



Appeal Decision

Site visit made on 25 November 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/R1038/W/24/3348173

The Cottage, Oxton Rake Road, Oxton Rakes, Barlow, Derbyshire S18 7TH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Duncan Fuller against North East Derbyshire District Council.
 - The application Ref is 24/00343/FLH.
 - The development proposed is demolition of stables and workshop, rear and side extensions forward of existing dwelling, alterations to openings, terraces and associated landscaping (resubmission of application 23/00825/FL).
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Decision

1. The appeal is dismissed

Preliminary Matter

2. The appeal follows the Council's failure to determine the application within the prescribed period. Despite a decision notice and officer report being submitted, there is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, I have had regard to the officer report and decision notice which sets out that the Council would have refused planning permission, the substance of which has informed the main issues of the appeal. The appellant has had the opportunity to comment and therefore would not be prejudiced by these matters forming the basis of the main issues.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt having regard to the development plan and the National Planning Policy Framework (the Framework), including the effect upon the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the host property and its effect on the landscape, with specific reference to its Area of Multiple Environmental Sensitivity (AMES) designation, and
 - if the development constitutes inappropriate development in the Green Belt, 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 or not inappropriate development

4. The appeal site is located within the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework outlines that the construction of new buildings, other than specific exceptions, should be regarded as inappropriate in the Green Belt. The proposal would only require one of the exceptions to be met for the proposal to be considered not inappropriate development. Policy SS10 of the North East Derbyshire Local Plan 2014-2034, 2021 (LP) reflects the provisions of paragraph 154 of the Framework.
5. One such exception, set out at paragraph 154 c) of the Framework, is 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. In this context, original building means the dwelling as originally built or as the building existed on 1 July 1948 (whichever is the later).
6. The Framework and Policy SS10 of the LP do not define what a disproportionate addition would be. However, the Framework does refer to 'size' which can, in my view, include factors such as volume, height, external dimensions, footprint or floorspace.
7. The Council has calculated that the proposed rear and side extension would result in a 56% increase in volume over the original building when excluding the outbuildings (stable and barn). This is a substantial increase.
8. Limited substantive evidence has been presented as to whether the outbuildings formed part of the original dwelling or were in existence on 1 July 1948. If I were to factor in the outbuildings, the proposal would result in a 9% increase in volume over the original building. However, as I have no substantive evidence of their existence on 1 July 1948 or if they were part of the dwelling as originally built, I have taken the volume increase based on the main dwellinghouse, excluding the outbuildings. Based on this, I consider the extension would be a disproportionate addition and would not meet the exception identified at paragraph 154 c) of the Framework.
9. The appellant argues that the proposal would meet the Green Belt exception set out at paragraph 154 g) of the Framework. This criterion permits new buildings where it consists of, amongst other things, the partial or complete redevelopment of previously developed land (PDL), provided it would not have a greater impact on the openness of the Green Belt than the existing development. The Council do not comment on whether it is PDL, however whether or not the appeal site forms PDL, the determining factor in assessing the scheme under this exception is the effect of the proposal on openness.
10. Openness is identified in the Framework as one of the Green Belt's essential characteristics. Planning Practice Guidance (PPG) provides advice on the factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt, with openness being capable of having both spatial and visual aspects.
11. The replacement northeast section of the existing cottage would be stepped down from the part of the cottage that would be retained, followed by a

single-storey link which would adjoin a further two-storey extension. These two elements of the proposal maintain the existing linear form of the original cottage. Given their lower height compared to the existing built form, with the roof form partially broken up, the visual impact of this part of the appeal scheme would be reduced compared to the existing situation. Consequently, I find these aspects would not result in an adverse impact on spatial and visual openness.

12. However, the single-storey link would be attached to a two-storey, stone built, extension and would be located where there is currently an existing detached timber stable and adjoining part timber clad barn.
13. The barn and stables occupy a large footprint, with the barn extending out into the field towards the northeast. The barn is set lower than the stables, following the land's sloping topography. Despite the large footprint of the outbuildings, both buildings are single-storey and relatively modest in height and form. Whilst the proposed extension would consolidate the built form by removing the outbuildings, the extension would have a ridge height approximately 5 metres higher than the existing stables, resulting in a steeper roof pitch. This increased height would be further exacerbated due to its elevated position, being sited higher than the existing barn.
14. When all elements of the proposed extension are considered as a whole, I find that the additional bulk and volume of the two-storey southeast extension, due to the increase in height, would result in a noticeably larger dwelling. This would have a materially greater impact on the openness of the Green Belt, both spatially and visually terms than the existing development. While the topography and mature vegetation would partially obscure the development from views outside the appeal site, I am mindful that such views would be much more prominent in autumn and winter during the main period of leaf fall, particularly from nearby public rights of way.
15. For the above reasons, the proposed development would have a greater impact on the openness of the Green Belt than the existing development and consequently the scheme would not meet with the requirements of Paragraph 154 g) of the Framework.
16. On this issue, I conclude that the proposed development would be inappropriate development within the Green Belt, conflicting with both Paragraph 154 c) and 154 g) of the Framework and would have a greater impact on the openness of the Green Belt than the existing development, resulting in modest harm. It would therefore be contrary to Policy SS10 of the LP which seeks to prevent inappropriate development in the Green Belt. The harm to the Green Belt is a matter to which I attach substantial weight as required by Paragraph 153 of the Framework.

Character and landscape

17. The site location, as well as being in the Green Belt, is also designated as a primary AMES area. With regard to this, Policy SDC3 of the LP outlines, amongst other matters, that proposals should not cause significant harm to the character, quality, distinctiveness or sensitivity of the landscape and be sympathetic to those AMES areas.

18. The landscape character falls within the wooded slopes and valleys character type which is characterised by scattered farmsteads with broadleaf deciduous trees.
19. Considering this characterisation and the requirement of policy SDC3, I find that although the scale of the dwelling will increase and the stables and outbuildings would be removed, this would not have a significantly harmful impact on the character of the landscape.
20. The Council has raised concerns that the proposed extension would not respect the scale and character of the existing cottage. The proposed scheme would utilise stone and timber, materials appropriate for their rural setting and that of the existing dwelling. The extension would incorporate pitched roofs, reflective of the existing dwelling. Existing unsympathetic additions to the original cottage would be removed. While the replacement of the northeast section of the original cottage is contemporary in its design, it integrates well with the original cottage, set down and appearing subordinate. Although the proposed southeast two-storey extension would be taller than the existing outbuildings and the extant scheme¹, it would be partially set down from the existing original cottage due to the land levels. I do not find, on this issue, that the extension would overwhelm the existing cottage.
21. Given the above, I conclude that the proposal would not adversely affect the landscape character and AMES designation. Nor would the proposal have an adverse effect on the character and appearance of the host dwelling. As such, there would be no conflict with policy SDC3 of the LP. There would also be no conflict with Policy SDC12 of the LP and Policy B8 of the Neighbourhood Plan. Amongst other matters, these seek to ensure new development respects local character, is of high quality design and is sympathetic to the landscape in which it is located. It would also accord with Policy LC5 of the LP which amongst other matters, requires proposals to respect the character of the existing property.

Other considerations

22. I am mindful of the extant permission² and the comments within the officer report for that scheme, which have been provided by the appellant. However, many of the comments note that the scheme considered under that application was not larger in volume compared to the existing dwelling and that the design of the extension kept the ridge height to a minimum, offsetting the visibility of the two-storey extension. The proposal before me is larger in volume and the southeast two-storey extension is taller with a steeper roof pitch. Consequently, I find that the extant permission would be less harmful in respect of the Green Belt. As such, this attracts limited weight.
23. The proposal would not harm the character of the host dwelling or landscape designation. However, the absence of harm is a neutral factor, weighing neither for nor against the appeal.
24. The scheme would introduced ecological enhancements including a wildlife pond. This attracts moderate weight in favour of the scheme.

¹ Ref: 23/00825/FL

² Ref: 23/00825/FL

25. I recognise that the proposal would provide high levels of amenity for future occupiers and introduce new parking arrangements away from the frontage of the existing cottage. However, I am not persuaded that the proposal before me is the only means by which these benefits could be achieved. As such this carries limited weight.

Green Belt Balance

26. The proposed development would be inappropriate development in the Green Belt. The Framework identifies that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
27. For the reasons set out earlier, the development constitutes inappropriate development in the Green Belt. Furthermore, there would be modest harm to the openness of the Green Belt. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt.
28. Having taken into account the other considerations, I consider that the benefits of the proposal both individually and cumulatively do not clearly outweigh the harm to the Green Belt and its openness. Thus, the very special circumstances necessary to justify the proposal do not exist.

Other Matters

29. I note the frustration of the Appellant regarding the conduct of the Council during the application process. However, these are matters between the Appellant and the Council and it is not a matter for my consideration in the determination of this appeal.
30. Comments raised by the Appellant regarding the apparent failure of the Council to follow the non-determination appeal procedure are noted. However, as I have set out in the preliminary matters, despite a decision notice being submitted, this appeal has been determined against a failure to give notice within the prescribed period of a decision on an application for planning permission. Even if the Council had not submitted a decision notice, they would have been able to submit a statement setting out how they would have determined the application should the jurisdiction have rested with them. The appellant has not been prejudiced by the Council submitting the decision notice and officer report.

Conclusion

31. I conclude that the proposed development would conflict with the development plan and the Framework which seek, amongst other things, to protect the Green Belt from inappropriate development. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

T Bennett

INSPECTOR