



Appeal Decision

Site visit made on 2 May 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Appeal Ref: APP/N4720/W/23/3317357

The Poultry Farm, Bay Horse Lane, Scarcroft, Leeds LS17 8SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr A Marshall against the decision of Leeds City Council.
 - The application Ref 22/04689/FU, dated 1 July 2022, was refused by notice dated 9 January 2023.
 - The development proposed is demolition of existing bungalow and outbuildings and construction of replacement dwelling, with car parking and garden.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The second reason for refusal as set out on the decision notice includes the loss of a healthy mature protected tree. However, the appellant has submitted additional information as part of their appeal statement relating to the removal of trees confirming that they would accept a condition requiring replacement planting. The Council's statement of case explains that this information was not submitted at the time of the application, hence the reason for refusal. However, the Council would accept replacement planting to mitigate against any loss of trees. It is not therefore necessary for me to consider that matter further.

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, be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development

4. The appeal site relates to land located within the Green Belt to the south of Scarcroft.

5. Saved Policy N33 of the Leeds Unitary Development Plan (Review 2006) (UDP) explains that except in very special circumstances approval will only be given in the Leeds Green Belt for certain development including amongst others, limited extension, alteration or replacement of existing dwellings. It then goes onto explain that development within the Green Belt will only be permitted if it conforms to the detailed Green Belt Policies contained in Appendix 5 in Volume 2 which amongst other policies also includes Policy GB9.
6. Policy GB9 of the UDP sets out that redevelopment of any building used for a purpose which is inappropriate in the Green Belt will not be permitted, except in the case of dwellings. It goes onto explain that redevelopment of dwellings will be permitted provided all the following criteria are met: i. use of the existing building as a dwelling house has planning permission, has been granted a certificate of lawful use, or it can be demonstrated that a certificate would be granted if applied for and the use has not been abandoned; ii. the proposed replacement dwelling and associated works would maintain or enhance the open character and appearance of the locality; iii. the replacement dwelling and any curtilage development would have no greater impact in terms of height or site coverage than the existing dwelling and its associated curtilage development; iv. the building is not incapable of use in its present state and has not become so derelict that it could be brought back into use only with complete or substantial reconstruction.
7. Paragraph 149 of the Framework relating to proposals affecting the Green Belt explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are, amongst others, the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. In respect of the proposed dwelling, the parties identify 149(d) as the relevant criteria in this case and I have no substantive basis to consider otherwise.
8. The Council's officers report explains that whilst the general approach of policies GB9 and N33 is consistent with the Framework, there are inconsistencies between the local and national approaches in relation to the relevant parts of GB9 and N33. Consequently, the Council attribute limited weight to these policies in this instance and I have no reason to disagree.
9. The proposed development relates to the demolition of the existing bungalow and outbuildings and construction of a replacement dwelling, with car parking and garden. In considering such schemes, paragraph 149(d) of the Framework establishes two tests, firstly relating to the use and secondly relating to the size which should not be materially larger than the one it replaces. The proposed development would be in the same use and thus passing the first test. In respect of the second test, the appellant sets out that the proposed replacement dwelling has been specifically designed of a similar footprint, scale and mass and would have a reduced above ground volume than the existing property. The appellant sets out a range of figures in relation to the overall volume. The proposed dwelling element that would be above existing ground level would be 409.22 cubic metres compared with 493.31 cubic metres for the existing dwelling and outbuildings. The addition of the lower ground level volume which would have the same floorspace as the ground floor, albeit with this element being below existing ground level, would significantly increase the volume figure for the proposed development.

10. For the above reasons, the proposed development would be materially larger and would not fall within the exception test of paragraph 149 (d) of the Framework. I therefore conclude on this issue that, for the purposes of the Framework, the proposed development would be inappropriate development in the Green Belt which would by definition be harmful to the Green Belt.

Openness

11. Paragraph 137 of the Framework explains 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. Openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally, this does not mean that the openness of the Green Belt has no visual dimension and thus both aspects need to be considered.
12. The proposed development would demolish the existing bungalow and outbuildings onsite and replace it with a single building which would have a reduced above existing ground level volume in comparison to the existing property and outbuildings and would be of a similar height as the existing. Although the lower ground floor would include for a reasonably sized lightwell which would expose the windows on the southern elevation of the lower ground floor as well as the introduction of a path around the outer edge of the building, it would largely be hidden from view. As a result, in visual terms, the proposed development would not reduce the openness of the Green Belt in a way that would be harmful.
13. The proposed development would also include the creation of an additional lower ground floor of the same footprint as the proposed ground floor together with the path around the edge of the building which would change the ground level in this location. In spatial terms and having regard to my findings on the first main issue in respect of increased volume, this would therefore have a greater impact on the openness of the Green Belt than the existing dwelling and outbuildings. In respect of the hardstanding alone, its proposed reduction in area would represent just a minor improvement spatially and would not represent a significant volumetric change sufficient enough to mitigate the spatial effect on openness of the proposed development as a whole.
14. I note the appellant's comments relating to the enclosed location and existing open views. I also note comments regarding nearby built development. However, regardless of this, the development would still have an adverse effect on the openness of the Green Belt in spatial terms. A condition requiring the removal of outbuildings prior to first occupation and removal of permitted development rights would not change my findings on this. There would be some minor visual improvement to openness in a visual sense by removing the existing collection of buildings of varying styles, materials and ages and replacing with a single building and in the reduction of hardstanding area. However, this would not outweigh the spatial harm to the Green Belt.
15. For the above reasons, I conclude that the proposed development would cause unacceptable harm to the openness of the Green Belt.

Other considerations

16. The assessment regarding character and appearance is a different consideration to openness of the Green Belt. However, I note the appellant claims that the proposed development would be of a high-quality/bespoke design utilising natural materials and that this, together with the overall reduction of the above ground volume including reduction in hardstanding would improve the general character and appearance of the site. The overall design whilst an improvement to the existing, is not so dissimilar to others nearby, or so truly innovative and of exceptional quality, as to represent a significant benefit in terms of the character and appearance of the surrounding area. Additionally, the existing buildings onsite and areas of hardstanding are not so detrimental in appearance so as to be a significant benefit to have them removed/reduced. Such matters therefore carry limited weight.
17. The proposed development represents a more efficient and effective use of land and would have a better energy performance meeting high insulation values. In this respect, I have had regard to the various energy efficiency measures listed in the appellant's submissions. However, there is no substantive evidence that at least some of these energy efficiency measures could not be implemented on the existing dwelling and in any case, the measures concerned would relate only to a single dwelling, such that I afford only limited weight to this factor.
18. The appellant sets out that biodiversity improvements can be readily achieved via new proposed soft landscaping and tree planting and that there would be no significant adverse impact on the integrity and connectivity of the Leeds Habitat Network. I also note that the proposed gross internal floor areas would exceed the minimum standard; and that the proposed accommodation would provide a level of general amenity considerably more than that provided by flats or properties in urban areas, whilst complying with accessibility objectives of the Building Regulations ensuring disability accessible 'life-time' accommodation. Additionally, the development would also provide some economic benefit during the construction phase. However, given that the scheme relates only to a single new dwelling, the extent to which these factors would be beneficial is limited and therefore carry limited weight.
19. I am aware of permitted development rights that exist to enlarge existing accommodation to meet expanding family needs as well as the high court judgement regarding fall-back positions as referred to by the appellant. Whilst it is not my role in the context of this appeal to determine whether or not any such extensions would be lawful in order to decide whether reliance could be placed on such permitted development rights as a fall-back, I note that it is not disputed by the parties that the existing dwelling could be extended by an additional 267.3 cubic metres in this respect and I have no substantive basis to disagree. However, even if the potential to extend the existing dwelling under permitted development is taken into account in the existing volume figures, it would still likely result in a lower additional built volume based on the figures in the submission given the overall size of the proposed lower ground floor level. Additionally, the extensions may need to take space occupied by one or more of the existing outbuildings given their close positioning in relation to the dwelling. There is no evidence that the potential need to remove any outbuildings to make way for extensions has been factored into the figures.

Furthermore, I do not have any plans showing the existing dwelling with the fall-back extensions.

20. For the above reasons, I have no substantive basis to find that the fall-back position would be more harmful to the Green Belt and character and appearance of the area than the proposed development. This is also taking account of my findings that the existing buildings onsite and areas of hardstanding are not so detrimental in appearance so as to be a significant benefit to have them removed/reduced. I therefore give limited weight to the fall-back position.
21. I acknowledge that there have been no objections from a number of statutory consultees/neighbours and that the Council do not raise particular concern with regard to highway safety, the character or appearance of the locality, amenity of neighbours or future occupants, contamination, public right of way, flood risk/drainage, crime prevention and sustainability. These are neutral matters in my overall decision. The appellant explains that the site and immediate surrounding land has been specifically excluded from the identified Special Landscape Area that covers much of this part of north Leeds. However, this would not weigh in favour of the proposal particularly given that the site is still located in the Green Belt which must be assessed accordingly.
22. I acknowledge the planning history associated with the site and that the Council previously accepted the construction of an identical replacement dwelling under reference 16/00491/FU whilst also accepting the volume figures. I also note the difficulties in securing the implementation of that consent. However, that consent has now expired, and I have determined the current appeal based on its own merits and evidence in front of me. This factor therefore carries limited weight.

Planning Balance and conclusion

23. Paragraph 147 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Additionally, the replacement dwelling would have an adverse impact upon the spatial openness of the Green Belt.
24. Paragraph 148 of the Framework explains that substantial weight should be given to any harm to the Green Belt and 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. Whilst I acknowledge the other considerations put forward by the appellant as set out above, the Framework makes it clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt which I have applied.
25. Therefore, those other considerations referred to above would not hold sufficient weight to outweigh the harm that I have found would be caused to the Green Belt by reason of inappropriateness and loss of openness. Furthermore, I have not received substantive evidence of any other considerations which would do so. The very special circumstances needed to justify the development do not therefore arise.

26. Accordingly, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR