



Appeal Decision

Site visit made on 28 May 2024

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th June 2024

Appeal Ref: APP/M1005/W/23/3333892

31 The Dairy, Main Road, Lower Hartshay, Ripley, Derbyshire DE5 3RP

- 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 D Palmer against the decision of Amber Valley Borough Council.
 - The application Ref is AVA/2023/0540.
 - The development proposed is a first-floor extension over kitchen, creation of first floor link, part single and part two-storey extensions to the rear, two-storey entrance porch and balcony to the new front elevation.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr D Palmer against Amber Valley Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the description of development from the Council's decision notice as this more accurately describes the proposal. This description is consistent with the appeal form.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, the appellant's statement of case refers to the updated version of the Framework in the context of the appeal. Therefore, in determining the appeal I have proceeded based on the revised Framework, having regard to the representations made by the appellant.
5. The Council's delegated report sets out that the proposal would have an overbearing effect on the neighbouring properties. However, no harm to living conditions is alleged within the refusal reasons. As I am dismissing the appeal for other reasons, I have not considered this matter any further as it could not lead me to a different conclusion.

Main Issues

6. The appeal site is in the Green Belt. Therefore, the main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

- the effect of the proposal on the openness of the Green Belt;
- the effect of the proposal on the character and appearance of the appeal property and the surrounding area; and,
- if the proposal is inappropriate development, whether the resulting harm and any other harm, is clearly outweighed by other considerations, to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development

7. Section 13 of the Framework establishes the national policy objective to protect the Green Belt and to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful 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 development, subject to several exceptions as set out in paragraph 154. One such exception being the extension or alteration of a building provided that the proposal would not result in disproportionate additions over and above the size of the original building.
8. Saved Policy EN2 of the Amber Valley Borough Local Plan 2006 (Local Plan) pre-dates the Framework and, unlike national policy refers to the 'original dwelling' rather than the 'original building'¹. Nevertheless, I find Policy EN2 to be broadly consistent with the general thrust of national policy in so far as it supports limited extensions or alterations in the Green Belt provided that it would not result in a disproportionate increase over the original.
9. The Framework does not define the term 'disproportionate additions'. Similarly, Saved Local Plan Policy EN2 does not specify any percentage increases which would be considered acceptable, and I note that a similar approach has been taken by the Council in Policy SS9 of the emerging Local Plan. There is however nothing within national policy which requires development plan policies to stipulate size parameters. In the absence of such indicators, this is ultimately a matter of planning judgement based on overall size which can be informed by footprint, floorspace or volume.
10. The appeal property is an amalgam of a former farmhouse and adjacent barn which have been linked via a single storey extension. From the evidence before me, it is apparent that both the farmhouse and barn pre-dated 1948. However, they were separate buildings which had their own structural integrity and use. Therefore, I am not convinced that the attached barn was part of the 'original building' for the purposes of the Framework but separate to it. Nevertheless, even if I were to take account of the combined volume of both buildings as set out within the Planning, Design and Access Statement (PDAS), the proposal, by virtue of the estimated volume and floorspace percentage increases as put to me by the appellant would amount to a substantial addition to the property, one which I find would represent a disproportionate addition over and above the size of the original building.

¹ Original building means a building as it existed on 1 July 1948 or, if constructed after that date, as it was originally built.

11. The appeal site is not located within a built-up area. Therefore, having regard to the Framework, the garden land would be regarded as previously developed land (PDL). The exception at paragraph 154 (g) of the Framework permits the partial or complete redevelopment of PDL with the proviso that it would not have a greater impact on the openness of the Green Belt than the existing development. The proposal, by virtue of its height, volume, and floorspace would result in a considerable increase in the spatial footprint of development at the site. This would lead to an inevitable and demonstrable loss of openness. Therefore, despite the PDL land status, the proposal would still amount to inappropriate development in the Green Belt.
12. For these reasons, I find that the proposal would be inappropriate development in the Green Belt, which is by definition harmful. This carries substantial weight. It would therefore fail to accord with the provisions of the Framework and Saved Policy EN2 of the Local Plan.

Openness

13. Openness is an essential characteristic of the Green Belt and can be perceived both spatially and visually. Notwithstanding the neighbouring built form, the openness of the Green Belt is clearly evident around the property and the wider area. The proposal would see the appeal property extended on the east, south and west elevations which would include the introduction of considerable built form at both ground and first floor level.
14. In spatial terms, the loss of the undeveloped space to the rear of the appeal property and the introduction of built form would lead to an inevitable and demonstrable loss of openness. The resultant building, by virtue of the increased volume and floorspace would have a greater visual bulk and mass which would be visible to the occupiers of neighbouring properties and at least partially visible from the adjacent road.
15. Taken together, the spatial and visual aspects would result in a harmful loss of openness, albeit limited given the scale of the proposal. It would nevertheless add to the harm arising from the proposal being inappropriate development.

Character and appearance

16. The appeal property occupies a prominent roadside location and comprises a modestly proportioned, rendered dwelling and brick-built barn which are linked via a single storey extension. The property has an L-shaped footprint, with the main elevation of the dwelling at right angles to Main Street whilst the outbuilding lies parallel to the street. The surrounding area is characterised by properties of varying age, architectural style, and external finish. Despite the mix, there is a general consistency in the proportions of the existing built form which provides a degree of cohesion. This contributes to the character and appearance of the area.
17. The rendering of the attached barn would to some extent erode the character and appearance of the former agricultural building. However, the openings on the roadside elevation would be unaffected as would the buildings proportions. Therefore, the building's origins and former use would still be understood. Moreover, given the abundance of render in the area, the resultant building would not appear discordant in the context of its surroundings. Consequently,

I do not consider that the rendering of the brick would be of detriment to the character and appearance of the appeal property or the surrounding area.

18. The height and scale of the proposed extensions, taken individually would be subservient to the appeal property and would take various design cues including the balcony feature from the surrounding area. Nevertheless, cumulatively the proposed extensions would dominate the appeal property and the effect would be to subsume the original farmhouse and attached barn into the various additions. As a result, the legibility of the two buildings would be unacceptably undermined. The obtrusive form of the proposed development would be readily apparent when viewed from neighbouring dwellings and to a lesser extent, the nearby road.
19. Overall, I find that the proposal would harm the character and appearance of the appeal property and the surrounding area. The proposal would therefore conflict with Local Plan Policy LS3 where it seeks to ensure that proposals reflect the principles of good design by respecting the character of the locality in terms of scale and massing. It would also be inconsistent with the design objectives of the Residential Development Supplementary Planning Document 2007 and the Framework.
20. Although not mentioned in the refusal reason, the Council's delegated report alleges conflict with Local Plan Policy H12. As this relates to proposals for new housing development, it is not determinative in this appeal.

Other Considerations

21. Planning permission² (PP) has been given by the Council to extend the appeal property. This alternative scheme is fundamentally the same as the appeal proposal apart from the single storey swimming pool extension to the rear and the rendering of the brickwork. My attention has also been drawn to a Lawful Development Certificate³ (LDC) which concerns the erection of a detached building to the rear to accommodate the proposed swimming pool. Were the appeal to be dismissed, the appellant advises that both schemes would be implemented (the fallback position) and I have no reason to doubt that there is a reasonable prospect of the above being implemented if planning permission were to be refused.
22. In comparison to the appeal proposal which would extend nearly the full width of the undeveloped space to the rear of the appeal property, the LDC scheme would be set in from the site boundaries and detached from the appeal property. Whilst it would project further beyond the rear and side elevation of the appeal property and thus be more visible from the road, the narrower dimensions and separation from the main dwelling would provide a relief in built form, reducing the physical and visual mass of the overall development whilst also ensuring the legibility of the two original buildings. It would therefore result in less harm to the openness of the Green Belt and the character and appearance of the area. For these reasons, whilst having had regard to the PP and LDC, I do not consider that these schemes would be

² AVA/2023/0881 – First-floor extension over existing kitchen, creation of first-floor link, part single storey and part two-storey extension to the rear, two-storey entrance and balcony to the new front elevation, demolition of conservatory to barn and installation of bi-folding patio doors, installation of additional 5 solar panels to extension roads and installation of three air source heat pumps.

³ AVA/2024/0131 LDC

equally or more harmful than the appeal scheme. I therefore afford the fallback position limited weight.

23. The Council has given planning permission for extensions to nearby properties which are far in excess of the 48% volumetric increase proposed in this case. However, despite these percentage increases and spatial differences, the bulk and mass of these extensions as indicated on the plans provided are visually less and therefore do not compare to the appeal proposal. As such, these decisions do not weigh in favour of the proposal nor are they indicative of inconsistent decision making.
24. It may be the case that Local Plan examinations have found a 50% increase in floorspace to be acceptable. I am also aware from the evidence before me that appeal decisions have endorsed a 50% increase. That said, they are not relevant to the Local Authority concerned and were judgements made by Inspectors based upon specific evidence presented to them. I do not agree that in the absence of a specified increase, as is the case here, that it logically follows that the maximum acceptable increase is that of other adopted Local Plan Policies and established appeal decisions or indeed that paragraph 11 (d) of the Framework is engaged.
25. It has been put to me by the appellant that aspects of the internal layout of the existing property are haphazard and incoherent. The proposal would enable the accommodation to be reconfigured enhancing both the internal coherence and circulation of the building which would be of personal benefit to the appellant, but also improve the existing housing stock in the area. I am also told that the thermal performance of the building is exceedingly poor. Even if I were to give significant weight to the need to support energy efficient improvements, it has not been demonstrated that the proposal is the only way of achieving this. Indeed, the fallback position is indicative that the current scheme is not the only option. Limited weight is therefore afforded to these considerations.
26. The adjoining occupiers did not object to the proposal. There are no listed buildings within the immediate vicinity of the appeal site and the site is not located within a Conservation Area. These however are neutral factors and neither weigh in favour nor against the proposal. Whilst the proposal would offer an opportunity to enhance biodiversity, the extent of the benefit in comparison to leaving the site undeveloped is not clear. I therefore give this limited weight.
27. For the reasons outlined, I find Local Plan Policy EN2 to be broadly consistent with the provisions of the Framework. In this case, even if I were to agree that there are no relevant development plan policies, I have identified harm to the Green Belt. This provides a clear reason for refusing the development and therefore the presumption in favour of sustainable development as set out at paragraph 11 (d) of the Framework does not apply.
28. I am mindful of the appellant's frustrations regarding the delay in determining the planning application and the Council's reluctance to engage in verbal discussions prior to the determination of the planning application. This however has no bearing on my considerations of the merits of the appeal proposal. I also note the appellant's suggestion that relevant policies were overlooked by the Council. In determining the appeal, I have had regard to the policies listed by the appellant, however they do not lead me to a different conclusion. Whilst mindful of the extent of land ownership, the relevant test in this case is not

whether the dwelling, as extended is commensurate to the scale of land ownership. Furthermore, factual errors, whilst misfortunate, in this case are not so fundamental that the proposal has been misunderstood. Thus, the refusal reasons would be unaffected.

29. I have had regard to the conditions set out by the appellant, including the response of the Council's Pollution Officer in relation to the Air Source Heat Pumps. These conditions however would not be sufficient to make the development acceptable in planning terms.

Green Belt Balance and Conclusion

30. The appeal proposal would constitute inappropriate development in the Green Belt, which carries substantial weight. As well as harm by reason of inappropriateness, the proposal would cause a harmful loss of openness, albeit limited. It would also be harmful to the character and appearance of the appeal property and the surrounding area. For the reasons set out above, the harm to the Green Belt would not be clearly outweighed by the other considerations. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated.
31. Having regard to the development plan as a whole and all other relevant material considerations, including the provisions of the Framework, the appeal is dismissed.

H Wilkinson

INSPECTOR