



Appeal Decision

Site visit made on 18 February 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/P2365/W/24/3347788

163 School Lane, Haskayne L39 7JF

- 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 Paul Hanshaw against the decision of West Lancashire Borough Council.
 - The application Ref is 2023/0980/FUL.
 - The development proposed is 'Erection of Granny Annexe'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024, the Government released an updated version of the National Planning Policy Framework (the Framework). The main parties were invited to make additional comments on the changes, and these have been considered in the determination of the appeal where relevant.

Main Issues

3. The main issues are as follows:
 - Whether the proposal would constitute inappropriate development in the green belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the setting of a listed building; and
 - Whether any harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposed development.

Reasons

Whether Inappropriate in the Green Belt

4. The proposal seeks to erect a single storey building to be used as an annex associated with, and in the curtilage of, 163 School Lane. The annex would be located to the northeast of the host building in a section of garden located close to the boundary with No.153. The proposal also includes a parking area located off the existing driveway through the site while existing outbuildings would be removed to the southeast.

5. Paragraphs 154 and 155 of the Framework list exceptions to the presumption against development in the Green Belt. Of relevance to the proposal are the exceptions given in paragraphs 154 (e) and (g). The former relates to limited infilling in villages, while the latter includes limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
6. Policy GN1 of the West Lancashire Local Plan 2012 – 2027 Development Plan Document (DPD) (adopted October 2013) states that development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies.
7. With regards to paragraph 154(e), neither ‘limited’, ‘infilling’ nor ‘villages’ are defined in the Framework. Both main parties have drawn my attention to a legal judgment¹ within which it was common ground that the location of a site within a defined settlement boundary is not the only determining factor with regards to whether a location is in a village, although it can be a material consideration. The judgement goes on to state that this is a matter of planning judgment for the decision maker ‘on the ground’ based on the specific circumstances of the case.
8. The proposed building would be positioned closer to No.153 than the host property. The submitted site plan² shows that there would be a significant distance between No.163 and the annex, with another smaller gap to No.153. While infilling is not defined in the Framework, to my mind this would generally entail ‘filling in’ a small gap. Given the distances retained in this case, to my mind this would not be infilling and as such, regardless of whether the site is in the village or the proposal is limited, it would not meet the exception of paragraph 154(e) of the Framework.
9. Turning to paragraph 154(g), I have already determined that the proposal would not constitute infilling. The appellant contends that the proposal would entail the partial redevelopment of previously developed land. This is defined in the glossary of the Framework and includes land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).
10. However, it excludes land in built-up areas such as residential gardens among other things. I note the appellant describes the appeal site as part of the garden of No.163 in paragraph 2.1 of their appeal statement. The exception now turns on whether the garden is in a built-up area.
11. The appellant contends that the appeal site is within the village of Haskayne but is not in a built-up area. I agree these can be different considerations, and ‘built-up area’ is not defined in the Framework. Again, this is a matter for the decision maker to consider based on the facts on the ground. From my observations on the site visit, there are properties to the northeast and southwest of the appeal site, albeit built form is more sporadic than the main part of the settlement to the north, and the speed limit along School Lane is 30 miles per hour which is generally

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

² Drawing Number: 1885 / 02

conducive to built-up areas. Based on these conditions, I consider that the appeal site is located in the built-up area for the purposes of the assessment.

12. It is further contended that the site once included an outbuilding as shown in historic maps included in the appellant's Heritage Assessment³ (HA). However, this was evidently removed by 1892, and I saw no physical evidence of it on the site visit. The Framework definition of previously developed land excludes the remains of a permanent structure or fixed surface structure which have blended into the landscape. Taken together, the proposal would not meet the exception given under paragraph 154(g) of the Framework
13. My attention is also drawn to the Council's 'Development in the Green Belt' Supplementary Planning Document (SPD). I am informed that this makes it clear that outbuildings built within domestic gardens are to be viewed as extensions to that dwelling, not as new buildings. As such, the appellant contends this could qualify the annex as not inappropriate in the Green Belt under paragraph 154(c) of the Framework, which relates to 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.
14. However, this is on the basis of compliance with Part (b) of section 2.6 of the SPD which advises that this is subject to certain criteria. This includes whether the total volume of the proposal, together with any previous extensions, alterations and non-original outbuildings, would not result in an increase of more than 40% above the volume of the original building
15. However, the SPD states that the applicant must provide clear evidence of what constitutes the original property and the volume of subsequent and proposed extensions within a '*Green Belt Assessment*' submitted to the Council. This should include volumetric calculations of the original property plus any original outbuildings, later extensions and outbuildings and calculations of the proposal. I have not been provided with any such assessment. The appellant has provided figures of floorspace for the original house, the proposed annex and the space currently used by the outbuildings which are proposed to be removed. However, these are given in square metres and there are no volumetric calculations. Moreover, they are not given on any scaled drawings, and it is therefore unclear whether they are accurate. This is on the basis that the SPD places the onus on the applicant to provide *clear evidence*, which is not before me. I therefore cannot be certain that the proposal would meet the exception given in paragraph 154(c) of the Framework.
16. I am informed that several nearby properties have been extended since 1987. However, as the appellant points out, some of these may have been undertaken using permitted development rights. Others may have been granted planning permission, but I do not have information on these.
17. I have also had regard to the additional submissions of the appellant following the updated Framework. They assert that the appeal site could be classed as grey belt land under the new provisions of the Framework. I have determined that it has not been demonstrated that the site could be considered to be previously developed. To that end, I note in their additional comments that the appellant refers to it as

³ Garry Miller Heritage Consultancy – June 2023

‘undeveloped’. As such, this would not meet the exception given in paragraph 155(a) of the Framework.

18. Based on the foregoing, the proposal would constitute inappropriate development in the Green Belt. This would be contrary to paragraphs 154 (c) (e) and (g) and 155(a) of the Framework as well as policy GN1 of the DPD which states that proposals in the Green Belt will be assessed against national policy.

Openness

19. Paragraph 142 of the Framework is clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness in this context is taken to mean the absence of built development. Openness and permanence are essential characteristics of the Green Belt.
20. The erection of the annex, introduction of car parking and the inevitable domestic paraphernalia such as garden equipment would invariably reduce openness in spatial terms as there is no built form in the position of the proposal at present. Furthermore, I observed that the site was visible from School Lane despite the hedgerow and trees lining the boundary as these were not in leaf at the time of my visit. Indeed, the proposed elevations drawing demonstrates that despite being single storey the roof of the building would be visible above the hedge line regardless.
21. As such, there would be a loss of openness on the Green Belt as a whole. Whilst this would be limited, invariably this would result in harm to the Green Belt given its purposes.

Setting of Listed Building

22. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a statutory duty on the local planning authority or, as the case may be, the Secretary of State, to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
23. The appeal site is close to the boundary with No. 153 School Lane, which is a Grade II listed building. The list entry⁴ describes the building as dating from the 17th and 18th century with alterations in the 20th. It is constructed of rubble stone with rendered exteriors showing some remaining cruck frame and a thatched roof with central chimney.
24. From all that I have seen and read, the special interest and significance of the listed building is derived from its historic and architectural interests. This includes its age, simple form, use of traditional materials and construction methods, its inherent rural character and the association with the historic development of the area.
25. I note the appellant does not dispute that the appeal site is located within the setting of the listed building. Based on all that I have seen and read, and the position of the proposed dwelling relative to the listed building, I see no reason to disagree. I am therefore mindful of the definition of setting given in the Framework, which advises that this includes the surroundings in which a heritage asset is

⁴ List Entry Number: 1361835

experienced. It goes on to state that its extent is not fixed and may change as the asset and its surroundings evolve and elements may make a positive or negative contribution to the significance of a heritage asset

26. I agree that the listed building is generally experienced when travelling south along School Lane given the building is orientated to face the northwest. The frontage therefore forms the immediate setting of the listed building. The wider setting includes areas around the property to the back and the side within which the appeal site sits, and the expanse of open countryside to the west. Given the generally open and rural character of the area, the setting of the listed building makes a positive contribution to its significance.
27. Although there is relatively modern development to the north, when viewed from this location the listed building draws the eye due to its orientation and position much closer to the road than adjacent dwellings. This allows the building to maintain a level of primacy in these views and said properties generally respect this with their deeper setbacks. No.163 is also set back from the listed building and separated by the garden area.
28. I have had due regard to the Rebuttal Heritage Statement⁵ (RHS). This advises that the proposal would be screened by the hedges and trees lining the road. However, I observed on the site visit that these were not in leaf given the winter month, while the hedge was not sufficiently tall to screen the annex regardless. This is demonstrated in the appellant's own street scene drawing. While there may be no intrinsic historic connection between the appeal site and the listed building, the addition of modern encroachment in key views travelling south along School Lane would draw the eye away from the listed building and compete for its primacy in views, while it would also erode part of the open backdrop of the listed building. This would harm the setting of the listed building. In turn, this would lessen the positive contribution that the setting makes to its significance as well as reduce the ability to appreciate that significance.
29. My attention is drawn to an appeal decision⁶ relating to the refusal of planning permission and listed building consent by the Council. I have little information before me on this case other than the decision letter so I cannot be certain of its relevance other than that it also involved the setting of a listed building. In any event, each proposal is assessed on its own merits and that case would have had its own site-specific circumstances upon which the appeal was determined. As such, this has little bearing on my assessment of the scheme before me.
30. Drawing things together, the proposal would fail to preserve the setting and thereby significance of the listed building and as such would not meet the statutory requirements of the Act. Furthermore, the development would be contrary to policies EN4 and GN3 of the LP, which state that development will not be permitted that will adversely affect a listed building, among other things. The proposal would also be contrary to the Framework, which requires development to sustain and enhance the significance of heritage assets, including their setting.
31. In terms of the approach set out in the Framework, paragraph 212 makes clear that when considering the impact of a proposed development on the significance

⁵ Garry Miller Heritage Consultancy – May 2024

⁶ Appeal refs: APP/P2365/W/23/3327420 & APP/P2365/Y/23/3327419

of a designated heritage asset, great weight should be given to the asset's conservation. I shall return to this matter later in this decision letter.

Other Considerations

32. There is no dispute between the main parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. This figure is put at 2.49 years, which is a considerable shortfall. I am therefore taken to paragraph 11(d) of the Framework which advises that in this scenario, the most important policies for determining the application are out of date and that permission should be granted. This is unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The assets of particular importance given in footnote 7 of paragraph 11(d) include both green belt land and designated heritage assets. Given the harm to both, either would provide a strong reason for refusing the development.
33. In any event, the description of development gives the proposal as an annex to the host building, while the appellant has also forwarded the suitability of the annex to be considered under the relevant exception given in paragraph 154(c) for an extension or alteration to an existing building. As such, the proposal would not add a dwelling to the supply of housing sites for the Council as the annex would remain as part of the same planning unit. Therefore, I cannot attribute any weight to this matter.
34. I have been provided with evidence of health issues experienced by the appellant and his wife. A Doctor has confirmed that the annex would be of benefit to the health of both individuals. I have taken this on board in the consideration of the proposal and this is worthy of significant positive weight in favour of the scheme.

Other Matters

35. I understand that pre-application advice was previously given by the Council in 2019 which concluded that effect would not be significant. However, while advice prior to the submission of a planning application is a useful approach to refine a development proposal, this is advice only and neither the Council nor an Inspector is beholden to this during the decision-making process.

Balance and Conclusion

36. I have found that the proposal would constitute inappropriate development in the Green Belt, while it would also not preserve its openness. Paragraph 153 of the Framework is clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In turn, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

37. Having regard to the 'other considerations' set out above and the overall moderate weight I attach to them in favour of the proposal, they would not 'clearly outweigh' the substantial weight which must be given to Green Belt harm and any other harm. Therefore, while I sympathise with the issues experienced by the appellant and their family, they are not sufficient to amount to the very special circumstances required to justify the proposal.
38. Furthermore, I have also identified less than substantial harm to significance of the adjacent listed building due to harm caused to its setting. Paragraph 212 of the Framework is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 215 goes on to advise that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I agree that in this case, the harm would be less than substantial. However, the benefits of the proposal as presented would be private to the appellant rather than public and therefore do not represent clear justification to outweigh the harm.
39. I must give substantial weight to the harm to the Green Belt, while the conservation of a designated heritage asset must be given great weight. Together, these matters weigh against the proposal considerably. The benefits as presented to me at this time do not clearly outweigh this harm. Accordingly, for the reasons given above, I conclude that the appeal is dismissed.

C McDonagh

INSPECTOR