



Appeal Decision

Site visit made on 18 January 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/P4415/W/21/3283490

Firsby Hall Farm Cottage, Firsby Lane, Hooton Roberts, Rotherham DN12 2BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Stuart Sargent against Rotherham Metropolitan Borough Council.
 - The application Ref RB2021/1049, is dated 17 May 2021.
 - The development proposed is demolition of small barn and greenhouse and conversion of existing double barn to form a single dwelling.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The updated version of the National Planning Policy Framework (the Framework) published in July 2021 after the submission of the appeal. However, the deadline for the appellant's final comments, the Council's appeal statement and representations from interested parties all postdate the publication of the new Framework. Therefore, I am therefore satisfied all parties have had the opportunity to consider the changes to the most recent version. I have proceeded with reference to the 2021 Framework in my decision.

Main Issues

3. Whilst the Council has not issued a decision, the officer report recommends refusal of the application based on several matters. These have informed my reasoning in this appeal. Therefore, the main issues are as follows:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - Whether the appeal site represents a suitable location for housing;
 - Whether the proposal would provide safe and suitable vehicular access;
 - The effects of the proposal on protected species; and
 - If the proposal 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 it.

Reasons

Whether Inappropriate Development in the Green Belt

4. The appeal site comprises a redundant farm building currently used for storage. Firsby comprises several converted agricultural buildings. The proposal seeks to convert the barn subject to appeal to a single dwelling. A stone lean-to structure and a dilapidated greenhouse in the curtilage of the barn would both be demolished, and these spaces around the building would be used as a garden and parking area.
5. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 150 of the Framework details certain forms of development which are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 150(d) is of relevance to this appeal; namely, the re-use of buildings, provided that the buildings are of permanent and substantial construction. I note the Council agrees with the building's permanence, although it disagrees that the barn is of substantial construction.
6. The planning application was supplemented by a structural survey (Redstone Structural Engineers Ltd) ('the survey'). The barn has two roof pitches and is double bayed. The north and south (side) elevations consist of stone walls. The east (front) and west (rear) walls are formed of stone piers to the corners and midway along each elevation. The roof is covered in asbestos cement cladding which also covers most of the external walls alongside corrugated metal boarding.
7. The Design and Access Statement indicates that while stone is to be retained, the clad walls and roof would be replaced, alongside the demolition of the southern lean-to building. The survey concludes that the north wall is showing signs of failure and outward movement. This would require repair and/or some areas to be rebuilt. It is also recommended that the front wall be rebuilt, while parts of the rear and south walls were not inspected due to being below ground.
8. Substantial construction is not defined in the Framework and is inevitably a matter of planning judgement. Although the survey concludes that the building is suitable for conversion, it also recommends a significant proportion of the structural elements of the building are in need of repair or rebuilding. This would align with my own observations on the site visit.
9. Based on the above, this leads me to conclude that the building is not of substantial construction and that proposal would not meet this exception. The proposal would therefore constitute inappropriate development in the Green Belt.
10. In accordance with paragraph 147 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This harm is attributed substantial weight as per paragraph 148 of the Framework.

Whether Suitable Location

11. The appeal site is located approximately 1.2km from both Ravenfield and Hooton Roberts, while Conisborough lies circa 2.4km away. These measurements are not disputed by the Council and I see no reason to disagree with them. From my observations, Ravenfield did not appear to benefit from any services or facilities, although Hooton Roberts evidently has a limited range of amenities including a pub, church and a bus stop which includes connections to Doncaster, Rotherham and Sheffield. Conisborough includes a wider range of services and is well connected by rail and buses to wider transport networks.
12. However, accessing local services in Hooton Roberts or those further afield via bus would require walking along Firsby Lane, which is narrow, unlit and in varying states of repair while not wholly hard surfaced. As a result, this would likely make this route undesirable for older residents, those with mobility issues or parents with young children.
13. Consequently, it is unrealistic to expect future residents to regularly choose to walk to shops, pubs or other facilities from the appeal site. Anyone living here would be highly likely to own a car and using it would be an easier and more convenient way to access the services and facilities they need, even if they occasionally chose to walk or cycle. As such, it seems to me there would still be a primary reliance on private vehicles for access to services and facilities. Although the development of one dwelling may not result in substantial increases in trip numbers, the reliance on the private vehicle is the least sustainable travel option.
14. My attention is drawn to approved planning application¹ in Ravenfield for two dwellings. Although I have been provided with the officer report for this application, I have little other information such as plans. However, although it was also in the Green Belt it was assessed under another exception. As such I would not consider it directly comparable to the proposal before me, which I have assessed on its own merits.
15. Based on the above, the appeal site would not constitute a suitable location for the proposal, contrary to CS14 of the Rotherham Local Plan Core Strategy (CS) (adopted September 2014). This policy indicates the suitability of locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel.

Whether Safe and Suitable Access

16. Firsby has vehicular access from Firsby Lane which branches off from the A630 to the north and Arbour Lane to the west which runs from Ravenfield and adjoins Garden Lane. There is disagreement between the parties as to whether these roads are adopted highway. Regardless of their status in this regard, from my observations on the site visit both routes are only partly hard-surfaced from their junctions with those aforementioned roads. When approaching Firsby, the conditions of both roads deteriorate and are more akin to dirt tracks than surfaced roads.
17. Although I take on board that the road is likely only used by residents of Firsby, the Framework advises in paragraph 110 that development should ensure that a safe and suitable access to the site can be achieved for all users

¹ RB15/1143

while paragraph 112 allows for the efficient delivery of goods, and access by service and emergency vehicles. I therefore have concerns that in periods of adverse weather conditions, sections of the road may be unsuitable for emergency vehicles or the delivery of goods. The informal maintenance of the road by locals cannot be relied upon to ensure the access is safe and/or suitable in this regard.

18. The appellant argues the barn and greenhouse could both return to commercial uses, which could require larger vehicles using the lane for these activities. However, given the respective conditions of the buildings I consider this unlikely. As such I attribute limited weight to this fallback position.
19. Based on the above, the proposal would not provide a safe and suitable means of access, contrary to paragraph 110 of the Framework.

Protected Species

20. Paragraph 99 of Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System) (the circular) states that 'it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'.
21. A letter submitted by the appellant written by Access Ecology references a nocturnal survey having been undertaken at the appeal site in June 2010. Evidence of bat activity was found which indicated that a bat roost is present somewhere within the interior of the barn. Additional survey work is recommended to ascertain the level of activity present in the barn and inform any subsequent mitigation.
22. However, I have no evidence before me to confirm additional surveys were carried out in the meantime. I note the suggestion from the appellant that further information could be provided by way of condition. However, the Circular advises the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.
23. In the absence of the survey recommended by the appellant's ecologist, and in the light of the strict protection afforded to bats, it is not possible for me to quantify the impact on bats. A condition to require mitigation in the absence of a survey would not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to bats. As it has not been adequately shown that there would not be harm in relation to this issue, then all surveys necessary should be undertaken before any planning permissions are granted, as made clear in the circular.
24. For the reasons outlined above, I conclude that the proposal would not accord with the provisions of Policies SP33 and SP34 of the Rotherham Local Plan Sites and Policies (adopted June 2018). These seek, among other things, for development proposals to conserve and enhance existing and create new features of biodiversity. The proposal would also be contrary to paragraph 180 of the Framework which advises that if significant harm to biodiversity resulting

from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Matters

25. Alongside the main issues I have identified above, the appellant has assessed the proposal in terms of its impacts on the open character of the area, in particular the Area of High Landscape Value. This refusal reason appears to relate to a previously refused planning application² for a similar proposal. Given it does not appear to be in dispute in this appeal, I have not considered this matter further.
26. Similarly, the Council has concluded the proposal would not harm the setting of Firsby Hall Farm, a Listed Building. Based on all that I have seen and read, I see no reason to come to a different conclusion and the proposal would therefore preserve the significance and special interest of the listed building in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires the decision maker to pay special attention to the desirability of preserving the setting of a Listed Building.
27. I have had regard to concerns raised by the appellant about the way that the Council handled the scheme, including pre-application advice received. However, this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Other Considerations

28. There is merit to the renovation of an existing building and its re-use as a dwelling. As it stands today, the barn is of typical agricultural appearance, and I consider the design respects both the host building and its rural location. This is not disputed by the Council. This would also improve the appearance of the site, which has fallen into disrepair. It would also provide an additional dwelling to the Council's housing stock. There is positive weight attributed to these considerations.
29. I note the contention that the building could be converted under the Prior Approval procedure under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). However, that is not the proposal before me. In any event, that procedure has its own limitations and conditions which would need to be satisfied in order to facilitate the conversion of the building to a dwelling. As such I attribute this fallback position little weight.

Green Belt Balance and Conclusion

30. The proposal would be inappropriate development which would be harmful by definition. It would also not be located suitably in order to comply with the spatial strategy for the area, provide a safe and suitable access and there is insufficient evidence to demonstrate there would be no harm to protected species. I attribute substantial weight to these matters. I have taken on board the other considerations as they are relevant to the appeal but, for the reasons I have given, they would not clearly outweigh the harms that I have found.

² RB2010/1063

Consequently, they would not amount to the very special circumstances necessary to justify the proposal.

31. As such the proposal would conflict with Policies CS4 of the CS, SP2 and SP5 of the SP and Green Belt policy as set out in paragraphs 147 - 151 of the Framework. Collectively, these seek to ensure Green Belt land remains permanently open and that the countryside is safeguarded from encroachment. The appeal should therefore be dismissed, and planning permission refused.

C McDonagh

INSPECTOR