



Appeal Decision

Site visit made on 19 September 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2023

Appeal Ref: APP/N4720/W/21/3287397

**The Byre, off Tithe Barn Lane, Bardsey-cum-Rigton, Bardesy,
Leeds LS17 9DX**

- 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 the Executor of the Estate of Mr R Lunn (Deceased) against the decision of Leeds City Council.
 - The application Ref 20/04754/FU, dated 24 July 2020, was refused by notice dated 21 May 2021.
 - The development proposed is described as change of use of redundant farm building to a single dwellinghouse and conversion of barn to garage/store.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by the appellant against the Council and by the Council against the appellant. These applications are the subject of separate Decision letters.

Procedural Matters

3. The site address differs across the various application and appeal documents so I have used the address originally given on the planning application form.
4. Since the planning application was determined by the Council, the applicant Mr R Lunn has died. In such cases, the role of the appellant can only be taken on by someone who has legal authority to do so. This caused the start of the appeal to be delayed. However, following the receipt of a certificate granted for probate, the appeal can now proceed under the Executor of the Estate of Mr R Lunn.
5. After the appeal was started, the appellant submitted amended plans which sought various design changes and a reduction in the extent of the curtilage for the proposed dwelling. However, I consider that the amendments show a proposal that differs significantly from that determined by the Council, and on which the views of interested parties were sought. I am also mindful that the amendments may raise other planning issues which haven't previously been considered at the application stage, potentially prejudicing the Council and other interested parties who have not been consulted on the changes. Thus, in the interests of fairness and natural justice, I have dealt with the appeal based on the plans that the Council used to make its decision and not based on the inclusion of the amendments.

6. An appeal (ref: APP/N4720/W/22/3294799) for a similar scheme at the site was dismissed in May 2022. I have taken it into account where relevant.
7. The application was refused prior to the revised National Planning Policy Framework 2021 (the Framework). Other than a change to the relevant paragraph numbers, the revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal. I have determined the appeal on the basis of the revised Framework.

Main Issues

8. The main issues in this appeal are:
 - Whether the proposal is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - Whether the development would preserve or enhance the character or appearance of the Bardsey-cum-Rigton Conservation Area and surrounding landscape; and
 - If the proposal is inappropriate development, whether 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 proposal.

Reasons

Whether inappropriate development

9. The Government attaches great importance to Green Belts. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It outlines that the construction of new buildings and certain other forms of development, other than in connection with a small number of exceptions, should be regarded as inappropriate in the Green Belt. Inappropriate development according to the Framework is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
10. The exception in paragraph 150 d) of the Framework refers to the re-use of buildings of permanent and substantial construction, provided they preserve its openness and do not conflict with the purposes of including land within it. Policy N33 of the Leeds City Council Unitary Development Plan (Review 2006) (UDP) similarly provides for the re-use of buildings in the Green Belt, subject to meeting the detailed criteria of Policy GB4. The criteria most relevant to the appeal include that physical changes maintain or enhance the openness, character and appearance of the Green Belt; the building is of generally sound physical condition and is suitable for its intended use without the need for substantial rebuilding or extension. I find the relevant criteria to be broadly consistent with the Framework.
11. A further exception is paragraph 149 g) of the Framework, which involves the partial or complete redevelopment of previously developed land, providing this would not have a greater impact on the openness of the Green Belt than the existing development. However, as the land and buildings are agricultural, they

are excluded from the Framework's definition of previously developed land. Consequently, this exception is not applicable.

12. The two appeal buildings consist of a single-storey, part stone and part timber building with a mono-pitch roof, known as the 'Byre', and a breeze block and timber clad hay barn, known as the 'Barn', which is approximately two-storeys in height. Some hard surfacing material is visible in the vehicle tracks between the buildings, but otherwise the remainder of the site has a mostly greened over appearance that blends into the adjoining field. Overall, the site has a typical agricultural character and is unobtrusive in this distinctly rural setting.
13. It is not in dispute that the appeal buildings are of permanent and substantial construction. Nor has it been suggested that the proposals would amount to substantial rebuilding or extension. Even if I were to agree on these matters, it is necessary to assess the impact of the proposal on the openness of the Green Belt, taking into account both its spatial and visual impact. This is a matter of planning judgement for the decision maker.
14. A notable difference to the previous appeal scheme is the addition of a new pitched roof to the Byre, thereby increasing its size. I appreciate that the proposal also includes a reduction in the height of the Barn and other small demolition elements, which based on the evidence before me, would lead to an overall reduction of approximately 5% in building volume at the site compared to the existing. However, agricultural buildings are not inappropriate in the Green Belt, and therefore, the existing buildings do not affect its openness. In any event, the reduction in built volume would be very minor.
15. In terms of visual effects, the new roof to the Byre would result in that building being more visually prominent than existing, particularly from the road/bridleway that it abuts. This would be in addition to the visual effects that would arise from the change in the character of the site from an unassuming agricultural use to a domestic property. As was identified by the Inspector in the previous appeal, this would include increased effects of internal and external lighting; formalisation of the driveway entrance and parking/turning area; formation of a domestic garden and outside spaces; and the inevitable presence of vehicles and domestic paraphernalia associated with the dwelling. I would add that a residential use is also likely to lead to a visible increase in activity at the site compared to a small agricultural use. Neither the use of appropriate materials in the development, nor the newly planted hedgerow along the northern boundary of the site, would fully mitigate these effects. As a result of these factors, the development would have a significantly heightened visual presence when compared to the existing site.
16. Consequently, even with the minor overall reduction in building volume, the proposal would result in a loss of openness in other ways which would be harmful to the Green Belt. Furthermore, as the new residential curtilage would extend beyond the existing buildings, the proposal would fail to assist in safeguarding the countryside from encroachment, contrary to one of the purposes of including land in the Green Belt.
17. Therefore, when judged against the wording of national and local policy, I find that the proposal would be inappropriate development in the Green Belt.

Conservation Area and landscape

18. The appeal site lies within the Bardsey-cum-Rigton Conservation Area (the CA). It is also identified as being within a Special Landscape Area (SLA).
19. This part of the CA is distinctive for its dispersed pattern of historic farm and cottage developments set around two triangular areas of open fields to the south west of the village centre. The rural location and surrounding landscape setting forms an important element of the special rural, agricultural character of this part of the CA, as well as being attractive in its own right.
20. As agricultural land and buildings at the edge of the settlement, the appeal site contributes to the special interest and significance of the CA. Furthermore, the Byre is identified in the Bardsey-cum-Rigton Conservation Area Appraisal and Management Plan (2009) as a positive building in the CA, and I see no reason to disagree. This is because the Byre has a distinctly rural character and forms part of a group of buildings that provide evidence of the area's farming history and development.
21. In the previous appeal at the site, the Inspector did not identify any harm to the CA and surrounding landscape, noting that the proposals involved minimal alterations to the buildings and would not fundamentally alter their agricultural appearance. However, the scheme before me is materially different in respect of the alterations to the Byre, and so, I have reached my own conclusions.
22. The new pitched roof to the Byre, together with the configuration, proportions, and excessive number of new openings and rooflights, would drastically alter the form and agricultural appearance of the building, giving it an overtly domestic character. As a result, its intrinsic character as a former agricultural building would be severely eroded, harming its own appearance and the important contribution it makes to the character and appearance of the CA and landscape in which it sits.
23. For this reason, the development would adversely affect the rural character of the Byre, the site, and surrounding landscape, and consequently would cause harm to the significance of the CA. The magnitude of harm to the CA would be modest and can therefore be classed as less than substantial in the terms of the Framework. Nevertheless, in the context of the CA as a whole, it would fail to preserve or enhance its character and appearance. This is a matter of considerable importance and weight.
24. The contribution to the delivery of housing and the opportunity for prospective residents to maintain the vitality of the local community are positive aspects of the development. However, such benefits arising from one dwelling would be small. Furthermore, as demonstrated by the previous appeal scheme, there may be other less harmful ways of realising such benefits and securing the long-term viable use of the Byre. Thus, the public benefits of the scheme would not be sufficient to outweigh the harm to the CA.
25. The proposal therefore fails to satisfy the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990; and parts 12, 15, and 16 of the Framework with regards to achieving good design, and conserving and enhancing the natural and historic environment. There is also conflict with Policies P10, P11, and P12 of the Leeds Core Strategy (Selective Review 2019); saved Policies GP5, N19, and N37A of the UDP; and Policy E3 of

the Bardsey cum Rigton Neighbourhood Plan, insofar as they seek to conserve and enhance the historic environment and landscapes.

26. However, I note that Policy N37 of the UDP seeks to guard against serious harm to the SLA. As the level of harm I have identified would fall below this, I do not identify conflict with this particular Policy.

Other considerations

27. The proposal would result in some public benefits as set out above, which carry limited weight in favour of the scheme.
28. The appellant directs me to the permitted development (PD) rights under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, there is no dispute that Class Q PD rights do not apply in a conservation area. Therefore, the question of whether or not the proposal would have complied with the conditions, limitations and restrictions of Class Q is no more than a theoretical exercise. As such, I give negligible weight to this matter.
29. Similarly, as the nearby appeal at Wheatfields (APP/N4720/W/18/321018) was dealt with under Class Q it has little bearing on my assessment of this appeal.
30. The manner in which the Council allegedly handled the application is not a matter for me to comment on as part of this appeal and does not alter my consideration of the planning merits of this case.

Whether very special circumstances exist

31. The proposal would be inappropriate development in the Green Belt and openness would not be preserved. It would also be contrary to one of the purposes of including land within the Green Belt. Having regard to the Framework, I attach substantial weight to this harm. Harm to the character and appearance of the CA and landscape also weighs very significantly against the proposal. The Framework makes clear that very special circumstances will not exist unless the harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
32. On analysis of all the above, there are no other considerations, including the limited public benefits identified, that would clearly outweigh the totality of the harm I have found. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

33. Given the above, the proposal conflicts with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

A Caines

INSPECTOR