



Appeal Decision

Site visit made on 1 April 2025

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

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025.

Appeal Ref: APP/Z4718/D/24/3349689

River Cottage, Copley Lane, Shelley HD8 8LZ

- 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 M Swift against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2024/62/90139/E.
 - The development proposed is 'Proposed erection of detached double garage'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr M Swift against Kirklees Metropolitan Council. This application is the subject of a separate decision

Preliminary Matters

3. On 12 December 2024, the Government released an updated version of the National Planning Policy Framework (the Framework). Although section 13 relating to the protection of Green Belt land has undergone significant changes, the relevant tests which were applied during the planning application and against which I have assessed the appeal have not changed. As such, I have not invited further comments from the main parties.

Main Issues

4. The main issues in this appeal 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 character and appearance of the area;
 - The effect of the proposal on the setting of listed buildings; 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 developments

Reasons

Whether Inappropriate in the Green Belt

5. Paragraphs 154 and 155 of the Framework list exceptions to the presumption against development in the Green Belt. Of relevance to the proposal is the exception given in paragraph 154(c), 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.
6. Policy LP57 of the Kirklees Local Plan (LP) (adopted 27 February 2019) outlines several scenarios in which the extension, alteration or replacement of existing buildings are acceptable. Part A states that in the case of extensions, the original building remains the dominant element both in terms of size and overall appearance. The cumulative impact of previous extensions and of other associated buildings will be taken into account. Proposals to extend buildings which have already been extended should have regard to the scale and character of the original part of the building.
7. The appeal site comprises the northernmost section of a former agricultural unit which was granted planning permission¹ in 2007 for the re-use, extension and adaptation of existing farm buildings to form dwellings. I do not have substantive details of this application, but I understand that the approved development for the location now forming the appeal site included a dwelling and detached garage which were not implemented.
8. Planning permission² was subsequently granted in 2019 for the erection of a detached dwelling on the appeal site. I have been provided with the Council's officer report for that application, which details that the dyehouse was to be retained and a frameless glazed link connected to a new and much larger one-and-a-half storey building. The was assessed under paragraph 145(g) of that iteration of the Framework. It was found to constitute inappropriate development in the Green Belt as the proposal would have had a greater impact on openness than the existing structures on the site, but due to the extant 2007 permission for a larger amount of built form volumetrically, the fallback position was found to constitute the very special circumstances necessary to clearly outweigh the harm to the Green Belt.
9. This has led to clear dispute between the main parties as to what constitutes the original building in the assessment of this proposal. The Framework defines this as 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.' I have also had regard to the definition of original building in the LP glossary. However, this also includes a distinction between buildings from before or after 1 July 1948. Moreover, the definition goes on to advise that extensions to the original building added at a later date will not be included as part of the 'original' building.
10. My attention is also drawn to a legal judgement³, although I do not have a copy before me. While it may involve the unit of occupation, it is unclear as to how it relates specifically to this case or whether it included matters relating to the 'original building' in the context of the Green Belt.

¹ Planning Application Ref: 2006/62/94849/E3.

² Planning Application Ref: 2018/92756/E.

³ *Burdle and Williams v SSE and New Forest DC* [1972] 1 WLR 1207

11. The Framework does not include specific exceptions for outbuildings. I note there is no dispute that the proposal can be considered as an extension to a building, for which case law⁴ has established that whether a building would be physically separated from the main house does not prevent them from being part of the dwelling.
12. The appellant argues that 'the new dwelling as a whole must be considered as the 'original building' in principle because as the Framework glossary states, buildings constructed after 1948 would be classed as an 'original building'. However, the use of the word 'or' in the glossary definition of original building indicates a choice between alternatives. The historic development of the site has been predicated on built form existing at the time of the various applications. To my mind, not every building erected after the 1948 would become the original building; this is clarified in the glossary of the Framework and the LP. Therefore, in this case, I must take the original building to be the dyehouse.
13. The appellant's appeal statement includes calculations as to the previous size increases which have occurred as a result of the two previous approved planning applications. The dyehouse was evidently of some 143m³ size volumetrically at the time of the 2017 application. The new build element at the time was calculated at 390.7m³ while the glazed link was 10.7m³. While it was not assessed as an extension, this shows a vast increase over and above the size of the original building. The circumstances which led to this are understood. However, the proposed garage would evidently be 143m³. Set against the host dwelling as a whole as it exists today this would evidently constitute a 26% increase in size. However, set against the original building, the addition of further built form in the form of the garage taking the calculations of size increase into account would clearly result in disproportionate additions over and above the size of the original building.
14. As such, the proposal would not meet the exception given in paragraph 154(c) of the Framework and would therefore constitute inappropriate development in the Green Belt. The proposal would also conflict with policy LP57 of the LP.

