



Appeal Decision

Site visit made on 18 November 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th December 2024

Appeal Ref: APP/U2750/W/24/3348807

Tremayne, Orchard Lane, Kirkby Overblow, North Yorkshire HG3 1FS

- 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 John Leahy against the decision of North Yorkshire Council.
 - The application Ref is ZC24/00890/FUL.
 - The development proposed is a detached garage.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Reason 2 set out in the Council's decision suggests that the appeal building is sited outside of the curtilage of the main dwelling, and therefore the proposed development would result in the change of use of the land to domestic purposes. The change of use of this land does not form part of the description of development and the lawfulness of land use is not for me to determine under this section 78 appeal. Furthermore, this reason is disputed by the appellant who suggests that the area of land has been used for domestic parking and storage purposes for many years. I have therefore defined the main issues on the basis of the other reason for refusal on the decision notice relating to the Green Belt.

Main Issues

3. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and relevant development plan policies including the effect on the openness of the Green Belt; and
 - if the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, would clearly be outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposed development.

Reasons

Whether inappropriate development

4. Tremayne is a large detached split level dwelling fronting Orchard Lane, a steep sloping narrow route which reduces in gradient away from the village of Kirkby Overblow. The route is lined primarily by stone walls and hedgerow. Built form

becomes less frequent downhill as the route transitions towards the countryside. The proposed detached garage would be located on an existing area of hardstanding located behind a field gate and accessed via a grassed area with stone cobbles. It is located on the opposite side of Orchard Lane to the host dwelling and is also enclosed by a hedgerow and in part by a low stone wall.

5. The essential characteristics of Green Belts are their openness and their permanence, and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The construction of new buildings in the Green Belt is inappropriate development, other than for the specific exceptions set out in paragraph 154 of the Framework. Policy GS4 of the Harrogate District Local Plan 2014 – 2035 (2020) (HDLP) requires proposals for new development to follow the approach of the Framework.
6. Paragraph 154 c) of the Framework allows for 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. Whether a detached structure would amount to an extension of the existing building is a matter of fact and degree. The appeal site's position on the opposite side of Orchard Lane to the host dwelling would mean that the proposed development cannot reasonably be considered to constitute a normal domestic adjunct. Even though the proposed building would be used as additional garage space by the occupiers of Tremayne, it would be visibly disconnected from, and outside of the main garden area. Therefore, due to the physical separation it cannot reasonably be regarded as an extension to the host dwelling and would not meet the exception set out in paragraph 154 c) of the Framework.
7. Paragraph 154 e) of the Framework allows for limited infilling in villages. Whilst the terms 'limited' and 'infilling' are not defined in the Framework, whether or not the appeal site represents limited infilling in the village of Kirkby Overblow is a matter of planning judgement. The proposed garage building could be considered limited by virtue of its domestic scale. Whilst it would be located next to a neighbouring garage, the appeal site cannot be regarded as a gap in an otherwise built-up frontage given that there is no other built development on the same side of Orchard Lane beyond the appeal site. The proposed garage would extend the built form of the village on this side of Orchard Lane further into the open land in the countryside as opposed to representing a form of infill development. Accordingly, the proposed development would not meet the exception set out in paragraph 154 e) of the Framework.
8. Paragraph 154 g) of the Framework allows for limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, provided that the building such as the garage proposed, would not have a greater impact on the openness of the Green Belt. It has already been determined that the proposed garage would not constitute limited infilling. Regardless of whether the proposed development constitutes redevelopment of previously developed land, it is required to not have a greater impact on the openness of the Green Belt. Openness is epitomised by the lack of buildings or development and can have a spatial aspect as well as a visual aspect.
9. Even though the proposed garage would be lower in height than the neighbouring garage, the land would be partially excavated to create a flat

floor level and the resultant building would have a significantly greater volume over and above the existing hardstanding. The development would likely necessitate the removal of the hedgerow that currently runs adjacent to Orchard Lane and even if it didn't the proposed garage would be highly visible along Orchard Lane. It would also be highly visible from Orchard Lane, a public right of way, and in views from the surrounding countryside due to the elevated position of the site within the landscape.

10. When the spatial and visual effects are taken together, there would be a modest loss to openness. Accordingly, the proposed development would not meet the exception set out in paragraph 154 g) of the Framework as the proposal would result in a greater impact on the openness of the Green Belt. This would also add to the harm to the Green Belt identified by reason of inappropriateness in relation to paragraphs 154 c) and e) of the Framework.
11. I conclude that the proposed development would be inappropriate development in the Green Belt having regard to the Framework and the relevant development plan policies and would not preserve the openness of the Green Belt. In this regard the proposed development would conflict with Policy GS4 of the HDLP which restricts inappropriate development in the Green Belt, unless the exceptions set out in The Framework are met.

Other Considerations

12. The appeal site is partly located within the Kirkby Overblow Conservation Area (CA). The CA encompasses the core part of the village. In terms of built form, characteristic features include stone walls, slate roofs and prominent chimney features. The significance of the CA is largely derived the village's location at the top of the scarp slope, scenic views into and out from the village, and the age, quality and pattern of development around the core of the village and on the hillside.
13. In considering whether to grant planning permission, I have been mindful of my statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving or enhancing the character or appearance of that area. The potential for the proposed development to impact on the character or appearance of the CA has been raised but is not in dispute. It is accepted that the proposed garage would be well designed and would utilise complementary materials in keeping with other buildings in the area. Having considered the nature of the proposed development and relationship of the appeal site and the CA, I am satisfied that no harm to the character or appearance of the CA would arise. Whilst I find no harm in this regard, it is a neutral factor in my determination, neither weighing for or against the appeal.
14. The appellant suggests that the proposed development would make efficient use of poorer quality land in a sustainable location already used for the storage of domestic paraphernalia. Whilst it has also been suggested that the land is used for parking, the evidence equally suggests that the gradient of the land makes it unsuitable for parking most vehicles. Even if such usage can occur, this would not be permanent in nature and would not have the same effect on openness as a building. Furthermore, the Framework does not suggest a grading of the quality of the Green Belt in an assessment of harm and there is no imperative to develop the land in planning terms. These are not therefore

matters that attract weight in the favour of the proposal. Neither is the lack of objection and/or support from neighbours.

15. There would be small economic benefits associated with jobs created during construction. However, in the context of the local economy those benefits would attract limited weight.
16. The Council identified no other harm over that listed in its decision notice including in relation to living conditions for neighbouring occupiers, ecology, highway safety, noise and parking. However, these considerations indicate the absence of harm in those particular respects rather than attracting weight in favour of the development.

Green Belt Balance

17. The proposed garage constitutes inappropriate development in the Green Belt to which I attach substantial weight. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. The proposed garage would also result in a modest effect on the openness of the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. On balance, the substantial weight to be given to Green Belt harm, is not clearly outweighed by the other considerations in this case and therefore the very special circumstances needed to justify the proposed garage do not exist.

Conclusion

18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR