

Appeal Decision

Site visit made on 4 May 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2022

Appeal Ref: APP/R1038/W/21/3287511

Land between 'Ashcroft' and 'Cherry Tree Farm', Matlock Road, Walton S42 7LD

- 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 A Spencer against the decision of North East Derbyshire District Council.
 - The application Ref 21/00372/FL, dated 19 March 2021, was refused by notice dated 4 June 2021.
 - The development proposed is described as a 'proposed infill dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The North East Derbyshire Local Plan 2014 – 2034 (LP) was adopted in November 2021 after refusal of the planning application. These policies supersede those saved policies quoted from the North East Derbyshire Local Plan (2005) in the decision notice. As both sets of policies were quoted in the decision notice and both main parties have considered the change in circumstance in the development plan in their final comments, neither party has been prejudiced.

Main Issues

3. The main issues are as follows:
 - whether the proposal would constitute inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the setting of a Listed Building;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development in the Green Belt

4. The appeal site is located to the south side of Matlock Road (A632) and comprises a roughly triangular parcel of land adjacent the access from this road. To the west of the appeal site lies Cherry Tree Farmhouse, a Grade II Listed Building, to the south are agricultural outbuildings and to the southeast is Ashcroft. The proposal seeks to erect a dwelling with a detached garage.
5. Paragraphs 149 and 150 of the Framework outline various exceptions to the general position that the construction of new buildings in the Green Belt is considered inappropriate development. Of relevance to this appeal is paragraph 149(e) – limited infilling in villages.
6. Policy SS10 of the LP states that within the North East Derbyshire Green Belt as shown on the Policies Map, inappropriate development will not be approved except in very special circumstances. Similarly, Policy S2 of the Holymoorside and Walton Parish Neighbourhood Plan 2016 – 2033 (NP) (adopted November 2017) states that in the Green Belt, development will only be permitted in very special circumstances unless it is considered ‘not inappropriate’ having regard to national and Local Plan policies for the Green Belt.
7. There is dispute between the parties as to whether the development would constitute ‘infilling’ and whether this would occur in a ‘village’. My attention has been drawn to a High Court Ruling¹ in which it was held that the decision maker is required to consider whether, as a matter of fact on the ground, the site appeared to be in the village. Moreover, the ruling found the site did not have to be within the defined village boundary for development to be deemed as not inappropriate and compliant with paragraph 149 of the NPPF.
8. However, even if the site was considered to form part of a village, I am unconvinced that the proposal constitutes infilling. As both parties agree, there is no definition of ‘infilling’ in the Framework. However, the glossary of the LP defines *Limited Infill Development* as ‘building on a relatively small site between existing buildings in a built-up area. Similarly, the appellant argues the definition of ‘the infilling of a small gap within an otherwise continuous frontage’.
9. This is a question of planning judgement for the decision-maker. While Cherry Tree Farmhouse would be broadly in alignment with the appeal proposal in terms of their setbacks from the A632, Ashcroft is set much further back from the road; as are Woodlands and Green Acres further to the east. This is demonstrated by the curved building line shown in Figure 2 of the appellant’s statement. As such, there is no built form aligned immediately to the east which would constitute a continuous frontage as per the appellants definition. Moreover, there would be significant gaps between both Cherry Tree Farmhouse and Ashcroft from the proposed location of the appeal dwelling. This is explained by the appellant in paragraph 5.59 of their statement which discusses the ‘degree of physical separation and the relative distance between the appeal site and Cherry Tree Farmhouse’. As such, I don’t consider this would constitute a ‘small gap’ either.

¹ Julian Wood v SSCLG and Gravesham Borough Council [2015] EWCA Civ 195

10. Therefore, regardless of whether the appeal site is located within a village, it is my judgement that the proposed dwelling would not constitute infilling and would not fall within the exception set out at paragraph 149(e). It therefore constitutes inappropriate development in the Green Belt. 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.

Openness of the Green Belt

11. Paragraph 137 of the National Planning Policy Framework (the Framework) advises 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.
12. The assessment of openness has both a spatial and visual aspect and intrusion on either can, individually or collectively, impact the openness of the Green Belt. The appeal site presently comprises a grassed area within the curtilage of Cherry Tree Farm. Inevitably, the erection of a dwelling and detached garage with associated hardstanding and domestic paraphernalia into this space would reduce openness spatially to a moderate degree.
13. The proposal would be largely screened from most public vantage points along the A632 by the tall mature hedgerows lining the road. The appellant advises these are to be retained and I have no reason to doubt this. There may be some limited glimpses of the top of the one-and-a-half storey proposed dwelling for pedestrians or drivers, as with Cherry Tree Farmhouse itself, although this would not be readily apparent or prominent. As such, there would be some, albeit limited, loss of openness visually.
14. For the above reasons, the proposal would increase the level of built development within the appeal site and would result in harm to the openness of the Green Belt both spatially and visually. As such, the scheme would conflict with the purposes of Green Belt policy, as stated in paragraph 137 of the Framework, to keep land permanently open.

Setting of Listed Building

15. The appeal site is located to the east of Cherry Tree Farmhouse, a Grade II Listed Building. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires, in considering whether to grant permission for development which affects a listed building or its setting, that special regard should be had to the desirability of preserving the building or its setting.
16. From my observations on the site visit and the evidence before me, the farmhouse as a heritage asset derives its significance largely from its vernacular architecture and its historical association with the development of the area. There is limited intervisibility between the farmhouse and the appeal site due to the dense band of tree coverage between the two elements. The Council's Conservation Officer advises that the parcel of land subject to appeal was likely used as a paddock and formed part of the wider farming operations of the site. The appellant's Heritage Statement (Trigpoint Conservation and Planning – October 2021) accepts this former use and some functional association with the farmhouse.

17. However, the former paddock now has a more modern residential character due to its manicured lawn and foliage along two sides, while the vehicular access to the farm buildings to the south runs past the other side. The glossary of the Framework advises that the extent of a heritage asset is not fixed and may change as the asset and its surroundings evolve. While the appeal site may have had historical functional links to the farmhouse, this change in character over the years has altered the extent to which the asset is experienced. The paddock now appears distinctly separate from the farmhouse and the limited intervisibility between the two elements. As such, the appeal site makes a neutral contribution to the significance of the farmhouse.
18. The proposal would entail the erection of a modest scale dwelling, which has been designed to complement the agricultural character of the wider site. It has a simple layout reminiscent of the farm buildings to the south and would be constructed from traditional materials such as stone and slate with detailing such as stone quoins.
19. Based on the foregoing, the proposal would not harm the setting of the Listed Building and would meet the statutory requirements of the Act. This would also accord with Policy SDC6 of the LP and Policy NE1 of the NP. These seek, among other things, to ensure development proposals preserve the significance of the heritage asset and its setting including impacts on the character, architectural merit or historic interest of the building.

Character and Appearance

20. Development on the south side of Matlock Road is notably more sporadic and rural in nature than the tight knit urban form of the north side. Dwellings are generally detached and sit in large plots, displaying a range of architectural styles and forms. The appeal site includes a number of outbuildings and I note from the evidence before me many other houses on the south side of the A632 include detached garages and other outbuildings.
21. As I have already observed, there are differing setbacks from the road. Ashlands, Woodlands and Green Acres display the long mature gardens to the front the Council highlight. However, this setback decreases to the east of Green Acres, and houses from this point on are situated much closer to the road. This is also the case of the host dwelling, which has a much shorter front garden. As such, there is variety in the depths of front gardens, and it is not a strong characteristic in the area.
22. The appeal proposal would broadly align with Cherry Tree Farmhouse and display a similar front garden depth. Moreover, it would be well screened from public viewpoints due to foliage and would present as part of the cluster of farm buildings within the appeal site. The proposal is of modest scale and designed to reflect its rural surroundings in its materials, such as the use of stone and slate with agricultural detailing such as the stone quoin surrounds.
23. Based on the above, the proposal would not harm the character and appearance of the area, in accordance with Policies SS1, SS9 and SDC13 of the LP and S2 and NE1 of the NP. These seek, among other things, to ensure development respects the form, scale and character of the landscape, through careful siting, scale, design and use of materials.

Other Considerations

24. Paragraph 148 of the Framework states that 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.
25. I have not been presented with any other considerations which would weigh in favour of the scheme. However, I am aware that the proposal would add a dwelling to the Council's existing housing stock alongside the inevitable socio-economic contributions towards sustaining local services, as would temporary economic benefits by virtue of generating employment via construction. However, given the small scale of the proposal, I attribute limited weight to these considerations.
26. There was no harm identified by consultees to the living conditions of occupiers of nearby properties or highway safety. Moreover, I found no harm to the setting of the Grade II Listed Cherry Tree Farmhouse or to the character and appearance of the area. However, a lack of harm would be neutral in the planning balance rather than weighing in favour of a scheme.

Green Belt Balance and Conclusion

27. I have found that the proposal would be inappropriate development in the Green Belt and that it would be of limited harm to the openness of the Green Belt. As per paragraph 148 of the Framework, these matters carry substantial weight against the scheme.
28. Set against these, there are few material considerations cited in support of the proposal and these carry limited weight. They therefore do not outweigh the totality of the harm the scheme would cause. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
29. As such the proposal would conflict with Policies SS10 of the LP and S2 of the NP and Green Belt policy as set out in paragraphs 147 – 151 of the Framework. For the reasons given above, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR