and/or the need for institutional care. They state that the proposed link would provide enclosed, comfortable and safe access between the two buildings for this family member. On this matter, the appellants have cited an appeal decision which, although very different to the details of the appeal before me, confirms that personal circumstances can be a valid 'other consideration' in the Green Belt planning balance⁸. The appellants' personal circumstances are ones to which I afford considerable weight in favour of the appeal.
30. The appellants stress that due consideration should be given to the proposed link's modest size, scale and massing along with its contemporary but respectful design and materials which would not be visible from the majority of vantagepoints. These matters in relation to whether the proposed link would result in disproportionate additions over and above the size of the original building and its effect on the openness of the Green Belt have been addressed in the main issues above and do not attract weight in support of the appeal.
31. In addition, even though the proposal would largely preserve the visual openness of the Green Belt; preserve the special interest of the listed building, with listed building consent having been granted for the works; and would not have a harmful effect on the character and appearance of the area, an absence of harm in these regards weighs neutrally and does not amount to considerations in support of the appeal.
32. I have had regard to the appeal decisions, application decision and caselaw submitted by the appellants in support of the appeal proposal⁹. In addition to the responses given in my reasoning above, even though there may be some similarities, the individual details and circumstances of the submitted cases differ to the proposal before me. These include factors such as the size of the original buildings; the extent of the previous extensions; the position, size, scale and form of the proposed additions; the location and context of the appeal sites; and/or the relevant development plan policies.
33. In these respects, none of them are directly comparable to the appeal proposal before me which limits the weight I can attach to them. In any event, I have determined the appeal on its individual merits.

Planning Balance and Conclusion

34. The appeal scheme would constitute inappropriate development in the Green Belt. This would be harmful by definition. It would also reduce the spatial aspect of the openness of the Green Belt which, although localised and limited in its extent, would give rise to additional harm. Consequently, the proposal would conflict with the relevant provisions of the Framework and Policy GS4 of the HDLP. I attach substantial weight to the harm to the Green Belt.

⁸ Appeal Ref: APP/P0119/W/20/3259396.

⁹ Appeal Refs: APP/E2734/D/21/3267287; APP/M1520/D/20/3251477; APP/P5870/D/18/3196834; APP/B3030/D/19/3241277; APP/E2734/D/19/3232163; APP/E2734/D/20/3252682; APP/E2734/D/19/3230295; APP/P0119/W/20/3259396; Application Ref: 20/02849/FUL; Turner v. SSCLG [2016] EWCA Civ 466; Samuel Smith Old Brewery (Tadcaster) Oxtan Farm v North Yorkshire County Council [2018] EWCA Civ 489; and Euro Garages Ltd v SSCLG [2018] EWHC 1753.

35. Against this, the personal circumstances of the appellants and a family member have been advanced. In this respect, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act 1998, which requires decision makers to have due regard to Human Rights and any protected characteristics in making a decision.
36. The proposed link would be of some benefit to the appellants' family member when moving between the two buildings. However, protecting Green Belt land is a legitimate and well-established planning policy aim. From the evidence before me, I am not persuaded that the link extension, as proposed, is fundamentally necessary to enable the outbuilding to be used as additional living accommodation for the appellants' relative. I am also mindful that the structure would remain long after the personal circumstances of the appellants' family ceased to be material.
37. In respect of the above, a refusal of planning permission would therefore be a proportionate and necessary approach. Indeed, the protection of the public interest cannot be achieved by means that are less interfering of the rights of the family member.
38. Therefore, whilst I acknowledge the personal circumstances presented in this case, I conclude that this and the additional 'other considerations' submitted by the appellants, are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do not exist.
39. The proposal 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 proposal should be determined other than in accordance with the development plan. For the reasons set out above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR