



Appeal Decision

Site visit made on 9 August 2022

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2022

Appeal Ref: APP/N4720/W/22/3297460

Stone Top Farm, Moorland Road, Bramhope, Leeds LS16 9HW

- 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 Rushworth against the decision of Leeds City Council.
 - The application Ref 21/09731/FU, dated 30 November 2021, was refused by notice dated 21 January 2022.
 - The development proposed is re-use of brick retaining walls of former water tank to form new dwelling with associated amenity area and parking; provision of a pond, new landscaping; removal of existing brick-built pump house, concrete slab hardstanding area and stone wall.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The parties agree that the description of the development has been amended during the application process. Therefore, I have taken the development description from the appeal form and determined the appeal accordingly.

Main Issues

3. The main issues are:
 - 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;
 - the effect of the proposal on the openness of the Green Belt; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

4. The Framework outlines that the construction of new buildings, other than in connection with a limited number of specific exceptions, should be regarded as inappropriate in the Green Belt (paragraph 149). Inappropriate development according to the Framework is harmful to the Green Belt and should not be approved except in very special circumstances. One of the exceptions to this is limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use which would not

- have a greater impact on openness than the existing development (paragraph 149g).
5. The Green Belt is designated through the Leeds Unitary Development Plan (UDP). Saved Policy N33 of the UDP pre-dates the Framework and, although the policy is supportive of redevelopment in the Green Belt in certain circumstances, its approach is inconsistent with the Framework. I therefore attach only limited weight to saved Policy N33 and assess the proposal against the Framework.
 6. The water tank comprises a circular brick wall with stone capping and a concrete base partially below ground. The ground level around the tank is approximately 2 metres higher towards the road frontage. There is also a small, dilapidated brick structure said to be used as a pump house sited adjacent to the tank. These are permanent structures on the land and may fall within the definition of PDL as defined in annex 2 of the Framework.
 7. The appellant references the site previously being occupied by a barn to house sheep and a former dwelling which was referenced on the OS map pre-1947. A hardstanding that was used as a sheep dip area remains within the site. The former dwelling has blended into the landscape. The barn is also no longer visible and, seemingly, together with the hardstanding was agricultural in nature. These former structures and hardstanding are excluded from the definition of PDL.
 8. The definition of PDL includes the curtilage of the developed land. However, simply because a site contains structures that would meet the definition of PDL does not mean that the whole site should be considered as such.
 9. The appellant seeks to address this with reference to case law¹ that establishes factors that may be taken into account to determine what constitutes the curtilage of a building. These include the physical layout of the building/structure, ownership past and present and use and function past and present. However, I have not been provided with any assessment based on these factors to establish the curtilage of the water tank.
 10. Further, the use of the tank as a reservoir appears to have ceased in the 1920's, whilst the former dwelling was still within the appeal site in the 1980's and the barn structure appears to have been on the land after the use of the reservoir ceased. There is no distinction on the site location plan between the area of the site occupied by the barn and dwelling and that associated with the water tank. The definition of PDL excludes land that is or was last occupied by agricultural or forestry buildings and based on the limited evidence provided it appears that agriculture was the last use of the land.
 11. Therefore, whilst the tank and pump house may be termed PDL, the curtilage of these structures has not been identified and the area of the appeal site beyond their footprint cannot be established as such. Consequently, the development, as a whole, cannot be termed the partial or complete redevelopment of previously developed land and does not meet the parameters of Paragraph 149(g).
 12. None of the other exceptions to inappropriate development set out in paragraphs 149 and 150 are identified as relevant to the proposal.

¹ Set out in section 3 of the appellant's Legal Statement July 2021

13. As a result, I conclude that the proposal would be inappropriate development which is by definition harmful to the Green Belt. The proposal would conflict with the Framework. In so much as the land is Green Belt in the UDP, the proposal would also conflict with saved Policy N33 of the UDP which only supports development in the Green Belt in a limited number of circumstances which are not relevant here. I attach substantial weight to the harm to the Green Belt.

Effect on openness

14. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development, and it has both spatial and visual aspects.
15. The appellant states that the approach taken to the design of the dwelling is to provide no clear visual indication of a house on the site when viewed from Moorland Road other than parking and bin and cycle storage as required.
16. Although the rooms of the dwelling and patio will be constructed within the footprint of the tank, the formation of a roof would increase the volume of the structure and mounding is proposed beyond the tank area. The elevations indicate that the structure would protrude 1.584 metres above the height of the existing tank. There are discrepancies in the drawings, the north elevation indicates windows and doors to the Moorland Road frontage, but the layout drawing suggests that the frontage to Moorland Road would be mounded. Even with these discrepancies and the limited elevations provided the area of the site covered by the mounding would notably alter the appeal sites topography.
17. I accept that the proposed planting and the existing hedge to the road frontage would protect some views of the proposed development. Nevertheless, there would be views of the mound from the access point and the somewhat incongruous form of the mounded roof close to the site boundaries in the relatively open surrounding agricultural landscape would draw attention, particularly in the winter when deciduous trees have lost their leaves.
18. In addition, there would be hard standing for the parking and turning of vehicles and for bin storage and a structure for cycle parking. Despite the former dwelling having been sited where the car parking is proposed, the maturity of the trees and the vegetation that have grown since the dwelling was removed means that the area of the previous dwelling is largely indistinguishable from the surrounding grassland. The layout plan indicates a new position for the vehicle access, it appears that this would necessitate culverting a section of dyke and the establishment of visibility splays across the site frontage. From the access point the hardstanding with its domestic paraphernalia would be prominent, and the site would appear more developed.
19. I appreciate that hedges are proposed to enclose the proposed patio area. However, taking into account the need to access the house, it is unlikely that the level of enclosure around the patio as shown on the plans could be achieved. The use of the land surrounding the dwelling in association with it is likely to have some visibility from the road frontage adding to the domestic appearance of the site.
20. Overall, as a consequence of the above ground development, the necessary parking, bin and cycle storage, and the creation of a domestic site in a largely

agricultural landscape, together with the comings and goings associated with the domestic use, the development would result in both a visual and spatial loss of openness. The removal of the pump house and the existing hard standing within the site would not be sufficient to mitigate either the spatial or visual loss of openness.

21. I have had regard to the relevant case law advanced by the appellant about the assessment of openness². My approach here is consistent with the stated case law.
22. Even if I had concluded that the development was PDL, the proposed extent of the development and the associated domestic requirements would have a greater impact on the openness of the Green Belt than the existing site and could not have met the exception criteria set out at Paragraph 149 (g) of the Framework.

Other considerations

23. I agree that the appeal site is isolated in the context of former paragraph 79, now paragraph 80 of the Framework. However, the previous reference to truly outstanding and innovative design has been replaced. There is little in the appellant's statement that refers to the amended criteria in paragraph 80 of the Framework. Whilst I note the reference to appeal cases where exceptional design quality has been judged to be very special circumstances, and I appreciate that the proposal has been designed having regard to the form of the existing water tank, there is limited information before me to suggest that the design is of exceptional quality in the terms set out in paragraph 80. This matter is neutral in the planning balance.
24. I acknowledge that as part of the construction of the house the surrounding land would be used to improve biodiversity, but there is no reason why measures to enhance biodiversity can only be achieved through the development of the site and I attach limited positive weight to this matter.
25. I accept that despite its physical isolation the appeal site is relatively well related to the Bramhope village facilities by bicycle and on foot. Nevertheless, despite some limited journeys to services and facilities being possible by these means, given the lack of streetlighting and the distances involved I consider that most trips to meet the daily needs of the occupiers of the site would be by car. Overall, I consider the appeal site location to be neutral in the planning balance.
26. I understand that the site has been prone to fly tipping. I note the photographs that show some debris on the land, and I do not doubt that rural land, especially sites which have vehicle access into them, are vulnerable to fly tipping. Even so, there is no evidence that following the clearance of the land by the appellant, fly tipping has been a recent occurrence or that other security methods could not be employed to prevent it. This matter is neutral in the planning balance.
27. The appellant indicates that contaminants within the tank have had to be removed. Also, there has been an historic incident of drowning in the tank. I understand that the landowner has a duty to ensure that the land is safe. I observed at my site visit that the water tank has been fenced off to prevent

² Set out in section 4 of the appellant's Legal Statement July 2021

those who may enter the site from falling and there is little to suggest that the fencing would not be sufficient to prevent injury in the case where trespassers enter the land. Further, as the appellant has undertaken recent works to secure the site and prevent injury, future incidents should be avoided.

28. Whilst the removal of the existing pump house and hardstanding would lead to some minimal visual improvements, there is no reasons why the building and hardstanding could not be removed from the site, this visual improvement could occur without the proposed development and does not weigh in favour of the proposal.
29. The appellant highlights that Stone Top Farm, a working farm and stables is untidy and unkempt and is continually on view. Be that as it may, agricultural activity, equestrian uses and associated works and paraphernalia, are not unusual or uncharacteristic in rural locations such as this.
30. I note the letters of support and appreciate the sites historical use, but the comments made do not alter my assessment of the main issues.
31. I have reviewed the other planning approvals that have been brought to my attention. I recognise that there are similarities between these other schemes and the appeal proposals, and I agree that the water tank and pump house in themselves could be PDL. Nevertheless, I have concluded that the appeal proposal is inappropriate development, and I must assess whether the other considerations put forward in this case amount to the very special circumstances required to justify the proposal on their own merits. These other decisions count neither for nor against the appeal proposal.

Green Belt Balance and Conclusion

32. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would also result in a harmful loss of openness of the Green Belt. These matters attract substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
33. I attach limited positive weight to the proposed biodiversity measures, however, overall, there are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Therefore, the very special circumstances necessary to justify the proposed development do not exist.
34. The proposal would conflict with the development plan and material considerations, including the Framework, do not indicate that the decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

Diane Cragg

INSPECTOR