



Appeal Decision

Site visit made on 18 October 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2022

Appeal Ref: APP/P4415/W/22/3300293

Endfield, Firvale, Harthill, Rotherham S26 7XQ

- 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 Barlow against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2021/2239, dated 8 December 2021, was refused by notice dated 31 March 2022.
 - The development proposed is the demolition of existing agricultural building with Class Q permission and construction of one detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy 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 Inappropriate Development

3. Paragraph 147 of the National Planning Policy Framework (the Framework) sets out that inappropriate development is, by definition, harmful to the Green Belt. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects.
4. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than in a number of exceptions. Policy CS4 of the Rotherham Local Plan Core Strategy 2013 – 2028, adopted 2014 (the CS) and Policy SP2 of the Rotherham Local Plan Sites and Policies adopted 2018 (the SP) include similar statements regarding inappropriate development in the Green Belt.

5. The proposed development would involve the demolition of the existing agricultural building at the site and the construction of a dwelling. The exception at paragraph 149 d) and within Policy SP6 of the SP allows for replacement buildings provided that the new building is in the same use and not materially larger than the one it replaces.
6. The appellant identifies that the differences in footprint between the existing building and the proposed dwelling would be under the 10% which Policy SP6 identifies as making proposals materially larger, although the 10% in the policy refers to volume. The appellant argues that, by virtue of a prior approval granted¹ under Schedule 2, Part 3, Class Q of the GPDO² to convert the building to a dwelling, and that there is a reasonable prospect of implementation given that asbestos sheeting has been removed, the proposed dwelling would be in the same use. However, for the reasons given below under 'other considerations', the proposed development would be in a different use to the existing building. It cannot therefore be considered under this exception.
7. The exception at paragraph 149 e) and within Policy SP9 of the SP allows for the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. Policy SP9 also addresses Green Belt purposes. The definition of previously developed land in the Framework's Glossary includes a number of exclusions, including land that is or was last occupied by agricultural or forestry buildings. Based on the description of the development and the current use of the site as set out on the application form, this would be the case here. This exception would not therefore apply.
8. The other exceptions in paragraph 149 of the Framework are not relevant to the proposal. The proposed development would not therefore fall within the exceptions in paragraph 149 of the Framework. Accordingly, the proposed development would be inappropriate development in the Green Belt and would be inherently harmful to it.

Openness

9. The proposed dwelling would be of a relatively modest scale. It would mostly be sited on where the base of that part of the building which has been removed is located, with its front elevation facing towards Endfield, the end dwelling on Firvale. A garden area would be to the rear and a car parking and turning area to the side. The appellant states that the footprint of the building that would be removed is 142 metres square (m²), and the footprint of the proposed dwelling would be 76m² over one floor, giving a total floor space of 152m². No figures are provided on volume of the existing or proposed buildings. The proposed dwelling would have a lesser footprint than the existing building based on just its ground floor. However, the assessment of impact on openness, in both a spatial and visual sense, is about more than a straightforward calculation of volume or footprint.
10. While the on-ground footprint would be less, the ridge line of the proposed dwelling would be higher than the existing building, resulting in a greater

¹ Appeal reference APP/P4415/W/18/3199988

² Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

overall mass. There would therefore be a reduction in openness from a spatial aspect.

11. The existing building is not particularly obtrusive in the wider area due to the relatively low height. In views when approaching along Firvale, from the nearby Public Right of Way (PRoW) to the south and public areas on the edge of the housing development to the south east, it is not readily visible due to the screening effect of intervening vegetation and the existing built form. From certain vantage points further along the PRoW, the existing building becomes more apparent due to the upward slope of the land, but it is seen mainly as sitting between the property at Endfield and the housing development to the south east.
12. The proposed dwelling would be more visible in the surrounding area due to its greater mass. It would be higher than the existing building and so would appear above the surrounding hedgerows from several vantage points including the edge of the nearby housing development and the PRoW.
13. Furthermore, the design elements for a dwelling, including the use of extensive glazing, the illumination that would occur, the nature of a residential garden with associated boundary treatment and domestic paraphernalia and activities that would be associated with its use as a dwelling would have something of an encroaching urbanising effect that would have a greater effect on openness.
14. The massing of the proposed development together with the design details and other elements set out above that are characteristic of the use of a building as a dwelling would result in a more prominent development that would diminish the openness of the Green Belt in both visual and spatial terms.

Other Considerations

15. The appellant emphasises the fallback position of the prior approval granted on appeal at the site for the change of use of an agricultural building to a dwelling. I note that the Council considers that the prior approval granted on appeal no longer exists. This is because part of the building to be converted has been demolished and the proposal can therefore no longer be carried out in accordance with the approved plans. Based on the submitted evidence and my site visit observations, it does appear that part of the building has been demolished.
16. Furthermore, the date of the appeal decision, and therefore the prior approval date, is 19 September 2018. Approval under Class Q of the GPDO is granted subject to a number of conditions. These are set out in paragraph Q.2. Paragraph Q.2(3) states that '*development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date*'. The three year period has expired without the development being completed. The prior approval for the site is therefore no longer in place.
17. The appellant cites a case³ which they contend supports their position that an approval under Class Q represents a fallback position that can be a material consideration. Based on the evidence before me, I cannot conclude that there is no real prospect that a fallback position of a Class Q approval may take place. As such, the fallback position is a relevant consideration.

³ Michael Mansell v Tonbridge and Malling Borough Council (2017) EWCA Civ 1314

18. However, I am mindful that there is no prior approval for the change of use of the agricultural building to a dwelling. While acknowledging that a prior approval was granted just over four years ago, this was on the basis that the particular building operations proposed were found to be reasonably necessary to convert the building, based on its condition at that time. In addition, a larger sized building was on the site compared to what is now the case. Consequently, I give moderate weight to the fallback position.
19. As stated above, although the footprint of the proposed dwelling would be less than that of the existing building that would be demolished, its ridgeline would be higher, despite the use of the roof space for some of the accommodation, resulting in a much greater overall mass. As such, the fallback position of a prior approval under Class Q would likely have less effect on openness both spatially and visually compared to the appeal scheme.
20. The appellant contends that the principle of a residential use at the site has been accepted by virtue of the prior approval. However, the consideration of an application under Class Q of the GPDO does not involve an assessment of the proposal against the development plan.
21. The proposed dwelling would be constructed out of natural stone and render, and its appearance would not be out of keeping with the varied built form in the vicinity. While the agricultural building has a functional appearance, it is of a type and form that is fairly typical of other similar buildings and as such is not an incongruous form of development in an edge of countryside/settlement location. In addition, the building sits relatively unobtrusively in the landscape.
22. I note the appellant's argument that the appeal scheme would represent a betterment in terms of energy efficiency through improved solar gain and insulation, thus having a lesser carbon footprint. However, works under a Class Q approval would likely include the installation of internal insulation, as was proposed with the previous prior approval scheme. Furthermore, Class Q also allows for the installation or replacement of windows to the extent reasonably necessary for the building to function as a dwellinghouse. There is no clear evidence before me to indicate that the proposed development would provide a betterment in terms of energy efficiency, energy use or carbon footprint than a scheme that could be pursued under the fallback.
23. The appellant considers that the garden/amenity space that would be provided outside of the proposed dwelling would result in a more open development than the internal courtyard that was part of the previous prior approval scheme. However, that part of the building that gave rise to the courtyard arrangement for the previous prior approval scheme is no longer at the site. Furthermore, as stated above, the proposed garden would also contribute to the effect on openness.
24. The proposed development would create employment during construction and the additional residents would support local shops, businesses and community facilities. However, given that the proposal is for one dwelling, these benefits would be limited.
25. While I accept that the appeal scheme would be personally beneficial to the appellant in terms of a reduced maintenance requirement and cost and a more usable design than could be achieved through a prior approval scheme, that is

essentially a private benefit rather than addressing the public harm that would result.

26. The appellant has drawn attention to an appeal decision⁴ that addressed the benefits of a proposal compared to a fallback position. However, on the basis of the available evidence, I do not find this scheme to be directly analogous to the proposed development. It related to a proposal for the erection of a detached dwelling for an agricultural worker to replace a mobile home. The fallback position was different, the site was in a different location and setting and there appeared to be a set of circumstances and level of Green Belt harm particular to the proposal. In any event, I have evaluated the proposed development on its individual merits.

Planning Balance and Conclusion

27. While the harm to openness would be moderate, the proposal would be inappropriate development in the Green Belt, which is by definition harmful. In line with paragraph 148 of the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness.
28. I have taken into account the aforementioned other considerations. However, inherent in my reasoning above in terms of 'other considerations', these do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposed development do not exist. The proposed development would therefore conflict with Policy CS4 of the CS and Policy SP2 of the SP and the requirements of chapter 13 of the Framework which have been summarised above.
29. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations that indicate the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR

⁴ Appeal reference APP/H2265/W/19/3229912