



Appeal Decision

Site visit made on 16 May 2022

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 JUNE 2022

Appeal Ref: APP/M1005/D/21/3287584

White Cottage, Duffield Bank, Duffield, Belper, Derbyshire DE56 4BG

- 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 Mathew Bailey against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2021/0368, dated 31 March 2021, was refused by notice dated 23 September 2021.
 - The development proposed is the partial demolition to the side and redevelopment of an earth-sheltered partially subterranean extension to the rear with associated parking and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description on the application form differs from that used on the decision notice and the appeal form. Given that the appellant has adopted the decision notice description, I have also utilised this in my decision for consistency, albeit I have removed reference to the setting of the listed building as this is not part of the works proposed.

Main Issues

3. The main issues are:
 - (i) whether the proposal is inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) the effect of the development on the character and appearance of the area with particular regard to the Derwent Valley Mills World Heritage site, the setting of Duffield Bank Cottage and Duffield Bank House (which are Grade II Listed Buildings) and the setting of the group of non-designated heritage assets;
 - (iv) the effect of the development on the living conditions of the occupiers of Duffield Bank Cottage; and
 - (v) 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 in the Green Belt

4. Paragraph 137 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 149 and 150, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
5. Paragraph 149c) sets out that new buildings within the Green Belt are inappropriate unless any extension or alteration of a building is such that it does not result in disproportionate additions over and above the size of the original building.
6. The appellant has stated that the proposal represents a large net increase in both volume and floorspace and this is evident from the submitted plans. The appellant has also set out that the appeal proposal would result in an increase in the cubic content of White Cottage from approximately 500 cubic metres to around 2000 cubic metres, which is a huge increase in the size of the property. In saying that, I acknowledge that the appellant has stated that around two-thirds of this would be below ground level.
7. In assessing whether a proposal is inappropriate development or not, the below ground aspects would be clearly part of the extended dwelling and would form part of the building. As such, this part of the proposal must be included when assessing whether the extensions proposed amount to a disproportionate addition.
8. Therefore, it is clear to me that the proposal would result in a substantial increase in floorspace and volume when both the above and below ground aspects are taken into account, to the extent that the quantum of the extensions proposed would be a disproportionate addition over and above the size of the original building.
9. In addition to the above, reference has been made to engineering operations being not inappropriate development in the Green Belt. However, this is conditional on it preserving the openness of the Green Belt. I am conscious that much of the engineering operations are an integral part of the proposed building works and as such I am not convinced that this is an applicable exemption to inappropriate development in this case. The possible exception to this is the earthworks required to facilitate access to the garage. Nevertheless, it is clear that this exemption does not allow for all the works proposed.
10. The appellant has also drawn my attention to two appeal decisions¹ which also consider this matter. However, both of these cases relate to a different local planning authority and where there is specific guidance in place. Furthermore, they do not appear to be comparable developments to the one before me. Whilst I have had regard to these, each proposal must be considered on its individual merits.
11. Taking all of the above into account, the proposal would not accord with the exemption outlined at paragraph 149c) as it would result in a disproportionate

¹ References APP/E2734/D/19/3230295 and APP/E2734/D/21/3273831

addition to the dwelling. As such, the proposal would be inappropriate development in the Green Belt as it would not accord with any of the exemptions outlined at paragraphs 149 or 150 of the Framework. It would also be contrary to Policy EN2 of the Amber Valley Borough Local Plan (2006) (AVBLP) which seeks to set out where permission would be granted for not inappropriate development in the Green Belt.

Effect on the openness of the Green Belt

12. One of the five purposes of a Green Belt, outlined at paragraph 138 of the Framework, is that it should assist in safeguarding the countryside from encroachment.
13. As I have found above, the proposal would result in a huge increase in the size of the dwelling when compared to the original building. However, the size of the development is only one factor in assessing the overall impact to the openness of the Green Belt.
14. Another factor in considering openness is the absence of built form. In this case, a large part of the proposed development would be located below the existing ground level. The effect of this is that the overall impact of the development on openness is somewhat reduced.
15. In that sense, the removal of the two-storey side extension to the original property would open up the site and this would have a positive impact on openness. However, this would also reveal the extent of the extension works which would be almost the entire width of the plot together with a large amount of building frontage being visible from the street. Whilst the stepped arrangement would help in breaking this mass of building frontage up, it would still be evident in visual terms from the road.
16. Taking all of these elements into account the increased size of the dwelling, in combination with the visibility of the frontage to the extension, leads me to the view that the proposal would have a greater bulk and impact than the existing development and would adversely affect the openness of the Green Belt. Whilst the degree of harm is not significant, the development does nevertheless have some harm to the openness of the Green Belt.
17. In coming to that view, I acknowledge that it would be somewhat screened from longer distance views. However, this does not overcome the loss of openness.
18. I therefore conclude that the development would lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment. As a result, it would also be at odds with the Green Belt aims of the Framework.

Character and appearance

19. The Appeal site is located adjacent to the Derwent Valley Mills World Heritage Site (DVMWHS) but is within the World Heritage Site Buffer Zone. The Derwent Valley Mills and the surrounding landscape have been given international recognition and is a place of global significance.

20. As such, the DVMWHS is a designated heritage asset and the Framework sets out that the significance of a designated asset derives not only from its physical presence, but also from its setting.
21. The Buffer Zone has been set to ensure that new development does not damage the setting of the DVMWHS. In the vicinity of the appeal site, the buffer zone includes land to the east of Duffield Bank. Policy EN29 of the AVBLP also requires all proposals to preserve or enhance the setting of the DVMWHS, including views into and out of the site. From the evidence before me, the setting of the DVMWHS is essentially the historic importance and unaltered appearance of the rural landscape.
22. From what I observed at my site visit, the land to the west of Duffield Bank is very much undeveloped and rural in character with views across the valley.
23. Whilst the appeal proposal is largely set into the rising land to the rear of the existing property, there would still be clear views of it from Duffield Bank, together with longer distance views across the valley. Whilst such views would not be continuous owing to existing screening, it would still nevertheless be visible.
24. Significantly, the opening up of views of the site as a result of the removal of the existing side extension would expose the tiered nature of the development which would be higher than the existing dwelling. It would also extend to almost the entire width of the appeal site and appear as an overly large extension, particularly when viewed from the site frontage.
25. These factors, when combined with the extensive glazing to the front elevation, would result in a noticeable and detrimental change to the landscape and the character of the area as a whole. In coming to that view, I acknowledge that the proposal seeks to take advantage of the difference in land levels by having a large proportion of the proposal below the existing ground level.
26. The appeal site is also located immediately adjacent to Duffield Bank Cottage² which is a Grade II Listed Building. Further to the west, and within the DVMWHS is Duffield Bank House which is also a Grade II Listed Building.
27. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of these listed buildings. In this case, I am of the view that the proposal would not result in any harm to the setting of Duffield Bank House given its distance away from the appeal site.
28. However, in respect of Duffield Bank Cottage, the proposal would result in a very modern and heavily engineered development in proximity to this designated heritage asset. In my view, the overall design and visual appearance of the extension would fail to respect the qualities of this listed building and its rural setting. This is particularly the case as the proposal would have a large amount of glazing to its front elevation and its tiered design which would be seriously out of character with the prevailing development in the area.
29. Turning to the non-designated heritage assets, this includes White Cottage itself. The Council has also made reference to a group of non-designated

² Incorrectly referred to as Duffield Bank House in the Councils reason for refusal relating to this matter

- heritage assets but has provided very little detail or harm which would result from the proposal.
30. The appeal scheme would result in the demolition of the Edwardian extension to the original property, which from the evidence before me, is suffering from structural issues as a result of drainage problems. This is not disputed by the Council.
 31. Whilst the demolition of this extension would result in the loss of some of the history of the evolution of the property, I consider that this is not in itself a reason to withhold planning permission in this case. Indeed, it could be said that the proposed extension works would also result in a further evolution of the property and therefore provide a continued history of the development of the site.
 32. However, the most significant factor which would result is that the large modern extension would be exposed to views from Duffield Bank and beyond. The modern nature of the proposal with its extensive glazing would be out of character with the remaining part of the host dwelling to the extent that it would be harmful to this non-designated heritage asset.
 33. In respect of the designated heritage assets, it is my view that the proposal would result in less than substantial harm. In accordance with paragraph 202 of the Framework, where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
 34. I am also conscious that for the non-designated heritage assets, paragraph 203 sets out that the significance of the asset should be taken into account in determining an application and that a balanced judgement will be required having regard to the scale of harm.
 35. In this case, I have found harm to the setting of both the DVMWHS and Duffield Bank Cottage, as well as harm to White Cottage itself.
 36. The Appellant has set out that the proposal would provide public benefits, in that a structurally unsafe extension would be removed which is in proximity to the public highway, and that the removal of the paintwork to the stone cottage would also benefit the appearance of White Cottage and the wider area. It is suggested that the proposal would also restore the 18th Century building closer to its original form. I also acknowledge the comments regarding the previous loss of historic property boundaries in the area.
 37. To my mind, there would be some limited public benefits arising from the removal of the white paintwork from the stone cottage. Whilst I have concluded that the removal of the Edwardian extension is not a barrier to the granting of planning permission, its removal does not provide any significant benefits to either the designated or non-designated heritage assets. Indeed, its removal further exposes the undesirable modern development to the rear of the site.
 38. In respect of safety matters, regardless of the appeal proposal, should the building present a risk to users of the public highway, this would need to be addressed. I can therefore only give this limited positive weight in my decision.

39. Therefore, when taking into account the limited benefits to the heritage assets, they do not provide such a public benefit which outweigh the harm I have identified in respect of the effect of the proposal on the setting of the DVMWHS or the Grade II Listed Building of Duffield Bank Cottage. Similarly, taking a balanced judgement on the impact to White Cottage, the level of harm is much greater than the benefits which the proposal would deliver.
40. Taking all of the above into account, the proposal would harm the character and appearance of the area, and in particular the setting of the DVMWHS and Duffield Bank Cottage, together with White Cottage itself. The proposal would also be contrary to Policies EN24 and EN29 of the AVBLP which amongst other matters seek to ensure that new development preserves or enhances the setting of the World Heritage Site and Listed Buildings. It would also be at odds with the heritage aims of the Framework, including non-designated heritage assets.

Living Conditions

41. The appeal proposal has large windows which are front facing, including those in bedroom 3 and the kitchen/dining area, with green roof areas to the fore.
42. Given the changes in land levels, the proposal would introduce some overlooking potential to the garden area of Duffield Bank Cottage as the living accommodation would be set much further back into the site than the existing building. This is largely as a result of the large windows to the front elevation.
43. This would be particularly the case in respect of the top floor accommodation from the kitchen/dining area which would afford some views over the garden area of Duffield Bank Cottage. Whilst the existing garden area also allows some views, the proposal would increase this overlooking despite the angle of window to the site boundary.
44. I am also conscious that there appears to be an outdoor space immediately in front of the windows to the top floor accommodation and the use of this area would further erode the privacy enjoyed by the occupiers of Duffield Bank Cottage.
45. In respect of bedroom 3, this window would not be set back as far back into the site than the top floor accommodation and would be at a much lower height. Taking these factors into account, I am of the view that views from this window would not be so significant to result in an unacceptable loss of privacy.
46. In addition to the above, the Council have raised concern over the use of the roof areas as amenity space. However, the appellant has stated that this is not the intended use and that a suitably worded planning condition could be imposed to prevent this. I agree.
47. For the above reasons the proposal would harm the living conditions of the occupiers of Duffield Bank House as a result of excessive overlooking from the top floor accommodation. This would be contrary to Policy H12 of the AVBLP and the Residential Development Supplementary Planning Document which amongst other matters seek to ensure that development does not unduly affect the amenities or privacy of the occupiers of adjoining properties. It would also be contrary to the overarching aims and objectives of the Framework in this respect.

Other matters

48. The Appellant has drawn my attention to the renewable energy installations which the development would provide. These includes solar panels, an air source heat pump, and Mechanical Ventilation with Heat Recovery system. These sustainable measures weigh in favour of the development.

Green Belt balance

49. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Therefore, substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.

50. I have concluded that the proposal would be inappropriate development in the Green Belt together with some harm to the openness of the Green Belt.

51. The appellant has not explicitly advanced any very special circumstances which would indicate that permission should be granted. However, given that the proposal would have a large element of subterranean floorspace and volume, the level of harm to openness is not significant. I also consider that the energy efficiency elements to the proposal are also a small benefit of the scheme. Notwithstanding that, neither of these factors provide a compelling reason which could be considered to justify the development before me.

52. Therefore, in considering the substantial weight given to the Green Belt, I am of the view that the very special circumstances necessary to justify the development do not exist and the proposal would be in conflict with the Framework, and Policy EN2 of the AVBLP.

Conclusion

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

Chris Forrett

INSPECTOR