



Appeal Decision

Site visit made on 24 May 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2022

Appeal Ref: APP/N4720/D/22/3296295

2 Swillington Lane, Swillington, Leeds LS26 8QD

- 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 Alan Howarth against the decision of Leeds City Council.
 - The application Ref 21/09732/FU, dated 30 November 2021, was refused by notice dated 31 January 2022.
 - The development proposed is side & rear dormer windows.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have not included the full description of development from the appellant's planning application form in the banner header above as it makes reference to the proposal being retrospective and that is not in itself development. However, whilst not entirely completed, the dormer windows have been constructed and therefore I have determined this appeal on the basis that it is a retrospective proposal.

Main Issues

3. The main issues are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - (ii) The effect on the openness of the Green Belt;
 - (iii) The effect on the character and appearance of the host dwelling and the area;
 - (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

4. Paragraph 149 of 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.

5. 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 that although this figure is not definitive, it will inform the majority of decisions involving Green Belt applications.
6. The original dwelling has been extended at ground floor level to its rear. It is common ground between the parties that this existing extension and the dormers exceed the thirty percent threshold set out in the HDG. Whilst that figure is not necessarily definitive, due to the size and bulk of the rear extension and dormers, they collectively represent disproportionate additions over and above the size of the original building. Consequently, the appeal development is inappropriate development in the Green Belt as defined by the Framework. For the same reason, it also does not represent a limited extension under Saved Policy N33 of the UDP or Policy HDG3 of the HDG.

Openness

7. 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.
8. The addition of the dormers has resulted in a reduction in visual openness, by adding to the bulk of the roof. This impact is enhanced when considered cumulatively with the ground floor rear extension that has already taken place. Due to its location on the roof of the original dwelling there would not be any adverse impact in a spatial sense, but this does not overcome the visual impact.
9. For these reasons and on consideration of the scale of the appeal development and that which has already taken place, I conclude that there would be some harm to Green Belt openness, although this would be limited. Nonetheless, the proposal would be contrary to the specific guidance within the Framework in this regard.

Character and appearance

10. The dormers encompass three sides of what was previously a pyramidal shaped roof. On the rear elevation development takes the form of a large box dormer, with more modestly sized returns along the other two roof planes of the side elevations. The dormers are visible from a number of vantage points along Swillington Lane, in particular the parts positioned on either side of the roof. When viewed from the rear the dormer forms a particularly dominant visual addition, because of its size and because it extends beyond the hips of the original roof structure.

11. Due to its size and design in relation to the structure of the roof on which it has been constructed, the development has a poor visual relationship with the host dwelling, appearing as a bulky and awkward addition that is unsympathetic to the original property. The use of matching materials does not offset this harm and the impact it has extends beyond the dwelling itself due to its visibility from the public domain. This has also resulted in harm to the character and appearance of the area.
12. Whilst there are different styles and scales of dwellings in the vicinity and the presence of other dormers in the street scene, none are comparable in their impact to that which is the subject of this appeal. They do not therefore justify the harm that results from the appeal development.
13. For these reasons, the development has caused significant harm to the character and appearance of the host dwelling and the surrounding area. Consequently, it fails to accord with Policy 10 of the Core Strategy Review 2019 and Saved Policies GP5 and BD6 of the UDP, where they seek to protect character and appearance. There is also a conflict with Policy HDG1 of the HDG in the same regard, and with the Framework where it seeks to achieve well-designed places.

Other Considerations

14. It is unclear from the submissions made as to whether the appellant is of the view that the dormers were constructed lawfully under permitted development rights. That matter is linked to the implementation of the planning permission for the existing rear ground floor extension which removed permitted development rights, and to the timing of the construction of the dormers. This is not however a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act and any such application would be unaffected by my determination of this appeal. It also does not fall within my remit under a section 78 planning appeal to consider whether or not the condition in question should have been imposed on the earlier planning permission for the rear extension.
15. Notwithstanding these considerations, the appellant has provided supporting information which seeks to demonstrate that the dormers would fall within the tolerances to be permitted development under the relevant legislation. However, there is no apparent dispute between the parties that the planning permission for the ground floor rear extension has now been implemented. Therefore, there is currently a condition in place which restricts permitted development rights and which would not allow the dormer windows subject to this appeal to be constructed. Accordingly, there is not a viable fallback position in this respect and therefore this is not a matter that I can give weight to.
16. My attention has been drawn to personal circumstances relating to the appellant's immediate family, and to the benefits that would arise from the provision of additional floorspace at the dwelling if the dormers were to be completed and could be used. Whilst I am sympathetic to these circumstances, I am not persuaded on the basis of the information before me that the dwelling without the dormers cannot meet the reasonable needs of the appellant and his immediate family member, or that they would suffer undue hardship if the

appeal were to be dismissed. As a result, I give this consideration moderate weight in favour of the proposal.

Conclusion

17. 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.
18. The development is inappropriate development in the Green Belt and has resulted in harm to its openness, albeit limited. It has also resulted in significant harm to the character and appearance of the host dwelling and to the surrounding area. 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.
19. For the reasons given above, I conclude that the proposal conflicts with Saved Policy N33 of the UDP and the objectives of the Framework where they seek to protect the Green Belt. Therefore, the appeal should be dismissed.

Graham Wraight

INSPECTOR