



Appeal Decision

Site visit made on 6 June 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2024

Appeal Ref: APP/X4725/W/24/3338095

The Water Tower, Bar Lane, Midgley, Wakefield WF4 4JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Hudson against the decision of Wakefield Council.
 - The application Ref is 23/00549/FUL.
 - The development proposed is a change of use from a water tower to short term let accommodation, including extensions and alterations, change of use of agricultural land to form curtilage of site, creation of hardstanding areas, and construction of new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form development description cites "Change of use from dwelling to short term holiday" [sic]. The decision notice cites "Change of use from water tower to short term let accommodation, including extensions and alterations. Change of use of agricultural land to form curtilage of site and creation of hardstanding areas. Construction of new access (part-retrospective)." The Council's justification, alongside the proposal being part retrospective, is that no dwelling use had commenced, so the proposal could not comprise a change of use from such. The appellant did not fully agree to this amendment, in part due to the extent described as retrospective.
3. My site visit identified that physical works to the structure appear to be complete, with some of the other site works also complete or part complete. The appellant has confirmed the site has been in use as a short term let, and remains so, but was not occupied as a dwelling. I have therefore slightly revised the description, to provide suitable clarity. I have excluded 'retrospective' as it is not a development type.
4. I note the building's physical appearance does not fully align with the submitted plans. The band between the level 1 and 2 windows is deeper, an effect enhanced by a clear cladding join in between. No specific response has been provided by the appellant following the Council highlighting this matter. For the avoidance of doubt, I have assessed the proposal on the basis of the submitted plans and not the 'as built' structure.
5. The Wakefield District Local Plan 2036, Volume 1 Development Strategy, Strategic and Local Policies (LP) was adopted in January 2024, after the application's refusal. The appeal was submitted after this date, allowing the appellant to comment on any implications.

Main Issues

6. The main issues are:

- whether the development would be inappropriate development in the Green Belt, including any effect on openness, having regard to the National Planning Policy Framework ('the Framework') (2023) and any relevant development plan policies; 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 necessary to justify the proposal.

Reasons

Inappropriate Development and Openness

7. The appeal site comprises a tall water tower no longer in operation, with a curtilage and parking area around its base. It lies within a very rural setting of open fields, and within Green Belt. It is highly visible in short and long range views both due to its height, and its prominent position alongside Bar Lane and on top of a ridge, with the land falling away particularly to the north. As identified above, works to the water tower structure have been undertaken to change it into residential accommodation. It originally had a functional and engineered character, comprising a columnar form topped by a broadly cylindrical drum-like tank, and constructed of concrete.
8. The proposal is for a change of use to a short term holiday let. Living space plus 4 bedrooms would be created through the insertion of windows in the tank, a glazed extension on top under a conical roof, a glazed extension suspended from the underside of the tank, and a porch at the base. The area around the base would be increased to create a garden and grasscrete parking area, bounded by 1.0m high timber and post fencing. A new access off Bar Lane would have 1.0m high walls and gate.
9. The Framework paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The LP Policy LP62 broadly takes the same approach to Green Belt as in the Framework.

Works to the Water Tower

10. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. The physical works to the water tower would fall under paragraph 154(c), being 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. The Framework does not define 'disproportionate additions', which is a matter of planning judgement. The Council has a general rule of up to a 50% increase being proportionate.
11. Annex 2 of the Framework defines 'original building' as a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally. My assessment is therefore based in comparison to the original water tower building.

12. With the exception of the uppermost floor, the proposal is very similar to one allowed on appeal in 2017¹. That Inspector was mindful that its overall volume increase would be just under 50% (including the removal of an outbuilding). They identified there would be extremely limited interventions of windows and porch, and that the extensive glazing and consequent lightweight appearance of the suspended floor would not read as bulky or a disproportionate addition to dominate or utterly obscure the original form.
13. While I see no reason to conclude differently with relation to the similar elements of the proposal, I find the additional uppermost floor would introduce a relatively dominant feature. This is because it would be highly visible at the top of the structure, and would also amend the original unseen flat roof to a shallow conical roof. The use of glazing would not sufficiently mitigate this or appear similar to the previous railings, due to the solid roof form above.
14. Furthermore, the Council suggests it would result in an approximate 85% increase in volume in comparison to the original water tower, a figure not disputed by the appellant, and significantly above the 50% rule.
15. The proposal as a whole would thus be a disproportionate addition, and consequently would not meet the exception under the Framework paragraph 154(c), and would be inappropriate development.

Re-use of buildings

16. Paragraph 155 of the Framework establishes that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 155(d) allows the re-use of buildings, provided that they are of permanent and substantial construction, which I am satisfied is the case. The Framework paragraph 142 identifies 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 has spatial as well as visual aspects.
17. Alongside the re-use of the structure, the use of agricultural land for the garden and parking falls under this exception. I note the Council assessed this separately as being a material change in the use of land under the Framework paragraph 155(e). However, recent case law² has established that residential uses do not fall within the 'such as' list of examples within brackets in paragraph 155(e); "for outdoor sport or recreation, or for cemeteries and burial grounds". This is because other potential such uses should be very closely aligned to those examples given.
18. Spatially, and notwithstanding the incorporation of significant glazing, the physical works to the water tower structure would create significantly more massing from its extended height above and depth below the original structure, and from its roof form and porch. I have concluded above that it would be a disproportionate addition. As such, I find it would spatially harm openness.

¹ Application reference 16/01858/FUL, appeal reference APP/X4725/W/17/3173464.

² Royal Borough of Kingston Upon Thames v Secretary of State for Levelling Up, Housing and Communities & Anor [2023] EWHC 2055 (Admin)

19. The proposed garden and parking area would incorporate domestic paraphernalia and the routine placing of potentially large items in the space, including secure bicycle parking, play equipment, seating, and vehicles.
20. The appellant considers there would only be 1 or 2 cars on site, as families usually travel on holiday together. The building would also be vacant in between lets. However, I have assessed the proposal against its maximum occupancy of 8 persons, for the majority of the year, as no conditions have been brought to my attention which could reasonably restrict the number, type, or frequency of lettings or parked cars. While likely that car sharing would take place, I find car parking for a 4 bedroom holiday let would be more than the historic water tower use, and across a wider area of Green Belt.
21. Visually, the openness of the Green Belt is extremely evident around the property, in both long range views, and at close range from the road and public footpath through the adjacent field. It has a strong rural and agricultural character of open space, with interspersed settlements within the longer range setting. The holiday let structure would be highly visible within this context, and thus visually harm openness.
22. The Council raises no issue with the proposed 1.0m high front walls, including from a highway safety perspective, and on the evidence before me I also see no reason to consider otherwise. However, despite post and rail fencing being a common countryside boundary, its use around the rest of the site would be an untoward juxtaposition to the large expanse of the wider agricultural field. The domestic use of the garden and parking in nature and scale would be clearly apparent, and so would be somewhat obtrusive, even in comparison to the eye catching tower above. Although landscaping could be incorporated, visual containment would not in itself remove the harmful loss of openness of the Green Belt.
23. In drawing together my findings on spatial and visual impact, I therefore find that the scheme would result in harm to openness. Furthermore, the proposal must also not conflict with the 5 purposes of including land within the Green Belt as identified in the Framework paragraph 143. A curtilage increased on 3 sides and which the Council identifies would be more than five times the original, would be encroachment into the countryside.
24. For these reasons, the appeal proposal as a whole would be inappropriate development in the Green Belt, which is, by definition, harmful. It would therefore conflict with the LP Policy LP62, and Section 13 of the Framework.

Other Considerations

Consented Fallback

25. The consented scheme to form a dwelling is a fallback position. However, that structure would have an overall lower scale and massing than the appeal proposal, and therefore a lesser visual and spatial impact over a significant distance.
26. There is limited evidence to compare likely external domestic paraphernalia, and parked cars. The Highway Authority considered the holiday let unlikely to be more intensive in terms of parked vehicles than the consented dwelling. The appellant highlights the similarities, being 1 or 2 cars parked on the site, leaving and returning once or twice a day, and periods when the property is not

let. However, the fallback also has a much smaller area of garden and parking. The previous Inspector considered that as that scheme's curtilage would be contained within the established limited boundaries, any domestication from bin storage or from parking cars would also be limited, and so would not reduce the openness of the site to any material degree. They also identified that given the contained nature of the proposed development, it would also not result in a harmful encroachment into the countryside.

27. Therefore, overall the fallback would have less impact on the Green Belt, such that it does not weigh in favour of allowing the appeal.

Other Potential Fallback

28. The appellant identifies adjacent historic agricultural storage, accessed through the site. However, due to the seasonality of farming activity, I expect such storage unlikely to be for as long cumulatively as that of vehicles and other domestic paraphernalia as for a holiday let. The holiday let would be permanent, and thus would have a consistent impact on openness. Importantly, hay bales are also a typical component associated with farmed land. Furthermore, hay storage would still be necessary somewhere within the agricultural land, and therefore it is not an 'either/or' scenario, albeit access would need to be taken from elsewhere. Land scarring does not physically impact on openness.
29. I accept that the Government gives general support to the principle of extending dwellings upwards, as demonstrated by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and the Framework paragraph 124. However, I give this very limited weight in principle, as it is caveated by the need for specific proposals to comply with other policy guidance. The appellant also suggests that the building could have been developed under Class AA of the GPDO in allowing up to two additional storeys on a dwelling. However, even had it first been occupied as a dwelling, the proposal would amend the roof pitch and thus would not meet all the Class AA requirements. I therefore give this no weight as a fallback.

Need

30. The appellant indicates that significant financial savings were made overall, resulting from the decision to undertake the uppermost floor and roof element at the same time as a necessary roof repair during the consented scheme construction. They identify it was not financially viable to put the project on hold or re-build the existing roof, when the intention was to raise its height. However, they accept that the design choice was a calculated risk at that point. I note that they would have been aware that the Council had already indicated a lack of support for the upper floor, resulting in amended plans for its removal under the consented scheme, and that it would also be larger than the just under 50% volume increase of which the previous Inspector was mindful.
31. The additional floor and the use as a holiday let are also identified as aiding the scheme's economic viability. It is common knowledge that costs have escalated generally, including rising material and labour costs, and rising interest rates. However, there is no viability evidence to demonstrate with any certainty that the project would have been unviable and unable to continue construction in its consented form. As such, I give the construction timing and the financial

viability at that time only limited weight as a material consideration in justification for the scheme.

32. The new upper floor would provide more living space than the fallback. However, this would only be a minor benefit for any future occupants, and a financial benefit to the appellant. I therefore give this only very limited weight.
33. The appellant's justification for the enlarged curtilage is that it is reasonable to expect occupation by families, who would thus need some amenity space, including allowing for children to play away from the road. However, as short term let accommodation, I am not convinced of this need for play space. The appellant also states that there is nothing to suggest that a larger parking area will increase the number of cars parked on the site. If this is so, then there is no justification for the size of parking area proposed.
34. My determination is made on the planning balance of the proposal before me, and not on any potential financial implications of any potential enforcement action if I dismiss the appeal.

Tourism and Re-Use of the Building

35. The Council gave no weight at application stage to the potential tourism benefit, due to a lack of evidence. However, even with only very limited evidence, I find it straightforward that the proposal would support tourism to some degree. Proof for demand is shown from future bookings, and the property was let during my site visit.
36. Furthermore, the LP Policy SP10(2)(I) states that the economic performance of the district will be improved by encouraging new facilities and accommodation for tourists, having superseded the Wakefield Core Strategy (CS) (2009) cited by the appellant to include a similar intent. The economic benefit to tourism of the scheme as a whole is a material consideration, and the additional floorspace compared to the fallback would thus provide some additional benefit in this regard. The provision of a single unit of accommodation, is however, only a small-scale contribution to this, and so I give it limited weight.
37. The re-use of the building and of previously developed land is a benefit of the proposal, and supported by the Framework in general terms.

Design

38. The Council considers that given that the proposed overall design is in keeping with the consented scheme, with the upper floor extension being similar in appearance to the lower extension but of a lower height, the proposal is acceptable in design terms. The timber cladding is also considered to be acceptable within this rural setting. I agree that in isolation, the design and appearance of the development would be acceptable, and in accordance with the Framework paragraph 135 which requires developments to add to the overall quality of the area, and be visually attractive as a result of good architecture. It would also comply with the LP Policies SP23 and LP56, which together and amongst other matters, require development to contribute to the local distinctiveness, and make a positive contribution to the environment and amenity of its locality by virtue of high quality design and layout.
39. Paragraph 139 of the Framework further identifies that significant weight should be given to outstanding or innovative designs which promote high levels

of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. The LP Policy LP56 also identifies that innovation, distinctiveness, and creativity will be encouraged to ensure the delivery of high quality and sustainable development.

40. I have no doubt that the water tower conversion as proposed would provide a unique and distinct building within the locality, and has done so in its current form. I note the absence of interested party objections, the direct and indirect support received including significant media attention, and that it has already become a landmark feature of which many people in the local area are proud.
41. However, this does not indicate that no harm would be caused were I to allow this appeal. I found above that the proposal would not fit in with the overall form and layout of its surroundings, with relation to the prominence of its altered form within its Green Belt rural location. It therefore does not gain significant support from the Framework paragraph 139, such that I give the overall innovation of the design only moderate weight in favour.

Highways

42. There would be a benefit in allowing service vehicles to park within the site rather than on the side of the road. However, there is no evidence to suggest that the short term let would increase the frequency of these, and I note that the Highway Authority and the previous Inspector were satisfied with the access as approved. I therefore give this limited weight.

Planning Balance and Conclusion

43. In summary, the use of the structure as a holiday let would not in isolation cause harm to the Green Belt. However, the additional upper floor massing has made the proposal as a whole become a disproportionate addition compared to the consented scheme. Furthermore, there would be a harmful effect on openness and encroachment into the countryside from the increased curtilage area. The proposal would therefore be inappropriate development in the Green Belt in the terms set out by the Framework, and the LP.
44. I give this harm substantial weight as required by the Framework paragraph 153. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
45. Against the totality of the harm I have identified, the other considerations and benefits advanced by the appellant as outlined in detail above are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would thus conflict with the LP Policy LP62 and the Framework.
46. In conclusion therefore, the proposal would be contrary to the development plan and the Framework taken as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR