



Appeal Decision

Site visit made on 17 January 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2022

Appeal Ref: APP/N4720/W/21/3282141

Hillside, 40 Church Lane, Bardsey, Leeds LS17 9DR

- 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 P Bamford against the decision of Leeds City Council.
 - The application Ref 20/07185/FU, dated 2 November 2020, was refused by notice dated 16 June 2021.
 - The development proposed is an extension to existing residential dwelling (see application drawings and accompanying Design and Access Statement).
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Leeds City Council against Mr P Bamford. This application is the subject of a separate Decision.

Preliminary Matter

3. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Bardsey-cum-Rigton Conservation Area.

Main Issues

4. The main issues are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;
 - (ii) The effect on the openness and the purposes of the Green Belt;
 - (iii) The effect on the character and appearance of the host dwelling, the landscape and the Bardsey-cum-Rigton Conservation Area (CA);
 - (iv) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. Paragraph 149 of The National Planning Policy Framework (The Framework) states that the construction of new buildings is inappropriate in the Green Belt but it sets out a number of exceptions. This includes at 149c) 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. Saved Policy N33 of the Leeds Unitary Development Plan Review 2006 (UDP) permits the 'limited' extension of existing dwellings as opposed to additions that are not disproportionate, but its aims in this respect are broadly consistent with those of the more recent Framework.
6. There is no definition in either local or national planning policy as to what represents a disproportionate addition over and above the size of the original building. However, the Council's Householder Design Guide 2012 (HDG) sets out at Policy HDG3 that in order to be considered as limited development all existing and proposed extensions should not exceed a thirty percent increase over and above the original house volume. It is further advised in the accompanying policy text that although this figure is not definitive, it will inform the majority of decisions involving Green Belt applications.
7. The parties have adopted references to the proposal as three distinct elements. Element A is a two-storey side extension, B would provide a gym and pool and C would provide undercroft car parking. Whilst elements B and C are both referred to by the appellant as being subterranean, an extensive amount of the built development would be visible above ground. In any event, for the purposes of paragraph 149c) of The Framework, the assessment relates only to whether or not the extensions would be disproportionate in respect to the size of the original building and not to considerations relating to their visual impact. As elements A, B and C taken together would represent a substantial increase in the size of the existing dwelling both in terms of floorspace and volume, they are disproportionate additions over and above the size of the original building. They would also not represent a limited extension to it.
8. The appellant advances a counter argument that elements B and C should instead be assessed as engineering operations. Such operations are set out in paragraph 150b) of The Framework as being not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. However, the proposals would be physically attached to the existing building, and they would be constructed to extend it in size. The purpose of the work that is proposed is therefore to provide an extension to the existing building and not to carry out an engineering operation. On a straightforward reading both of what is proposed and the relevant local and national Green Belt planning policies, the assessment must be made with respect to those criteria that refer to extensions to a building/dwelling.
9. I note the appellant's reference to a previous appeal decision¹ and a decision of a different local authority in Gateshead. However, neither support the contention that for the purposes of determining whether the proposal is or is not inappropriate development in the Green Belt it should be assessed as being

¹ APP/J3720/W/17/3177670

an engineering operation and not an extension to the existing building. There is also reference in the Council's delegated report to engineering operations which is somewhat ambiguous, but nonetheless it is clear that the Council's overall position is that the proposal falls to be considered under paragraph 149c).

10. In conclusion, the addition of the extensions subject to this appeal would represent disproportionate additions over and above the size of the original building. Consequently, the proposal would be inappropriate development in the Green Belt as defined by The Framework. It would also not represent a limited extension under Saved Policy N33 of the UDP or Policy HDG3 of the HDG.

Openness and the purposes of the Green Belt

11. A fundamental aim of Green Belt policy, as set out by The Framework, is to prevent urban sprawl by keeping land permanently open. Openness is, in effect, the absence of development and it has both a spatial and visual aspect to it. The Framework further sets out at paragraph 138 that the Green Belt serves five purposes.
12. The appellant's case on openness again flows from their opinion that elements B and C are subterranean. However, a great amount of element B would be at the same level as the ground floor of the existing dwelling and would clearly be seen as an extension out beyond the current form of the building from views alongside the dwelling and further afield. Whilst element C would predominantly be located below the ground, the entrance to it would also be apparent from the front of the dwelling. It too would therefore have a visual and spatial impact, albeit the impact would be limited by these factors. Element A would be two storeys in height and above the existing ground level.
13. At the present time the landform which immediately surrounds the dwelling is uninterrupted by permanent built structures. As a result of the proposed development this landform would be replaced by a substantial built form consisting cumulatively of elements A, B and C, much of which would be apparent above ground. The proposed development would as a result lead to a loss of visual openness through the addition of this built form and its presence would also represent a physical encroachment into areas where there is not currently any built development. This would result in harm to the openness of the Green Belt.
14. The appeal site is a large expanse of land on the edge of Bardsey which is mostly devoid of built form. As such it makes an important contribution to the purposes of the Green Belt which seek to prevent unrestricted sprawl and encroachment into the countryside. There would be harm to these purposes as a result of the proposal. That the proposed extensions would be contained within what is now defined as the residential curtilage of the dwelling does not mean that there would be no encroachment into the countryside or conflict with the purposes of the Green Belt, as residential curtilage and a Green Belt designation are not mutually exclusive.
15. Whilst there is extensive mature tree coverage along the perimeters of the site boundaries, it is evident that these trees provide only very limited screening when not in leaf. The proposed developments would also be screened from some vantage points by the landform. These factors do not however alter my findings that the proposal would as a whole cause harm to openness and to the

purposes of the Green Belt. I have also had further regard to the aforementioned previous appeal decision, notwithstanding that this related to a replacement dwelling, was considered under different strands of what is now paragraph 149 of The Framework and that I do not have any details of what was proposed in that case. I must however reach my own conclusions on the merits of the appeal case and the impact that it would have on openness and on the purposes of the Green Belt.

16. For these reasons and on consideration of the scale of the development, I conclude that there would be moderate harm to Green Belt openness. The proposal would also conflict with the purposes of the Green Belt, which too would result in moderate harm. In both respects, the proposal would therefore be contrary to the specific guidance within The Framework.

Character and appearance of the host dwelling, the landscape and the CA

17. The appeal dwelling is an attractive stone-built property which combines aspects of traditional design with more contemporary features such as its expansive window openings. Element A of the proposal would continue this design ethos, whereas element B would adopt what would be in essence a modern flat roofed design. Element C would not have any significant impact upon character and appearance due to its positioning on the dwelling and the fact that only the entrance to the undercroft would be visually apparent.
18. Although flat roofed, element B would have large openings consistent with those present on the existing dwelling. It would have parapets of differing heights which would add visual interest and break up its elevations. Stone to match the existing building would be utilised on its exterior. Although it would be at a visual variance to the existing dwelling in terms of its flat roof, it would nonetheless succeed in integrating in a way that would not be harmful to the character and appearance of the host dwelling or the landscape. Whilst there would be light spill from the proposal, the large openings of the existing dwelling will already give rise to such an occurrence.
19. The appeal site is not located within the CA but is partially bounded by this designated area on two of its boundaries. The Bardsey-cum-Rigton Conservation Area Appraisal and Management Plan 2009 (CAAMP) sets out that these boundaries relate to two separate areas of significance within the CA, one relating to the historic village core and the other to the dispersed settlement on the edge of the village. However, the additions of appropriately designed modern extensions to what is in itself a modern dwelling, and on a site which does not fall within the designated area, would not cause harm to the character and appearance of the CA.
20. For these reasons, I conclude that there would be no harm to the character and appearance of the host dwelling, the landscape or the CA as a result of the proposed development. Consequently, the proposal would accord with policies P10, P11 and P12 of the Leeds Core Strategy 2019 (CS), Saved Policies BD2, BD6, GP5 and N19 of the UDP and Policies BE1 and LRE1 of the Bardsey-cum-Rigton Neighbourhood Plan 2017 (NP), where they collectively seek to safeguard character and appearance and designated heritage assets. There would also be no conflict with the aims of the HDG, the CAAMP or The Framework in the same respects.

