



Appeal Decision

Site visit made on 21 November 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2023

Appeal Ref: APP/A4710/W/23/3321209

Ellis Bottom Farm, Mill Fold Way, Ripponden, Sowerby Bridge, Calderdale HX6 4HS

- 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 Ms C Taylor against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/00871/FUL, dated 4 August 2022, was refused by notice dated 31 October 2022.
 - The development is a proposed annex to dwelling and installation of solar panels.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed reference to the proposal being 'retrospective' in the above description as this is not an act of development.
3. I saw on my site inspection that the development had been undertaken, I have determined the appeal on this basis.
4. The appellant has provided a copy of the Environment Agency flood maps for the local area with their appeal, which shows that the appeal site is located within Flood Zone 1 (FZ1). The Council has accepted this and confirmed that a flood risk sequential test is not required, and consequently reason for refusal no. 4 is no longer relevant. The appeal has been determined on this basis.
5. The Council has advised that since its original decision to refuse planning permission for the proposal, the Calderdale Local Plan (CLP) was adopted in March 2023, which has superseded the previous development plan. The Council has advised of the new policies that are relevant to the appeal proposal and the appellant has had the opportunity to comment on them. The appeal has been determined on this basis.
6. The Council stated in its reason for refusal no. 4 that there is insufficient information provided with the application to properly assess it. However, the Council has only referred to flood risk information in this respect. I have also determined the appeal on this basis.

Main Issues

7. The main issues are:

- Whether the proposals are inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- The effect on the openness of the Green Belt;
- The effect of the proposals on the character and appearance of the area;
- Flood risk; and,
- If the development is inappropriate, whether the 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 development.

Reasons

Whether inappropriate development

8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions, set out in paragraphs 149 and 150. Policy GB1 of the CLP also closely reflects the Framework and refers to similar exceptions in this regard.
9. The appellant has argued that the proposed new building is an annex to Ellis Bottom Farm and should be treated as an extension, in accordance with both paragraph 149, exception c) of the Framework and Policy GB1 of the CLP. Both of which, jointly permit 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.
10. There is no definition of an ancillary building in the Framework, and I have not been made aware of such a definition within the CLP. However, such buildings are usually closely associated with the host building and functionally linked to it. In this case, the new annex is large, and the floor plans show it contains basic self-contained accommodation, it is also located some considerable distance from Ellis Bottom Farm (said to be some 200 metres away). Furthermore, I saw that Ellis Bottom Cottage was located between the appeal site and Ellis Bottom Farm. As such I did not find the proposed annex building to be an extension of Ellis Bottom Farm, or to accord with paragraph 149 exception c) or Policy GB1 in this respect. Based on the evidence before me, there are no other relevant Green Belt exceptions applicable to the new annex building.
11. In regard to the new free standing solar panels, as there are no relevant Green Belt exceptions for these proposals within the Framework or Policy GB1 of the CLP, they would also be inappropriate development. In coming to this view, I am mindful of paragraph 151 of the Framework that states many renewable energy projects will comprise inappropriate development and very special circumstances are required if such projects are to proceed. I will return to this later in my decision.

12. For these reasons, the new annex building and solar panels would be inappropriate development in the Green Belt which is, by definition, harmful. They would therefore conflict with Policy GB1 of the CLP, and paragraph 149 of the Framework.

Openness

13. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to keep land permanently open. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects.
14. The introduction of the new two-storey annex building into this undeveloped grassed area within the countryside would have both spatial and visual effects, particularly in view of the open and rural appearance of the immediate area. Given the lower height of the new solar panels, their visual effects would be less than that of the new annex building, nevertheless they would still have spatial effects. Openness would be reduced as a consequence of the proposals; the Framework requires me to give substantial weight to any harm to the Green Belt.

Character and appearance

15. The appeal site is located in the Ringstone Edge and Norland Moor Fringes Special Landscape Area (SLA), a locally designated landscape area. The appeal site is situated within a strip of land alongside the River Ryburn, which separates it from much of Ripponden. Mill Fold Way, a private road, which includes part of a riverside public path, runs alongside the side of the river nearest to the appeal site. There is established planting alongside the river and also to the opposite side of the appeal site on rising land.
16. I saw on my site inspection that views of parts of the new annex building are visible from the riverside public path. The appearance of the timber clad annex building, particularly given its two-storey scale, its chalet design, including its top-heavy roof feature and veranda area, in this otherwise undeveloped land is alien to the character and appearance of the area. Notwithstanding that there is planting to some of its sides along with buildings at some distance to its other sides, its appearance is conspicuous and harmful to the scenic quality of the SLA.
17. The new solar panels are located near to the new annex building, their functional design appears stark against the open grassed paddock it sits within. Whilst the new solar panels are not particularly visible from public vantage points, this does not justify their harmful siting, design and appearance.
18. To conclude the new annex building and solar panels are harmful to the character and appearance of the area and conflict with Policies BT1 and GN4 of the CLP that amongst other things seek high quality development, particularly in terms of height, massing, scale, form, and siting, which does not harm the special scenic qualities of the landscape and respects the character and appearance of the surroundings. The new annex building and solar panels also conflict with paragraphs 130 and 174 of the Framework, that amongst other things require development to be visually attractive, function well and add to the overall quality of the area, and protect and enhance valued landscapes.

Flood risk

19. Whilst the appeal site is located near to Flood Zones 2 and 3, it is located within FZ1, according to the Environment Agency flood maps used for planning purposes, which is a classification representing the lowest risk of flooding. Policy CC2 of the CLP states that a site-specific flood risk assessment is required for development within FZ1 that has a site area larger than 1 hectare or is within a Critical Drainage Area. In addition, the Framework at footnote 55 to paragraph 167 states that a site-specific flood risk assessment can be required for land greater than 1 hectare; land which has been identified by the Environment Agency as having critical drainage problems; where land is identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where development would introduce a more vulnerable use. The appeal site's area is less than 1 hectare, and although the proposal includes a more vulnerable use, I have not been made aware that any of those other circumstances apply to the appeal site that would require a site-specific flood risk assessment.
20. Notwithstanding this, the appellant has provided a site-specific Flood Risk Assessment, which states that the floor level of the new building and lowest part of the solar array are raised above the ground levels by at least 0.35m to reduce any potential flood risks. The appellant has stated that surface water is to be drained via a sustainable drainage system, but the exact details are not specified. Had I been minded to allow the appeal, a suitably worded condition could have been imposed in regard to surface water drainage.
21. On the basis of the information before me, and subject to a condition, I conclude that the new annex building and solar panels would not give rise to unacceptable flood risks and comply with Policy CC2 of the CLP that amongst other things seeks to mitigate potential flooding and direct development to areas with the lowest risk of flooding.

Other considerations

22. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes at paragraph 147 of the Framework 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.
23. In relation to renewable energy projects, paragraph 151 of the Framework states that very special circumstances can include the wider environmental benefits associated with increased production of energy from renewable sources. In this case, the new solar panels are small (2 panels by 4 panels). Although it is said that it provides renewable energy for the new annex, which is an environmental benefit, the actual amount of energy produced has not been specified, nor has its contribution towards wider environmental benefits been stated. Notwithstanding this, given its limited scale, such benefits are likely to be very small, and against this background and my conclusions above in regard to the new annex building, I attach limited weight to the contribution of the free-standing solar array to wider environment benefits.
24. The appellant has suggested that the new building and solar panels would not conflict with the purposes of the Green Belt as set out in paragraph 138 of the Framework. In my assessment above I found that the proposal would be

inappropriate development that would harm the openness of the Green Belt. Furthermore, the proposal would add to urban sprawl within the Green Belt and conflict with its purposes. I do not concur with the appellant in respect of this matter, as such I attach no weight to this argument.

25. The appellant has stated that the new annex building and solar panels do not have harmful effects upon the living conditions of nearby occupiers and that they are not prejudicial to highway safety. However, these are requirements of any such well-designed development and these matters neither weigh in favour or against the proposal.

Conclusion

26. The new building and solar array would be inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. These matters carry substantial weight. At most I give limited weight to the material considerations cited in support of the new development and conclude that, taken together, they do not outweigh the harm the development would cause to the Green Belt.
27. Consequently, the very special circumstances necessary to justify the new development do not exist. The new annex building and solar panels would therefore conflict with Policy GB1 of the CLP and national Green Belt policies contained within the Framework, which collectively seek to protect the Green Belt from inappropriate development. There would also be conflict with the Green Belt purposes set out in the Framework, contained in paragraph 138. The new development also conflicts with Policy BT1 and GN4 of the CLP in terms of their effect upon the character and appearance of the area.
28. The new annex building and solar panels conflict with the development plan taken as a whole and national policy set out in the Framework to protect the Green Belt, and as such they do not comprise sustainable development. There are no other considerations that outweigh that conflict and for these reasons the appeal is dismissed.

A Hunter

INSPECTOR