



Appeal Decision

Site visit made on 19 November 2024

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Appeal Ref: APP/U2750/W/24/3351747

White Gates, Main Street, Bilbrough, Selby, North Yorkshire YO23 3PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs R Pilcher against the decision of North Yorkshire Council.
 - The application Ref is ZG2024/0203/FUL.
 - The development proposed is erection of a replacement dwellinghouse following demolition of existing two-storey dwelling and renovation and extension of the existing one-and-a-half storey cottage to allow for its use as an annex and refurbishment of the existing stable for use as a store.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In the period since the appeal was submitted the Government has published a revised version of the *National Planning Policy Framework* (the Framework) in December 2024 which takes immediate effect. None of the changes are of significance for this appeal but where paragraphs from the previous version of the Framework have been referenced I have used the paragraph numbers from the new 2024 Framework in my decision below.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the site and the surrounding area, with due regard to the Bilbrough Conservation Area and neighbouring listed building; and
 - in the event that the proposal is inappropriate development, 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

4. The appeal site is located on the north side of Main Street within the Bilbrough Conservation Area and opposite the Grade II listed Old Manor House. The site

currently contains a dilapidated and derelict two storey dwelling to a modern design, finished in render and orientated with its gable to the street and on the frontage a small, older, single storey cottage, constructed in brick and tile, facing onto the street.

5. Bilbrough is a village washed over by the Green Belt.

Whether inappropriate development

6. The National Planning Policy Framework (the Framework) establishes that the construction of new buildings in the Green Belt is inappropriate development other than in a limited number of circumstances. Policy SP3 of the Selby District Core Strategy (SDCS) sets out the policy approach to the Green Belt within the former district but does not repeat the list of development that is not inappropriate nor provide further detail. It has been put to me that this omission means the policy is not consistent with the Framework. However, it is a well-established principle that policies should not simply repeat material already covered in national policy. I therefore am not persuaded by the appellants' view that the policy is out of date or that the provisions of the Framework at Paragraph 11 would be triggered.
7. Paragraph 154 of the Framework sets out the circumstances where development would not be inappropriate in the Green Belt and one of these 154 d), relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The Framework does not define what is meant by "materially larger" leaving it to the decision maker to determine whether the replacement dwelling would be materially larger than the original dwelling. The Council has calculated that the proposal would increase the footprint by 161% and the volume by 228% and by any standard this would be materially larger than the existing dwelling to be replaced. As such the proposal under paragraph 154 d) would be inappropriate development in the Green Belt – a conclusion the appellants appear to accept.
8. The Framework also classes limited infilling within villages in the Green Belt as not inappropriate (Paragraph 154 e)). The appellants have referred me to decisions where similar proposals have been taken to be infilling that they argue justify this appeal being allowed. The Council has similarly provided an appeal decision from nearby in the City of York area where a comparable proposal was deemed not to be infilling as a justification as to why the appeal should be dismissed. Neither party agrees that these appeal decisions are sufficiently similar in circumstance to the appeal proposal and therefore, as is my duty, I have considered the appeal case on its own merits and attach only limited weight to these other cases with their opposing conclusions.
9. In this case for two reasons I am not persuaded that the proposal would fall within the paragraph 154 e) category. First, the site is developed, not vacant and importantly, compared to the other appeals I have been referred to, not all of the extant development would be removed; with the cottage proposed to remain in its frontage location. The normally accepted definition of an infill site is the filling of a gap in an otherwise built-up frontage capable of taking one or two dwellings. In this case there is no substantive gap in the frontage. Secondly, the application form quite clearly states it is for a replacement dwelling i.e. there was an expectation on the part of the appellants when they applied that it would be considered as a replacement.
10. The appellant has also indicated that if it is concluded that the development would not be infilling then paragraph 154 g) also classes limited infilling or the partial or

complete redevelopment of previously developed land (PDL), whether redundant or in continuing use as not inappropriate. This is provided it would not have a greater impact on the openness of the Green Belt than the existing development. I will turn to the issue of openness later in my decision. However, there are two reasons why 154 g) in any event would not apply to this case. First the definition of PDL in the Framework excludes land in built-up areas such as residential gardens. Although the site is currently disused there is no doubt its last use was residential garden. Secondly, as above, the application was specifically for a replacement dwelling.

11. I therefore conclude that determination of this proposal would most accurately be described as a replacement dwelling under the terms of the Framework and therefore for the reasons above the proposal would be inappropriate development in the Green Belt. Although it has been put to me that the development would not challenge any of the purposes of the Green Belt directly, this is of limited relevance where development is found to be inappropriate and therefore by definition harmful to the Green Belt.

Openness

12. One of the essential characteristics of Green Belts is their openness.
13. It has been put to me that, as a site completely surrounded by built development, openness would not be a significant factor. However, the existing form of the dwelling on the White Gates site with its gable to the road means that the plot appears relatively open with a feeling of spaciousness. The significant increase in scale and mass of the replacement house and its reorientation to address Main Street would result in a spatial loss of openness to the detriment of the Green Belt, although I acknowledge the loss would be limited.
14. I have been referred to the fact that the existing garage would be removed as part of the scheme but the contribution the removal of this small structure would make to openness would be minimal compared to the large-scale increase in built form across the centre of the site.

Character and Appearance

15. I saw on my site visit that the Bilborough Conservation Area in the vicinity of the appeal site at the east end of Main Street comprises large houses on substantial and well-landscaped plots. This creates a green and spacious feel to the streetscene, an important element in the character and appearance of the Conservation Area and which contributes to its significance.
16. It is clear from my observations on the site visit that the small cottage on the frontage of White Gates is the more important building in heritage terms. Although not listed it has local value in the streetscape and therefore to the Conservation Area. I acknowledge that the proposed changes to the cottage would be acceptable, securing its future, but the proposed design for the main house as a result of the increase in scale, height and frontage width and the proposed positioning would dominate the cottage. At present the cottage can be read and appreciated against the open landscaped background with the existing gable end of the derelict house set to the east end of the cottage. I have been invited to conclude that the proposed close juxtaposition of the proposed dwelling and cottage would confirm the cottage as the subservient building to the main house. However, the development would sit directly behind the cottage and would be completely overbearing with the cottage dwarfed against the close proximity of the much larger house.

17. It has been put to me that the house would be reorientated to align the frontage with the street in keeping with the other properties along the road. Whilst it may be true that the majority of properties face the street, the gable end on arrangement at White Gates has been part of the character and appearance of the Conservation Area for many years and introduces variety to the street scene. No valid reason is before me to justify changing this arrangement and severely and adversely impacting on the cottage as a result.
18. The design of the access to the plot on its eastern side would also result in the removal of three trees according to the tree impact plan which would remove the green boundary between White Gates and The Old Rectory which makes an important contribution to the green character of this end of Main Street and the Conservation Area.
19. Section 72(1) of the Listed Buildings and Conservation Areas Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. For the reasons above, namely the positioning, excessive scale of the development and the detrimental impact on the cottage – an important element in the street scene, the character and appearance of the Conservation Area would fail to be preserved. I accept, however, that the harm to the significance of the Conservation Area would be less than substantial in the terms of the Framework. In these circumstances, Paragraph 215 of the Framework states that the harm should be weighed against any public benefit.
20. The appellants dispute that there would be any harm to the Conservation Area and have not presented any public benefits that would arise from the proposal. However it is clear from the documents that they consider that the redevelopment of the site would enhance the Conservation Area by removing an unsightly derelict building and replacing it with a new dwelling, appropriately designed for its context, constructed of materials in keeping with the Conservation Area and which would resolve the future of the cottage. I acknowledge that the principle of redevelopment to remove this dwelling, which is not reflective of the prevailing high quality vernacular form at this end of Main Street would bring this benefit and that the detailed design and materials would be in keeping. However, the same benefit could be secured with a smaller dwelling, positioned more sensitively in respect of the cottage and therefore this benefit is of significantly reduced weight. Moreover, although the quality of design in keeping with the surroundings is repeatedly stressed as a benefit of the scheme, this is no more than would be expected as good practice in any scheme, particularly in a Conservation Area and as such is neutral in the balance.
21. Any harm to the significance of a designated heritage asset carries great weight. Consequently, for the reasons above the harm to the Conservation Area would not be outweighed by public benefits.
22. Policy ENV25 of the *Selby District Local Plan* (SDLP) seeks to ensure development preserves or enhances the character or appearance of the Conservation Area and particularly that the scale, form and position of new buildings should be appropriate to the historic context amongst other things. This objective would not be met. Policy ENV1 of the SDLP also requires development to take account of the effect upon the character of the area, amongst other things, and this also would not be met by the proposal.
23. In addition to the Conservation Area it has been brought to my attention that the building opposite (The Old Manor House) is listed Grade II for its architectural and historic interest. Section 66(1) of the Listed Buildings and Conservation Areas Act