Other Considerations

21. The Covid-19 Pandemic resulted in a greater degree of home working, and I acknowledge that the proposals are at least in part brought forward in relation to the careers of the appellant and his partner. However, restrictions arising from the Pandemic have eased significantly since the planning application was originally submitted and it would appear likely that they will continue to do so in the future, thus allowing opportunity for working and exercise facilities to be found elsewhere. Furthermore, the need for additional accommodation at a residential property for whatever purpose is not a need that could be said to be uncommon or unusual. These considerations therefore carry only limited weight in support of the proposal.
22. There would be some economic benefit arising from the proposal, including from investment in the district and spin off benefits associated with spending in the local area, along with some social benefit to the appellant in terms of meeting their current requirements. However due to the overall scale of the proposal the economic benefits would be limited, and the social benefits would be specific to the appellant and not to any wider public benefits.
23. Specific attention has been drawn to the design of the proposal and the intention to make it energy efficient. However, whilst I have not found harm to character and appearance, the proposal does not represent outstanding or innovative design that would help raise the standard of design more generally in an area. There is nothing before me to suggest that with respect to sustainability the proposal would be outstanding or innovative either. Accordingly, the threshold set out in paragraph 134b) of The Framework is not met and this consideration does not weigh in support of the proposal. I note the findings in the Gateshead case but that refers to a different development in another local authority area, and I must consider the proposal that is before me upon its own merits.
24. It is suggested that garden areas could be laid out with lighting and garden furniture and that the extent of the area in which this could take place has increased following a successful recent application to extend the residential curtilage. However, the impact of this would not be comparable to that of the substantial and permanent built form of the proposed development. The proposed undercroft parking might remove the potential for cars to be parked in view outside of the dwelling, but vehicles are not permanent structures and they would be an expected sight at a dwelling. They are further not likely to be present in such great numbers so that there would be a legitimate benefit from their removal from view.
25. Reference is made to the fact that permitted development rights are not restricted per se in the Green Belt, but these have been removed from the appeal dwelling and do not therefore appear to provide a possible fallback position in this instance. Whilst there was support from the Landscape Officer, this refers primarily to matters falling within their remit, and not an overall assessment of the planning merits of the case. The considerations put forward with respect to lighting and garden furniture, parking, permitted development and the comments of the Landscape Officer do not therefore offer weight in favour of the proposed development.
26. The appellant has also offered their view that the appeal site does not perform well against the purposes of the Green Belt and that this should be a

consideration in favour of the proposal. However, I have addressed this matter above and found that harm would arise to both openness and to the purposes of the Green Belt.

Other Matter

27. The reason for refusal refers to an absence of net gain in biodiversity, which is an aim of Policy G9 of the CS, Policy BE3 of the NP and The Framework. It would appear that this matter could be overcome by further dialogue between the parties and/or the submission of additional information but, as it is not determinative on the outcome of the appeal, I need not address it further.

Conclusion

28. The Framework at Paragraphs 147 and 148 establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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 considerations.
29. The proposal would be inappropriate development in the Green Belt and would result in moderate harm to its openness and to the purposes of the Green Belt. Although I have found the proposal acceptable with respect to matters relating to character and appearance, an absence of harm is a neutral consideration in the planning balance. Having regard to the reasons I have set out, I find that the other considerations in this case, taken both individually and cumulatively, do not clearly outweigh the harm to the Green Belt and the other harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
30. For the reasons given above, I conclude that the proposal conflicts with Saved Policy N33 of the UDP and with the objectives of The Framework where they seek to protect the Green Belt. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR