

Appeal Decision

Site visit made on 29 October 2024

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2024

Appeal Ref: APP/N4720/W/24/3348597

Miry Carr Farm, Sandhills, Thorner, Leeds, LS14 3DP

- 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 Myles Ritson against the decision of Leeds City Council.
 - The application Ref is 23/07572/FU.
 - The development proposed is demolition of existing agricultural buildings and construction of two dwellings with associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, including the effect on openness,
 - whether the proposal would comply with policy requirements for an overall net gain for biodiversity,
 - whether satisfactory living conditions for future occupiers would be achieved, with particular regard to outdoor amenity space, and
 - if the proposal would be inappropriate development, whether the resulting harm, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

3. The appeal site is located in a rural location, surrounded by open agricultural land. It is within the Green Belt.
4. The National Planning Policy Framework (the Framework) makes clear that the purpose of Green Belt policy is to keep land permanently open. The construction of new buildings in the Green Belt should generally be regarded as being inappropriate, except in the specific circumstances listed in paragraph 154. Of particular relevance to this appeal is Framework paragraph 154d), which allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
5. Saved Policy N33 of the Unitary Development Plan Review 2006 (UDP) sets out a similar approach to development in the Green Belt, but has slightly

different wording. I have therefore used the more up-to-date wording which appears in the Framework.

6. The proposed development involves the demolition and replacement of the existing barns (Buildings A and B) and adjacent brick outbuilding (Building B1) at Miry Carr Farm, to provide two new detached dwellings.
7. A slight reconfiguration of the site is proposed, but the appellant has provided information to show that the footprint and volume of the new houses would be similar to that of existing Buildings A, B and B1. Whilst there may be some difference in heights, particularly in relation to Building B1, I am satisfied that in overall terms, the proposed dwellings would not be materially larger than the existing buildings.
8. Prior approval has previously been granted for conversion of Buildings A and B to residential use under Class Q of the General Permitted Development Order (GPDO) (application refs 22/05138/DPD and 23/00369/DPD). However, this development has not taken place, so the lawful use of Buildings A and B is for agriculture.
9. The appellant has provided photos to support their assertion that Building B1 is used for domestic storage. Taking account of the siting of the building in relation to the farmhouse, and the lack of other domestic garages or sheds on the site, I have no reason to disagree.
10. Building B1 is in ancillary residential use, but the proposed dwellings would be in a different use from Buildings A and B. As the barns make up the largest element of the scheme, the requirements of paragraph 154d) would not be fully met.
11. The Council has also referred to Framework paragraph 155b) and e), but the proposed engineering operations and changes of use are secondary to the main element of the scheme, which involves the replacement of the existing buildings with new dwellings. I have assessed the overall proposal in light of paragraph 154d), and any further consideration of in light of paragraph 155b) or e) is unnecessary.
12. The proposal would not meet the exceptions for new development set out in Framework paragraph 154, so would be inappropriate in the Green Belt. As it would not satisfy Green Belt policy, it would fail to meet the requirements set out in Core Strategy Policy H2, regarding new housing development on non-allocated sites.
13. The decision notice refers to UDP Policy GB4, which concerns the change of use of a building in the Green Belt. As the appeal proposal involves the replacement of existing buildings, rather their re-use, Policy GB4 does not apply.

Openness

14. The proposal would result in a change to the position and spread of the buildings, with a small gap inserted between existing Buildings A and B. Building B1 would be replaced in a slightly different position, to form part of new Dwelling B. However, in spatial terms, the effect of these changes on Green Belt openness would be small.

15. The plans suggest that the new buildings may be somewhat higher than those existing, in particular Building B1, which is currently of low form. However, given the relative isolation of the site, a small increase in height would not be particularly noticeable. Compared with the existing situation, any additional visual impact associated with the buildings themselves would be minor.
16. However, the change from agricultural to residential use of the site would alter how the space around the buildings is used. The submitted plans show that the areas to the west of the barns, currently the edge of a field, would be used for parking, set to gravel and hardstanding. A grassed area is shown to the north-west of Building A, which would provide amenity space for that dwelling.
17. Features associated with the proposed dwellings, such as parked vehicles, bin and cycle stores, garden equipment and external lighting, would visually extend the domestic use into areas which are currently open and free of development. The area involved would not be very large, and I note that the appellant has sought to limit the area given over to gardens. Even so, the domestic use of areas around the buildings would detract from visual openness.
18. The open area between the barns and the farmhouse appears to be used as a garden for the existing residential use. The submitted plans show that part of this area, closest to the barns and Building B1, would be used for landscaping and biodiversity. However, given the proximity of this space to the proposed dwellings, future residents may well choose to use this area for outdoor amenity purposes. It would be difficult to prevent such a use, with the potential for additional hardstanding and the introduction of garden structures. Whilst there would be no additional incursion into open land, a more intensive use of this area for outdoor amenity space would detract from Green Belt openness, albeit by a small amount.
19. The buildings are already there, and their replacement would not result in any significant encroachment into the countryside. However, for the reasons set out above, intensification of the domestic use of the site would detract from openness when compared with the existing situation, resulting in a modest amount of harm to the Green Belt.

Biodiversity

20. Application timescales mean that the proposal is not subject to mandatory Biodiversity Net Gain (BNG). However, Policy G9 of the Core Strategy 2019, concerned with biodiversity improvements, does apply. Whilst not setting a specific target, the Policy G9 requires developments to demonstrate that an overall net gain for biodiversity could be achieved, commensurate with the scale of the development.
21. As part of the appeal, the appellant has provided an Ecology Technical Note (ETN), which includes a BNG assessment undertaken using Natural England's small sites metric. The Council has had the opportunity to see and respond to this document through its appeal statement.
22. The ETN identifies that the land around the existing buildings has a biodiversity value equivalent to 0.3023 habitat units, all of which would be lost. To compensate, the submitted plans show that the area wrapping round the east and south of the buildings would be a biodiversity/landscape area.

