



Appeal Decision

Site visit made on 23 July 2024

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/N4720/D/24/3340175

Island Cottage, Blackstone Gill Lane, Wike, Leeds LS17 9JU

- 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 Jonathan Ellis against the decision of Leeds City Council.
 - The application Ref is 22/05939/FU.
 - The development proposed is provision of secondary driveway to existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i. Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
 - ii. The effect of the appeal scheme on highway safety.
 - iii. 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 required to justify the proposal.

Reasons

Whether inappropriate development

3. The proposal is the creation of a new vehicular access with a gate that would replace part of the existing hedge in this location.
4. The appeal site is in the Green Belt. The National Planning Policy Framework (the framework) states that the construction of new buildings as inappropriate in the Green Belt unless it is for one of 7 specified exceptions¹. All other buildings are, therefore, inappropriate development.
5. The term building is defined in section 336 of the 1990 Act as including "any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. Applying this definition of building to the appeal scheme, the proposed gate is regarded as a building for the purposes of the Framework.

¹ Paragraph 154 of the National Planning Policy Framework

6. The Council identifies that the 7 exceptions referred to previously do not apply to gates, wall and fences and this is not disputed by the appellant and based on the evidence before me I find no substantive reason to conclude otherwise. As such, the appeal scheme is inappropriate development in the Green Belt.
7. The appellant asserts that they do not consider that the proposal would be harmful to the Green Belt as a result of the "small area of affected land".
8. The courts² have confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. In this instance, the appeal site and scheme are of a very modest size in themselves and in the context of the wider Green Belt.
9. Turning to the visual element of the appeal scheme. The appeal site is of a typical domestic appearance and the appeal scheme would not therefore appear out of context or incongruous and would, in part, replace an existing mature hedge. Nonetheless, the appeal scheme would include development above ground level and would be seen from the immediate surrounds of the appeal site.
10. On this basis I find that the appeal scheme would have a very modest effect and therefore a very limited degree of harm, to the openness of the Green Belt. In accordance with the provisions of the Framework this harm nevertheless carries substantial weight.

Highway Safety

11. The appellant's appeal statement details that the purpose of the appeal scheme is to improve access to the site, in particular removing the need for vehicles to reverse onto Backstone Gill Lane, if they are unable to turn within the site, allowing vehicles to enter via the existing gate and then through the proposed gate in forward gear.
12. The Council accept that there are existing highway safety concerns³ with the existing arrangements. I note that the Council have assessed the proposals on the basis that vehicles may enter or exit through either gate and that the Council cannot control the use of the gates (for access or egress) is not at dispute between the parties and I have no substantive evidence before me that would lead me to conclude otherwise.
13. The Council have identified a need for visibility splays of 2.4m x 43m. While the Council accepts that the 2.4m requirement can be achieved, the submitted plans are annotated to show that just 19.2m to the left of the proposed access and 12.6m to the right are achievable. This is significantly below the requirements identified by the Council.
14. My observations at the site visit of the volume and speed of vehicles on the road, does not lead me to conclude that the reduced visibility splays would be satisfactory, and I have no other substantive evidence before me that would lead me to conclude otherwise.
15. In principle, the ability for vehicles to enter and exit the site in a forward gear is beneficial to highway safety. However, in light of the inadequate visibility

² Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

³ Officer's report.

splays at the proposed exit, I do not consider that it has been demonstrated that there is any overall benefit to highway safety as a result of the appeal scheme.

16. Thus, I find that the appeal scheme would harm highway safety contrary to Policy T2 of the Leeds Local Plan Core Strategy, saved policy GP5 of the UDP and the Transport SPD that seek to protect highway safety.

Other Considerations

17. In the absence of any clear benefits of the appeal scheme to highway safety, I do not consider that there are other considerations that clearly outweigh the harm to the Green Belt that I have identified previously. Specifically, harm that in accordance with the Framework, I give substantial weight.
18. As a result of my findings above, very special circumstances to justify the appeal scheme do not exist in this instance. As such the appeal scheme is contrary to Policy N33 of the Leeds Local Plan Core Strategy that seeks to protect the Green Belt and the provisions of the Framework.

Conclusion

19. For the reasons given above and having had regard to all other material considerations the appeal should be dismissed.

Mr M Brooker

INSPECTOR