



Appeal Decision

Site visit made on 4 February 2025

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/U2750/W/24/3353330

Hazelnut Cottage, Middlefield Lane, Kirk Smeaton, Selby, North Yorkshire WF8 3JU

- 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 Ms D Willoughby against the decision of North Yorkshire Council.
 - The application reference is ZG2023/1130/COU.
 - The development proposed is change of use of ancillary annexe to independent dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of ancillary annexe to independent dwelling at Hazelnut Cottage, Middlefield Lane, Kirk Smeaton, Selby, North Yorkshire, WF8 3JU in accordance with the terms of the application, reference ZG2023/1130/COU, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos. LOC01; 789/06 REV A.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A and E of Part 1 of Schedule 2 to the Order shall be undertaken.

Preliminary Matters

2. Following the submission of the appeal a revised National Planning Policy Framework (Framework) was published in December 2024. Both main parties have had the opportunity to comment on the changes to the Framework, and I have taken their comments into consideration in my assessment.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including its effects on the openness and purposes of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; and

- 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 Inappropriate Development

4. It is common ground between the main parties that the proposal would involve the re-use of a building, and I have no reason to disagree. Paragraph 154 h) iv. of the Framework (formerly paragraph 155 d) states that the re-use of buildings is a form of development not inappropriate in the Green Belt provided that the buildings are of permanent and substantial construction. This is a qualified exception on the basis that such development preserves Green Belt openness and does not conflict with the purposes of including land within it.
5. Policy SP2 of the 2013 adopted Selby District Core Strategy Local Plan (the CS) requires proposals to conform to national Green Belt policies. Policy SP3 of the CS states that planning permission will not be granted for inappropriate development unless it is demonstrated that very special circumstances exist.
6. There is no dispute between the main parties that the building is of a permanent and substantial construction. Nothing which I have seen in evidence or on my site visit would lead me to reach a different conclusion. The proposal would not therefore be inappropriate development, unless it would not preserve Green Belt openness and would conflict with the purposes of including land within it.
7. The level of activity by people independent to the residents of the host dwelling would be different in character to the use of the building as ancillary accommodation with an intrinsic connection to the host dwelling. The attendant comings and goings of a separate household along with those of their visitors would likely manifest itself in some additional vehicle movements and parking. However, given the nature and scale of the proposal, in my view the level of activity would not be markedly greater.
8. The development may result in additional domestic paraphernalia such as garden furniture, washing lines and play equipment being placed in the garden. However, the building can currently be used as accommodation in connection with the host dwelling, which could already result in a more intensive use of the garden and the placement of domestic paraphernalia.
9. Overall, therefore, the subdivision of the land from a single dwelling with ancillary annexe to two independent dwellings would result in some intensification of its use. However, in my judgement, in this particular case, the intensification would not be to the extent that the resulting changes would reduce the openness of the Green Belt spatially or visually. Consequently, the proposal would preserve Green Belt openness.
10. Given that the building is already in place, there would be no encroachment into the countryside nor would the proposal conflict with any of the other purposes of including land within the Green Belt.
11. The Council raises concerns about potential future development such as extensions or outbuildings. However, the removal of specified permitted

development rights from the appeal building/garden would seek to ensure that a sense of openness continues to exist to the rear of Hazelnut Cottage.

12. Consequently, I conclude that the proposal would not be inappropriate development in the Green Belt. As such, there would be no conflict with Policies SP2 and SP3 of the CS or chapter 13 of the Framework, the main requirements of which are summarised above.

Character and Appearance

13. The site is located within a Locally Important Landscape Area as designated in Policy ENV15 of the 2005 adopted Selby District Local Plan, Part 1 – General Policies (the LP). Policy ENV15 states that within such areas, priority will be given to the conservation and enhancement of the character and quality of the landscape.
14. The site is within a gently undulating predominantly open arable landscape, with scattered groups of farm buildings, dwellings and villages present. Although outside of a settlement and therefore in the countryside, the site does not appear isolated. There is a dwelling beside Hazelnut Cottage and a small number of dwellings on the opposite side of the road. Kirk Smeaton is to the north, with the built form on its southern side separated from the site by a field.
15. The character and appearance of the site is not one of open undeveloped countryside. It is clearly domestic in character, with manicured grass and other domestic paraphernalia apparent. Consequently, the site does not exhibit the characteristics of the surrounding rural landscape. This is compounded by the sense of containment from the surrounding countryside that is afforded by the boundary vegetation.
16. The proposal would retain the site's use as a residential garden albeit with potential boundary treatment with Hazelnut Cottage. Furthermore, the building already exists and has the appearance of a small dwelling when seen from the surrounding area through gaps in the roadside hedges. It is viewed as part of the small group of residential properties on Middlefield Lane. The built form on the southern edge of Kirk Smeaton is also apparent in views from several vantage points along Middlefield Lane and from the road leading to the village.
17. Given this context, the proposal would not materially change the character or appearance of the area, even allowing for some intensification in the use of the site.
18. The dwelling that would be created would be smaller than the others in the group of nearby properties. However, there is considerable variety in the form and scale of these dwellings which includes a mix of single, one and a half and two storey properties. Accordingly, the form of the building would not compromise the character and appearance of the area.
19. In the context of the above, the proposal would not represent an obvious change to the character and appearance of the area. I therefore conclude that the proposal would not cause harm to the character and appearance of the area including to the Locally Important Landscape Area. Consequently, there would be no conflict with the requirements of Policy ENV15 of the LP as summarised above. Nor would there be conflict with Policies SP18 and SP19 of the CS or Policy ENV1 of the LP

which seek to safeguard landscape character and ensure that proposals have regard to local character amongst other matters; or the objectives of the Framework for achieving well-designed places.

Other Considerations

20. As the proposal would not amount to inappropriate development in the Green Belt, there is no need for me to assess whether any harm by reason of inappropriateness would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Other Matters

21. While noting the comments claiming that the development is retrospective in nature, there is no clear evidence before me to indicate that this is the case. In any event, planning legislation¹ allows for the submission of retrospective applications, which are assessed on their planning merits.

Conditions

22. I have considered the conditions suggested by the Council. I have amended the wording of certain conditions having regard to the six tests set out in the Framework without altering their fundamental aims.
23. In the interests of certainty, the relevant conditions concerning the commencement of development, and the approved plans are necessary.
24. As outlined by the appellant, permitted development rights within the Green Belt have not been restricted under the GPDO², and neighbouring properties may well retain such rights. However, in this case, the development of outbuildings and extensions to the building could theoretically result in much of the site to be occupied by further development. While there may be limited visibility of any such buildings, such additional development has the clear potential to cause a reduction in the spatial openness of the Green Belt. In my view, there is therefore clear justification for the removal of permitted development rights relating to extensions and outbuildings. This is not to say that such development would be unacceptable as a matter of principle. The condition would enable the Council to consider such additional development having regard to the Green Belt constraint.
25. I have not imposed a condition about the materials to be used in the construction of the external surfaces as no external alterations are proposed to the building.

Conclusion

26. The proposal would accord with the development plan as a whole and there are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR

¹ Town and Country Planning Act 1990 (as amended)

² The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)