23. The ETN shows how it may be possible to achieve a modest BNG on the site, but I share the Council's concerns about the practicality of the scheme. The area for landscaping/biodiversity would be immediately adjacent to the new dwellings, and is likely to be used as outdoor amenity space, as discussed above. This is particularly the case for Dwelling B, which otherwise would have no dedicated garden area. Whilst I note the suggestion for a habitat management and monitoring plan, which could be conditioned, it would be difficult to prevent future residents from using the space for domestic purposes.
24. Core Strategy Policy G9 requires the provision of new areas and opportunities for wildlife, and I acknowledge that garden areas can support wildlife. However, the location of the proposed landscaping area means it is likely to be subject to regular disturbance through activity and external lighting, and there could well be pressure to provide patios and other areas of hardstanding. This would undermine proposals to create a wildflower meadow on this part of the site, and residents may not wish to retain the proposed trees close to their properties, particularly once they grew larger.
25. Given the likely pressure on this area for garden use, there is significant uncertainty as to whether even the modest biodiversity net gain proposed is capable of being met. The proposal would not enhance existing wildlife habitats (as they would be lost), and would not provide suitable new areas and opportunities for wildlife either. As such, it would fail to comply with Core Strategy Policy G9.

Living conditions

26. To minimise the effect of domestic gardens on Green Belt openness, the only dedicated outdoor amenity space shown on the submitted plans is a small grassed area for use by Dwelling A. No garden space would be available for Dwelling B. The proposed development does not, therefore, comply with the guidance for private gardens set out in the Neighbourhoods for Living Guide for Residential Design (2003). This suggests that, as a general guide, private gardens for family homes should have a minimum area equivalent to two thirds of total gross floor area of the dwelling, excluding vehicular provision.
27. Space around the proposed dwellings is identified as being for landscaping/biodiversity, but there are significant concerns about its suitability to meet the requirements of Policy G9, as discussed above. This area could instead be used for gardens, indeed it is likely that future residents would wish to use the space in this way.
28. Although more intensive use of the existing garden for domestic purposes would further detract from Green Belt openness, the site is capable of providing outdoor amenity space, in an area that is already used for that function.
29. Given that, and taking account of my considerations above, I conclude that the scheme is capable of providing satisfactory living conditions, including adequate provision for outdoor amenity space. The site could be developed in a way which met the design and amenity requirements set out in Core Strategy Policy P10 and Saved UPD Policy BD5. In relation to amenity open space, detailed planning considerations could be resolved, as required by saved UDP Policy GP5.

Other considerations

30. Existing consents are in place to convert the existing barns to provide two dwellings, and it is necessary to consider whether this constitutes a valid fall-back position in this case.
31. At the time of my visit, a marketing board had been erected which advertised the barns and adjacent farmhouse as a development opportunity, with consent to convert the barns. This suggests that the appellant does not intend to implement the Class Q schemes, and the appeal proposal may be an attempt to increase the attractiveness of the site to the market.
32. The Council has suggested that there may be practical issues which might make conversion of the barns difficult, or financial issues which might affect viability. That may be the case, but in the absence of any clear indication that conversion of the buildings would not be practical or viable, I can only assume that, at a suitable price, the advertised development opportunity would be taken up, and the consented schemes implemented.
33. On that basis, there is a real prospect of the Class Q schemes being constructed, and the effect on Green Belt openness would be similar to that which would result from appeal scheme. However, the schemes have fundamental differences. Rather than simply converting the two barns to provide a pair of attached dwellings, the appeal scheme would involve demolishing and replacing both the barns and Building B1, to create two new detached dwellings.
34. The creation of new build houses on the site is not an equivalent form of development to the consented schemes. I therefore attribute a modest amount of weight to the permitted development fall-back in this appeal.
35. The scheme would provide two additional houses, which would make a small, but positive contribution to the overall housing requirement for the area. There would also be an associated minor economic benefit. That said, there is no suggestion that the Council is unable to demonstrate a five-year supply of housing land, and so there is no pressing need for additional residential development in this rural location, some distance from local services and facilities. I therefore give a modest amount of weight to these matters.

Other matters

36. The proposed buildings would be designed to resemble agricultural barns. Although the proposal would represent a more intensive use of the site, the effect on the character of the area would be acceptable.
37. A small part of the access track to Miry Carr Farm, closest to the road, is within the Thorner Conservation Area (CA). However, the appeal site itself is a reasonable distance from the CA boundary, and I am satisfied that the proposal would not cause harm to the setting of the CA.
38. The barns could already be converted to two dwellings, and if implemented, the consented Class Q schemes would have a similar impact on the openness of the Green Belt as the appeal scheme. However, unlike in the case referred to by the appellant (application ref 22/01503/FUL), there are other, non Green Belt deficiencies in the scheme before me.

Green Belt balance and conclusion

39. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In this case, the scheme would be inappropriate development and there would also be a modest amount of harm to openness.
40. In addition to the Green Belt harm, policy requirements for a biodiversity enhancement would not be met. Furthermore, the submitted plans show insufficient outdoor amenity space, and whilst gardens could be provided on site, doing so would further detract from Green Belt openness.
41. Taking all these matters into account, the other considerations, including the permitted development fall-back, are insufficient to outweigh the harm to the Green Belt and the other harms identified. The very special circumstances needed to justify the proposal do not, therefore, exist.
42. The proposal would fail to comply with the development plan and the Framework. No other material considerations outweigh this harm, so the appeal is dismissed.

R Morgan

INSPECTOR