1990 requires that decision makers shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It is not a matter of dispute between the parties that the appeal site is within the wider setting of the listed building. However, from my observations on the site visit, the location of the appeal site on the north side of Main Street with the proposed new house set back into the site behind the frontage cottage together with landscaping around the Old Manor House on the south side of Main Street means that the development would not be 'read' in the context of the listed building. I am satisfied that neither the new dwelling nor the alterations proposed to the cottage and stables would result in harm to the listed building's setting, as the ability to 'read', understand and appreciate the special interest of the Old Manor House would not be affected and would be preserved.

Other Considerations

24. In addition to the argued benefit to the Conservation Area, a number of other considerations have been identified which need to be assessed.
25. I have been invited to conclude that the development would bring benefits in reusing previously developed residential land, replacing an uninhabitable dwelling and facilitating self-build development which is encouraged by the Framework. Whilst I note these, all of them could be achieved by a smaller, more appropriately sited and scaled dwelling on the site.
26. I note the appellant's case that the extension would provide the ability for the owner to downsize into improved accommodation with a carer resident in the cottage annexe. I have given this matter careful consideration with due regard to the Public Sector Equality Duty (the Duty) contained within section 149 of the *Equality Act 2010*, and I do not doubt that the scheme would secure these objectives. Notwithstanding the importance to the appellant of the proposed new dwelling, again there is no evidence before me that these benefits of improved disabled access and future-proofing the appellants' home could not have been achieved by a more appropriately sited and scaled dwelling.
27. It has been put to me that the widening of the public footpath along Main Street proposed as part of the scheme would be a benefit arising from the scheme. I acknowledge this would be of some benefit to pedestrian circulation but it is not the only footpath along Main Street and the increase in width would be marginal.
28. I have also been invited to conclude that the proposal would meet the three sustainability objectives set out in the Framework. Paragraph 9 states that the three objectives should be delivered through the application of the policies in the Framework but that they are not criteria against which every decision can or should be judged. Applying the policies of the Framework, I note that paragraph 85 places significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The scheme would fulfil this insofar as there would be some economic benefits during construction. However, these benefits attract limited weight as they would be relatively short term. I also note that the Framework seeks at Paragraph 63 to provide a mix of housing choice to meet specific needs but as above this could have been secured in a different way that could also have avoided or minimised the environmental harm to the Conservation Area identified above. As such the environmental objectives of the Framework would not be wholly met. Even if I was to conclude that the proposal would be sustainable development, Paragraph 12 of the Framework makes it clear that this does not

‘trump’ the primacy of the local plan. Where a planning application would conflict with an up-to-date development plan (as would be the case here) permission should not usually be granted.

29. I note that there were no objections to the proposal from third parties and indeed substantial support for the development as it would resolve the derelict nature of the property. The points raised from third parties are all considered above but, in any event, the absence of objection or the presence of support does not of itself mean that the proposal is in all respects acceptable.

Planning Balance

30. Taken together, these other considerations in this case weigh modestly in favour of the development particularly the personal circumstances given the Public Sector Equality Duty. However, the proposal would be inappropriate development in the Green Belt, which is harmful by definition. There would also be some harm to the openness of the Green Belt notwithstanding that this would be a limited harm given the location of the site within the village. Paragraph 153 of the Framework explains that any harm to the Green Belt attracts substantial weight. Additionally, I have found that, although the principle of a replacement dwelling would be acceptable and benefit the Conservation Area, the positioning and scale of the proposal would harm the character and appearance of the site, the frontage cottage and fail to preserve the character or appearance of the Conservation Area.
31. Overall, the other considerations raised do not clearly outweigh the harm identified. Therefore, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

32. Therefore, having regard to all material considerations, I conclude that the appeal is dismissed.

P. D. Biggers

INSPECTOR