



Appeal Decision

Site visit made on 28 May 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/R1038/W/24/3353786

Nether Birchitt Farm, Sheffield Road, Dronfield S18 2GD

- 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 Mrs Lisa Duckenfield against the decision of North East Derbyshire District Council.
 - The application Ref is 24/00101/FL.
 - the development proposed is 1no new dwelling on site adjacent opposite dwelling owned by applicant's parents. Proposal to build dwelling to allow family to be close by to parents - to assist with care due to ill health.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. The main parties were given an opportunity to comment on this matter and I have taken the comments made into account.
3. The Procedural Guide for Planning appeals (April 2025) states that the appeal process should not be used to evolve a scheme and there are no provisions for amendments or further documents to be submitted. It is important that what is considered at appeal is essentially the same scheme that was considered by the Council and by interested parties at the application stage.
4. I am also the Inspector appointed to determine a Planning Appeal¹ at the adjacent site. Therefore, whilst I am cognisant of information submitted with that appeal, they are not the same site, the same appellant or the same form of development. Whilst there may be duplication in terms of discussion on policies, the characteristic of the area or existing buildings, I have addressed each appeal separately on the basis of the evidence before me and my own observations from made during my site visit.

Main Issues

5. The main issues are:
 - the effect of the proposal upon the character and appearance of the area including the setting of designated and non-designated heritage assets;

¹ APP/R1038/D/24/3358157

- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and the effect of the development on the openness and purposes of the Green Belt;
- whether it has been demonstrated that the appeal site is suitable for the proposed development having regard to past coal mining activity;
- whether has been demonstrated that the proposal would not be harmful to highway safety, with particular regard to the suitability of the access;
- whether it has been demonstrated that the proposal would not harm the ecology and biodiversity of the site; and
- if the development is inappropriate, 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

Character and appearance

6. The appeal site comprises an irregular shaped plot of land. It is accessed from a narrow access point on Sheffield Road. From this point the site opens up revealing the small enclave of homes comprising the traditional Nether Birchitt Farm and Nether Birchitt Farm Cottage, Grade II listed buildings. The appeal site is partly opposite these properties separated by the access and parking areas for these homes. The part of the site where the proposal would be located is partly grassed, open, but enclosed by a substantial hedge and stone wall. There are trees within the site and surrounding land. Part of the appeal site, which runs alongside Sheffield Road, contains numerous trees. Nearby properties on Sheffield Road comprise hipped roof semi-detached red brick and render homes.
7. Historic England's official list entry identify that the Grade II listed buildings at Nether Birchitt Farm House and Nether Birchitt Farm Cottage were formerly one house. It describes the architectural qualities and the features of these traditional stone and slate properties. From my observations, although these are two-storey buildings, together they are relatively diminutive in scale, with similarly small windows on their front elevation. Constructed from stone they are set nestled into gardens with space in front of them and to the sides. There is an intimate and harmonious relationship between these buildings and surrounding land. Although it is evident they have been altered, their significance is clearly derived from their appearance, architectural quality, agricultural heritage and relationship with the open rural and verdant landscape. The undeveloped appeal site is seen in the context of these properties and therefore makes a very positive contribution to their rural setting.
8. The proposal would comprise a part single and two-storey dwelling. The development would fill the majority of the site width facing the existing access area introducing a large new building with limited space around it. It would comprise an elongated form of development and would be viewed as uncomfortably close to nearby hedges, trees and the wall site boundaries. Thus, notwithstanding some of the development is single storey it would appear cramped.

9. The overall form, and external appearance, including shallow roof pitch, large areas of glazing and internal balconies would not be reflective of traditional rural buildings in the area. Nor has it been demonstrated where the design cues, such as the glazing have originated from within the local context. The drawings do not clearly indicate that the proposal would be buried in the landscape. Although proposed materials include a sedum roof, I am not convinced that render and masonry would readily integrate into the landscape context. Although it is modern, the development fails to make a meaningful connection or integration with the character of the area. It would appear relatively stark. Whilst existing trees provide some mitigation, the proposal would be highly visible from the homes opposite and when the trees along Sheffield Road are not in leaf. The development would appear incongruous in these views.
10. As the proposal relates to a listed building, I have had special regard to s66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Whilst successful modern development can avoid visually competing with historic buildings, the introduction of a significantly large scale of built development into a small area opposite the more diminutive pair of listed buildings in this case would have a dominating and overbearing effect over them. The proposed dwelling would also be sited relatively close to these buildings and would be clearly visible within combined views. Furthermore, the proposal would erode the open character of surrounding land, and overall would have a harmful, urbanising effect upon the setting of the listed buildings.
11. The Council also advises that the former farm outbuildings south of Nether Birchitt Farm, have an entry on the Derbyshire Historic Environment Record². I have very little information from either party on this matter. However, paragraph 207 of the Framework states that the significance of any heritage assets affected, including any contribution made by their setting should be described. It also sets out where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, requires an appropriate desk-based assessment and, where necessary, a field evaluation. These have not been provided with the application or the appeal.
12. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through development within an asset's setting and that this should have a clear and convincing justification. Given harm would arise through the loss of the open, rural setting of the listed buildings, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
13. The proposal would contribute one dwelling to the area's housing supply. The proposal would not be in an isolated location and would be located on Sheffield Road which connects the site with Dronfield and Sheffield. Additionally, there are two bus stops within close proximity to the site. Future occupants would have a range of services and facilities nearby without having to rely solely on the private motor vehicle. There would be economic benefits during construction and

² Reference MDR15614.

increases in local spending power. The appellant asserts the proposal would have sustainable credentials. However these have not been quantified. Although the application form sets out the proposal would be self-build or custom build there is no mechanism before me to secure this. I have considered potential biodiversity enhancements could arise from the sedum roof, but these are not clearly specified.

14. Due to the provision of one home, and the uncertainty regarding non-designated heritage assets, the magnitude of public benefits set out above associated with the proposal would be small. They would not outweigh the considerable importance and weight that I attach to the harm I have found to the setting of listed buildings. I conclude that the proposal would fail to preserve the setting of the Grade II listed buildings. This would fail to satisfy the requirements of the Act.
15. For the reasons given above, I conclude that the proposal would harm the character and appearance of the area and would fail to preserve the setting of the Grade II listed buildings and the potential to harm designated or non-designated heritage assets has not been addressed. The proposal would therefore be contrary to Policies SDC6 and SD12 of the North East Derbyshire Local Plan, 2021 (the Local Plan). Together these seek to ensure the setting of listed buildings is preserved, and that the design of development responds positively to local character and context. For similar reasons, the proposal would also not accord with Policies D1 and D3 of the Dronfield Neighbourhood Plan 2016 -2034, 2019 (the Neighbourhood Plan). The Proposal would also conflict with the heritage aims contained in the aforementioned paragraphs of chapter 16 of the Framework, which relates to conserving and enhancing the historic environment.
16. Whilst I note Local Plan Policy SDC7 provided with the Council's appeal questionnaire relates to proposal affecting designated and non-designated heritage assets of archaeological interests, this policy has not been referred to in the reason for refusal. Policy SS7 has not been referred to substantively in the officer report and I have not been provided with this Policy. I therefore cannot conclude the proposal would be contrary to it.

Whether inappropriate development

17. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, The essential characteristics of Green Belts are their openness and their permanence. The appeal site for planning policy purposes is located outside a settlement in the countryside within the North East Derbyshire Green Belt.
18. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. Paragraph 154 of the Framework explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. There is no evidence before me that the proposal would fulfil any of the criteria contained with Framework paragraph 154. However unlike previous iterations, the updated Framework at paragraph 155 now states that development of homes need not be regarded as inappropriate subject to satisfying all the criteria in paragraph 155 a) to d).
19. The first Criterion in paragraph 155 a) is where development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Grey belt land is defined in

the Framework glossary as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes in Framework paragraph 143 a) to check the unrestricted sprawl of large built-up areas; b) prevent neighbouring towns merging into one another; or d) to preserve the setting and special character of historic towns.

