

Appeal Decision

Site visit made on 13 August 2024

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2024

Appeal Ref: APP/A4710/W/24/3338053

Longroyd Farm, Long Royd Road, Sowerby Bridge HX6 1NX

- 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 J O'Shaughnessy against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 23/00931/HSE.
 - The development proposed is described as 'conversion and extension of the former helicopter hangar building to ancillary domestic accommodation'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form, appeal form and the Council's decision notice identify different addresses for the appeal site. After I sought the views of the parties on this matter, both parties agreed that the address in the banner heading above accurately identifies the site. This address was used in the Council's decision notice, the appellant's statement, and in notification of the application. I am therefore satisfied that no party would be prejudiced by my use of it.
3. The Council's decision notice refers to, amongst other plans, an 'Existing and Proposed' plan, ref LNG/01 Rev A. However, it has been confirmed by the parties that no Rev A plan was submitted with the application, and that the correct reference should be Lng/01. For the avoidance of doubt, I have proceeded to determine the appeal on the basis of the submitted plan 'Existing and proposed plans + Existing and proposed site plans' ref Lng/01.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect of the proposal on the openness of the Green Belt; 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

5. The appeal site is located in the Green Belt and comprises of a detached stone dwelling, Longroyd Farm, positioned within an extensive plot. The property is also known as Longroyd House. The appellant's evidence confirms that the appeal building sits within the boundaries of land associated with the dwelling. It is a large single storey stone building with a metal sheet flat roof and is currently used for domestic storage.
6. The Framework states 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. Policy GB1 of the Calderdale Local Plan 2018/19 – 2023/33, March 2023 (CLP) sets out the types of development that would not be inappropriate development in the Green Belt, and these reflect those set out at paragraphs 154 and 155 of the Framework. The appellant draws my attention to paragraphs 154 (c) and 155 (d).

The extension or alteration of a building (exception 154 (c))

7. Paragraph 154 of the Framework states that the construction of new buildings is inappropriate in the Green Belt, but it sets out a number of exceptions. This includes at 154 (c) 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.
8. The proposed development would be an extension to the existing detached out-building (the appeal building), to be used for ancillary domestic accommodation. The Framework explains that the 'original building' shall mean the building as it existed on 1 July 1948, or if constructed after that date as originally built. The parties dispute what is the original building and thus whether or not the proposal would be a disproportionate addition. While the Council contend that the main dwelling, Longroyd Farm, is the original building and the appeal building is an extension to it, the appellant takes an alternative view that the appeal building is the original building.
9. It is clear from the evidence provided that the appeal building was not erected at the same time as Longroyd Farm, or before 1948. Evidence also indicates that the building was constructed as a garage¹ and subsequently, a condition was removed on that permission to allow the building to be used as an agricultural implement shed². Nevertheless, both parties attest that the building has been used for many years to accommodate a helicopter for the personal use of the occupant of the main dwelling. The appellant also claims that the building is incorporated within the residential use of the land associated with Longroyd Farm and is used for domestic storage. Access to it can only be obtained from the driveway or garden of the main dwelling.

¹ LPA Ref:92/0046/FUL

² LPA Ref:94/01611/FUL

10. Caselaw³ has established that extensions can include structures which are physically detached from the building of which they are an extension. However, case law does not set a distance at which a freestanding building should, or should not, be considered an extension. In addition, there is no evidence before me to indicate that the development plan provides any guidance for when a detached outbuilding may be considered to form part of a dwelling. As such, this is a matter for the decision maker to assess.
11. In this case, a single driveway off Long Royd Road leads to the main dwelling and the appeal building. There is a short length of paved path and a paved/patio area between the appeal building and the dwelling which sit at a similar ground level. The existing folding access doors of the appeal building directly face the dwelling. Part of the intervening patio space between the building and the dwelling is used as an outdoor seating area. In view of its proximity, there is clearly a direct physical, visual and functional link between the dwelling and the appeal building. Furthermore, the use of the building would be for purposes related to the occupation of the dwelling.
12. For these reasons I consider the appeal building is so intimately associated with the dwelling so as to lead to the conclusion that it forms part and parcel of it. The application was submitted on a householder form for works or extension to a dwelling. Moreover, the appellant's claim that the building is incorporated within the residential use of the land associated with main house and is used for domestic storage reinforces my view that the appeal building is a domestic adjunct to the original building – i.e Longroyd Farm. On the basis of the information before me in this case, I find the appeal building to be an extension to the original building and paragraph 154 (c) of the Framework and Policy GB1.I.c. of the CLP are relevant.
13. That leads to the consideration of whether the proposal would meet the test of not resulting in disproportionate additions over and above the size of the original building. What constitutes a disproportionate addition is not defined in the CLP or the Framework.
14. In this instance, Longroyd Farm has been previously extended, notably through a two-storey rear extension and single storey extensions to the side. The Council contends that the house has already been disproportionately extended by approximately 350%, including the appeal building. Based on the scale of these existing extensions, I see no reason to disagree. In purely mathematical terms this increase is disproportionate.
15. The proposal would therefore be a further disproportionate increase over and above that of the original building. Even if I were to conclude that the appeal building was the original building, when considered in the context of the existing relatively discreet low building, the proposal would further increase the massing and scale of the building such that it would amount to a disproportionate addition.
16. For the above reasons, I find the proposal would not meet the exception criteria in paragraph 154 (c) of the Framework or that of Policy GB1.I.c. of the CLP.

³ Warwick District Council v SSHCLG [2022] EWHC 2145 (Admin)

The re-use of buildings (exception 155 (d))

17. In respect of paragraph 155 (d), the Framework states that certain forms of development are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purpose of including land within it. The Council do not dispute the proposed use of the appeal building, or that it is not of permanent and substantial construction. From my observations on site and the evidence before me, I have no reason to disagree. However, the proposal would include a disproportionate addition as set out above, as well as fenestration alterations. In order to benefit from the exception criteria in paragraph 155 (d), the proposal would be required to preserve the openness of the Green Belt.
18. A fundamental aim of Green Belt policy, as set out by the Framework, is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness in Green Belt terms, has both a spatial and visual dimension.
19. The appeal building is set within the hillside so as to lessen the visual impact of its scale. Indeed, when viewed from the sloping hillside to the north, the building is not readily discernible. Along the approach to Longroyd Farm from Long Royd Road to the west, only the stark pale coloured flat roof of the building is visible against the backdrop of the surrounding countryside and the extensive vista of the valley. There is limited boundary treatment between the northern and eastern boundaries of the residential land and the adjacent fields. The garden area to the east of the dwelling is predominantly open. This open, undeveloped nature of the garden within the plot contributes to the general openness of the area.
20. The footprint of the appeal building would not increase in size. However, the proposed increase in height over the entirety of the building would accentuate the scale of the building. The proposal would be clearly visible from the public footpath to the east and when viewed across the valley to the east, where the additional built form would be more conspicuous than the current low-level building due to its scale and protrusion above its immediate surrounding landform.
21. I recognise, due to the topography of the site, that the building is set into the hillside which, to some extent, would reduce the impact of the increased size of the proposal. The proposed use of a dark green standing seam roof would better harmonise with the surrounding countryside than the existing roof covering. Nevertheless, given the open nature of the existing garden area and surrounding landscape, the increased height, bulk and massing of the proposal would be readily noticeable from public views. The distinctive bi-fold doors across the southern elevation of the building, would also be likely to draw attention during hours of darkness, when lighting from the extensive amount of glazing would be apparent. It would thereby give rise to a loss of both spatial and visual openness in the context of the locality.

Consequently, the proposal would have a greater impact on openness than the existing development. While the harm would be moderate, it would be contrary to paragraph 155(d) of the Framework, such that it would not meet this exception. For the same reasons, it would not meet the exception set out at Policy GB1.II.d. of the CLP.

Conclusion on inappropriate development

22. The proposal would not meet the exceptions set out at paragraph 154 (c) and 155 (d) of the Framework. It would also not meet the exceptions set out at Policy GB1.I.c and GB1.II.d of the CLP. There is no evidence that the proposal would meet any other exception in Policy GB1 of the CLP or the Framework. The scheme would therefore represent inappropriate development, which by definition is harmful to the Green Belt. In accordance with paragraph 153 of the Framework, this is a matter to which I attach substantial weight.

Other considerations

23. There would be some economic benefit arising from the proposal during its construction, along with some social benefit to the appellant in terms of meeting their current requirements. However, due to the overall scale of the proposal the economic benefits would be limited, and the social benefits would be specific to the appellant and not to any wider public benefits.
24. My attention has been drawn by the appellant to the design of the proposal and the intention to make it energy efficient using locally sourced materials. No detailed information in this regard has been provided as to how this would be secured, or how it would achieve efficiencies over and above the general requirements of Building Regulations. I therefore give little weight to these matters.
25. I recognise that the building would be sympathetically designed in terms of its materials and external appearance. However, any new development would be expected to be well designed in order to comply with local and national planning policy. This is therefore not a benefit of the proposal.
26. Even if I were to agree that there was no harm with regard to the character and appearance of the area, the living conditions of neighbouring occupiers highway safety or biodiversity, the absence of harm is neutral, not matters to be weighed in favour of the proposal.

Other Matters

27. A Grade II Listed Building is located to the south-west of the appeal building. The listing description describes the building as a range of 18th century cottages constructed of thin coursed rubble and stone slate roof. From this description and my own observations, the significance of the building is derived from its age and traditional construction techniques and materials. The appeal building is physically and visually separate from this designated asset and its setting due to the intervening access track, the main dwelling of Longroyd Farm, and vegetation. Accordingly, I agree with the Council's conclusion that the proposal would have no effect on the setting of the listed building and there would be no conflict with section 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. I am satisfied that the proposal complies with the heritage protection policies of the Framework.
28. I note support for the proposed development from a neighbouring resident. Nevertheless, a lack of objection is not a reason to approve unacceptable development.

29. The appellant contends that the appeal building is lawful. That is not a matter in dispute. In any event, it is not for me, under a section 78 appeal, to determine whether or not an existing development is lawful. It is open for the Council to address potential unauthorised development elsewhere in legislation, or for the appellants to apply for a determination under sections 191/192 of the Town and Country Planning Act 1990 (the Act) to determine this matter, and any such action or application would be unaffected by my determination of this appeal.

Planning Balance and Conclusion

30. The proposal would be inappropriate development in the Green Belt and would cause harm to its spatial and visual openness. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it.
31. The considerations presented by the appellant do not clearly outweigh the totality of the harm that I have identified. Consequently, other considerations amounting to very special circumstances sufficient to outweigh the harm to the Green Belt do not exist.
32. The proposal would conflict with the development plan taken as a whole, the Framework, and all other relevant material considerations. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

A Veevers

INSPECTOR