Openness of the Green Belt

15. 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. As per the Planning Practice Guidance⁵, openness is capable of having both spatial and visual aspects – in other words, the visual impact of a proposal may be relevant, as could its size spatially.
16. The garage would be located close to the existing access from Copley Lane adjacent the northern boundary of the appeal site. At 143m³ it would be a significantly sized structure, and it stands to reason that spatially there would be a loss of openness given there is no built form above ground level in that location at present. Furthermore, the site is clearly visible from the road, predominantly to motorists, and the garage would be readily apparent in these views. Therefore, visually there would also be a loss of openness.

⁴ Sevenoaks District Council v Secretary of State for the Environment and Dawe [1997] EWHC Admin 1012.

⁵ Paragraph: 013 Reference ID: 64-013-20250225

17. Taken together, there would be a limited loss of openness of the Green Belt overall. However, invariably this would result in harm to the Green Belt given its purposes, contrary to paragraph 142 of the Framework.

Character and Appearance

18. The proposed garage would be constructed from stone to reflect the host building, along with a pitched slate roof and timber garage door. It would measure 6.25m in length and width and be set back around 3.25m from the front boundary wall of the property and around 10m from the dyehouse. I note there was some dispute in the appellant's appeal statement regarding which plan was considered during the planning application process, although the reference⁶ given matches the plan the Council has submitted with its appeal submissions.
19. The appeal site is surrounded on three sides by open countryside and the wider redeveloped site to the other. Generally speaking, built form in the area consists of sporadic farmsteads and detached dwellings while narrow roads and lanes branching off larger routes such as Copley Lane give the area an open, rural and tranquil character.
20. My attention is drawn to the 'House Extensions and Alterations SPD' (the SPD) (adopted June 2021) which advises with regards to outbuildings that they should be subservient in footprint and scale to the original building and its garden taking into account other extensions and existing outbuildings; and be set back behind the building line of the original building so that they do not impact on the street scene.
21. The proposal would be similar in scale to the original building, taken in this case to be the dyehouse. Moreover, given the extension to the dyehouse is much larger, the cumulative mass added to the original building is already considerable. The inclusion of the garage, albeit detached, would add further built form to the site, giving it a cramped and overdeveloped appearance. While materials would be in keeping with those of the host building, this harm would be exacerbated by its position close to the road in a prominent location a minimal set back from the front building line of the dyehouse. The scale of the garage and resulting density of development on the site would be harmful to the prevailing open and rural character and appearance of the area.
22. This would be contrary to policy LP24 of the LP, which seeks to ensure the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape. The proposal would also be contrary to the advice in the SPD and paragraph 135 of the Framework, which states that proposal should be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Setting of Listed Buildings

Special Interest and Significance

23. 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

⁶ Drawing Title: (23251)2_Asproposed Rev A

interest which it possesses. There are two listed buildings within the wider redeveloped site; Copley House⁷ and Former Weaving Establishment 10 Yards to North West of Copley House⁸ (FWE), both of which are Grade II listed.

24. Copley House evidently dates from the mid-19th century and is built of dressed stone with a stone slate roof. It was originally used as weavers' accommodation and its special interest is derived predominantly from its historic and architectural interest. Historic interest is drawn from the age and former use as housing for workers employed at the site, as well as being intrinsically linked to the textile trade of the area. Architectural interest is drawn in part from the building's simple form and proportions and its use of traditional materials, which attest to its function as a building associated with industry in a rural area.
25. The FWE unsurprisingly dates from the same period as Copley House and is of similar appearance in terms of its materials and pitched roof form, although it includes a later ground floor extension. It has retained some features relating to its former use, including the first floor loading window. Its special interest is derived from similar features as Copley House, including its age, historic links to industry and its simple architectural form and materials.
26. There is additional special interest attributed to both buildings derived from the group value associated with the wider site and various buildings which would have formed the weaving operation, including the dyehouse. This includes the remaining historic layout of the site and the spaces and relationships between buildings, including their hierarchy of uses. The wider site therefore forms the surroundings within which the special interest of both listed buildings can be appreciated. This setting contributes substantially to the significance of both listed buildings.

Effects of the Proposal

27. The setting of the listed buildings has clearly evolved over time, most notably in recent years with the redevelopment of the wider site into housing. I understand from the 1922 map provided in the Council's officer report that the site at that time included 4 main buildings, including the dyehouse. From my observations on the site visit, generally speaking the site has retained much of its historic layout, save for the subdivisions required to create separate plots and the extension to the original building on the appeal site.
28. The addition of the garage would draw the eye from the dyehouse due to the similar size of the new structure and its prominent position close to the access. This would harmfully erode the historic ancillary relationship of the dyehouse and weaving buildings and disrupt the architectural hierarchy of the wider site by introducing a building of similar scale while also eroding the historic layout of the site, harming the group value of the buildings.
29. I have had regard to the consultation response from the Council's conservation officer. They offer conditional support to the proposal subject to the position of the garage being moved further away from the eastern boundary and amending the design of the garage doors, both of which were evidently addressed in the amended plan. However, they also seek to move the garage further towards the

⁷ List Entry Number: 1313294

⁸ List Entry Number: 1183678

centre of the appeal site, which was not amended. Regardless of whether they were reconsulted following the amendments, I have formed my own view of which I am duty bound by the Act.

30. Although the appellant points to what they consider to be 'fundamental mistakes' in the Council's assessment of heritage matters, there is no report or statement before me to establish the special interest and/or significance of the listed buildings to be assessed in the first place. This is contrary to paragraph 207 of the Framework which advises that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.
31. Overall, I conclude that the proposal would not preserve the Grade II listed buildings or their settings or any features of special architectural or historic interest which it possesses. It would therefore fail to satisfy the requirements of section 66(1) of the Act and in doing so would cause harm to the significance of the designated heritage assets.
32. The proposals would also be contrary to paragraph 212 of the Framework. These make 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.

Heritage Balance

33. Given the scale of the proposal, I agree that the harm would be less than substantial harm to the significance of listed buildings due to harm caused to their setting. However, a less than substantial level of harm is not to be conflated with a less than substantial planning objection. 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.
34. 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.
35. I have had regard to the benefits forwarded by the appellant. Having a place for storage of a vehicle or general paraphernalia would be of private benefit rather than public. There is no evidence before me that the optimum viable use of the building as a dwelling would cease if the appeal was dismissed, or that there are particular security concerns at the site. Given my assessment of the proposal on the character and appearance of the area and setting of listed buildings, it stands to reason that I disagree that the proposal would represent an enhancement of the site.
36. Taken together, the benefits as presented to me therefore do not represent sufficient public benefits required to outweigh the harm. This would conflict with policies LP24 and LP35 of the LP and paragraph 215 of the Framework.

Other Considerations

37. 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.

38. Regarding other harm, I have also identified this to the character and appearance of the area and less than substantial harm to the significance of listed buildings due to harm caused to their setting which would not be outweighed by public benefits. These matters weigh against the proposal considerably.
39. I have had regard to the benefits of the proposal as presented in the heritage balance. Very special circumstances in the context of the Green Belt are not required to be of public benefit, although they would be worthy of very limited weight in this case and would not outweigh the harm I have identified.

Other Matters

40. I note the appellant is aggrieved by the Council's handling of the planning application. Be that as it may, it is not my role to mediate disputes of this type and poor handling or otherwise does not affect the planning merits of the proposal.

Conclusion

41. The proposal conflicts with the development plan as a whole, as well as the Act and relevant provisions of the Framework and supplementary guidance. The benefits as presented do not outweigh this harm. Accordingly, for the reasons given above, I conclude that the appeal is dismissed.

C McDonagh

INSPECTOR