20. The appeal site is not previously developed land. The Council considers that the appeal site together with adjoining land strongly contribute to purposes a), b) and d) set out above. This is due to the conclusions of the Green Belt review (ref: DRO/GB/00), which the appeals site formed part of and where it was concluded that the land in question strongly contributed to checking unrestricted sprawl between Dronfield and Sheffield and preventing them from merging with one another.
21. I have not been provided with the Green Belt Review, and in any event the appeal site is but one small part of it. The appeal site is visually and physically confined by the surrounding landscape features on Sheffield Road, boundary hedges and wall and close to a small enclave of homes and other domestic buildings and paraphernalia. Taking into account material considerations³ contained in the Planning Practice Guidance (PPG) these features do not indicate that the appeal site strongly contributes towards checking the unrestricted sprawl of a large built-up area.
22. As the appeal site does not comprise a substantial gap or visual separation of towns, it would not strongly contribute towards preventing town merging. It has not been substantively demonstrated that the appeal site forms part of the setting of the historic town or is adjacent to it. Therefore the proposal does not strongly contribute towards preserving the setting and special character of a historic towns.
23. Although, the proposal does not strongly contribute to the Green Belt purposes a), b) or d) Grey belt excludes land where the application of the policies relating to the areas or assets in footnote 7 of the Framework (other than Green Belt) would provide a strong reason for refusing or restricting development. This includes designated heritage assets such as listed buildings. Given my conclusions on the Grade II listed buildings above, this provide a strong reason for refusing development.
24. In addition, the Council identifies it is able to demonstrate a 5-year supply of housing land, which is not disputed by the appellant. As such, it has not been demonstrated that there is an unmet need for the proposal. Thus the proposal would not be in accordance with criterion b) of Framework paragraph 155. There is no dispute that the appeal site would be in accordance with paragraph 155 c) due to its accessibility, and 155 d) does not apply. However, the conflict with a) means it is not grey belt land, and even if it were, the conflict with 155 b) would disengage the exception for inappropriate development from applying.
25. The PPG on Green Belt sets out factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt. These include but are not limited to spatial and visual aspects. From a spatial perspective, the development would inevitably lead to a reduction in the openness, or absence of development, of the Green Belt. The proposed development would

³ Paragraph: 005 Reference ID: 64-005-20250225

introduce elements of built form and hardstanding in a currently open section of land free from development. Given the overall height, this would substantially interfere with views across the site therefore greatly reducing the current spatial openness of the immediate section of the Green Belt. From a visual perspective, the proposal would exceed the hedge and wall boundary at the front and rear. regardless of the design and scale of the proposed dwelling, due to the location of the appeal site the large scale of the proposal would be visible from Sheffield Road and nearby homes particularly when trees are not in leaf.

26. Notwithstanding my views on Green Belt purposes outlined in Framework paragraph 143 a) b) and d) the introduction of the proposed dwelling would conflict with the fundamental aim of Green Belts to keep land permanently open. Given it would fill an open area of land it would not assist in safeguarding the countryside from encroachment, which is identified as one of the purposes served by the Green Belt in Framework paragraph 143 c). Overall there would be a moderate level of harm to Green Belt openness and purposes.
27. I therefore conclude the proposal is inappropriate development in the Green Belt and would harm openness and the purposes of it. The proposal therefore does not accord with Local Plan Policies SS1, where it seeks to permit development within defined settlements and Policy SS10 which, although not consistent with the Framework in terms of exceptions seeks to regard buildings as inappropriate development that will not be permitted. The proposal would conflict with Policy ENV1 of the Neighbourhood Plan, which requires development to not conflict with the purposes of the Green Belt or adversely affect its openness. Overall there would be conflict with the aims and relevant paragraphs referred to above within chapter 13 of the Framework, which relates to protecting Green Belt.

Coal mining activity

28. The site falls within the defined Development High Risk Area. The Coal Authority records indicate that the site lies in an area of recorded and probable shallow coal workings, which pose a potential risk to surface stability and public safety. Although a Coal Mining Report has been provided, a Coal Mining Risk Assessment is required, which potentially would need to include mitigation measures to address land stability. Such a report has not been submitted at the application stage, nor with the appeal. Unless mitigation measures relating to previous mining activity are identified and proven to be achievable, it is not appropriate to leave this matter to be dealt with under a planning condition.
29. Without a Coal Mining Risk Assessment which clearly demonstrates that any land potentially affected by land instability will be addressed by appropriate mitigation measures, I cannot be satisfied that the proposal would not result in unacceptable risks which would adversely impact upon human health.
30. I conclude that it has not been demonstrated that the appeal site is suitable for the proposed development having regard to past coal mining activity. The proposal would not comply with Local Plan Policy SDC14, insofar as it seeks to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. For similar reasons, the proposal would conflict with paragraph 187 and 196 of the Framework, contained in chapter 15 which seek to conserve and enhance the natural environment.

Highway safety

31. The site is accessed from Sheffield Road, which is subject to a 30mph speed limit. There is an existing access, this is slightly sloping and relatively narrow. It is currently used by both Nether Birchitt Farm and Nether Birchitt Farm Cottage. The proposal would increase the use of this. It is therefore reasonable to ensure that visibility for new development is suitable for the intensified use of the access. Although it may serve existing family members who live at the site, there is nothing before me to restrict the use of the dwelling in this respect.
32. Although I was able to see in both directions, I observed that the road was relatively fast and busy. The vegetation within the appellant's ownership did restrict views from the traffic heading towards the site from the north. However, I cannot be certain that the visibility meets the highway guidance and given my observations and the potential for increase in vehicle movements. The harm that could arise is through increased conflict between existing and new residents entering and leaving the site, and vehicles on the highway, who may be forced to slow or halt if they have not been seen, increasing chance of collision. Notwithstanding any private matters, the access is excluded from the site boundary, thus not possible to condition any requisite splays.
33. Therefore I conclude that it has not been demonstrated that the proposal would not be harmful to highway safety, with particular regard to the suitability of the access. This would not be in the interests of highway safety and would be contrary to Local Plan Policy ID3. The proposal would also conflict with Framework paragraph 115 of the Framework. This advises planning decisions should ensure safe and suitable access to the site can be achieved for all users.

Protected species

34. The appellant has not provided a updated ecological survey. The ecological report submitted does not provide sufficient details regarding the habitats present on site or the presence or otherwise of protected species and the extent that these may be affected by the proposed development. Although the existing site is grassland, there are numerous trees and watercourse in the vicinity of the site. It is therefore possible that these would be used by wildlife.
35. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision⁴.
36. From the information before me I cannot be certain of the existing ecological baseline conditions, and therefore it would not be possible to condition any further surveys or mitigation as it is not known if this would be possible or effective.
37. I therefore conclude that it has not been demonstrated that the proposal would not harm the ecology and biodiversity of the site. The proposal would conflict with Local Plan Policy SCD4 which seeks to ensure, amongst other matters that development protects and enhances the natural environment and increases biodiversity. For similar reasons, the proposal would conflict with Framework paragraph 187, where it seeks similar ecological protection and enhancements

⁴ As required by Government Circular: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system 16 August 2005.

Other considerations

38. The appellant has a long history with the surrounding area and the appeal site. They intend to live at the proposed dwelling, they explain that the proposal is an essential adaptation to meet the pressing needs of the family, namely providing 24 hour care for older relatives. In this regard, the proposal would be a benefit to the appellant and extended family. However, it has not been demonstrated that the needs of the elderly parents could not be met within the existing family dwelling or that the extended family need to live on site for any particular health needs. There is insufficient information provided, and therefore personal and family circumstances carry little positive weight.

Green Belt Balance

39. I have concluded that the appeal scheme would be inappropriate development in the Green Belt. It would result in a moderate loss of openness of the Green Belt. These matters attract substantial weight. The proposal would harm designated heritage assets, this attracts significant weight. The proposal has not addressed coal mining risks, highway safety or ecological effects. These aspects have potential to result in serious harm and also attract significant weight against the proposal. There would be moderate harm to the character and appearance of the area, this attracts moderate weight.
40. The harms and combined conflict with the aforementioned policies referred to in this decision would not outweigh any public or personal benefits. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Therefore, the very special circumstances necessary to justify the appeal do not exist.

Conclusion

41. The proposal conflicts with the development plan and the Framework, the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude the appeal should be dismissed.

K Williams

INSPECTOR