



Appeal Decision

Site visit made on 25 February 2020

by **C Coyne BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 May 2020

Appeal Ref: APP/C2741/W/19/3242886

Coney Garth Farm, Hull Road, Dunnington, York YO19 5LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C Robinson against the decision of City of York Council.
 - The application Ref 18/02110/OUT, dated 12 September 2018, was refused by notice dated 14 November 2019.
 - The development proposed is Outline application for the relocation of an existing dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. There is no development plan for York, except for the saved policies YH9(C) and Y1(C1 and C2) of the Yorkshire and Humber Regional Spatial Strategy (RSS)¹. The saved policies relate to York's Green Belt which extends about 6 miles from the city centre, encompassing the appeal site. The Council approved the Development Control Local Plan (DCLP) for development control purposes in April 2005. This document and its policies do not form part of a statutory development plan for the purposes of S38(6) of the Planning and Compulsory Purchase Act 2004, but can form material considerations, albeit of limited weight. The Council refers to DCLP Policy GB1 in relation to the Green Belt. The Council also refers to Policy GB1 of the City of York Publication Draft Local Plan 2018 (PDLP), which was submitted for examination on 25 May 2018. Given its stage of preparation, I also afford limited weight to this emerging policy.
3. The application has been submitted in outline with all matters reserved for future consideration. I have dealt with the proposal on that basis, treating details such as those on the proposed block and elevations plans as an indication of the dwelling that would likely be erected on the site. It is clear that the main parties have considered the indicative plans from the point of view as to whether in principle harm would be caused to the openness of the Green Belt.
4. The appellant has raised concerns regarding the Council's handling of the case, and in particular with regard to email correspondence where it was indicated that officers were 'minded to approve' the original application before the Council had made its formal decision. However, this is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case.

¹ Saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013

Main Issues

5. The main issues are:
 - whether the proposal would represent inappropriate development in the Green Belt;
 - the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and
 - if the proposed 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 proposal.

Reasons

6. The appeal site is situated within an open field next to a group of agricultural buildings at the end of a country lane (Coneygarth Lane) accessed via the A1079 (Hull Road). The group of buildings comprise two large sheds, one smaller storage shed and a contiguous group of smaller buildings consisting of an apparently vacant, disused dwelling and dilapidated red-brick outbuildings. Both the appeal site and the nearby group of agricultural buildings are (save for a small wooded area on the other side of the Lane) surrounded by open agricultural land. The proposal relates to the provision of a new detached dwelling to replace the existing vacant dwelling which would be demolished (along with the smaller grouping of contiguous outbuildings) to make way for a large new agricultural building similar to those close by.

Whether inappropriate development

7. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for several specified exceptions. One such exception is 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 establishes two tests, firstly relating to the use, and then an objective assessment of the relative size of the existing and replacement building. The appeal proposal would be the same use, passing the first test. The second test is a matter of judgement based on the evidence of each case as the Framework does not define 'materially larger'.
8. The appellants argue the indicative dwelling would not be materially larger than the existing dwelling. Using the dimensions submitted by the appellant, the proposal would have a footprint of approximately 90 sqm whereas the existing dwelling has a footprint of approximately 89.9 sqm. In relation to the volume of the proposed and existing dwellings no figures have been provided by either the Appellant or the Council. However, based on the proposed elevations on the submitted plans and from what I observed of the existing dwelling on my site visit, I consider that the approximate volume of the proposal would be materially greater than that of the dwelling to be replaced. Indeed, the Council's delegated report estimates that the proposal would be approximately 11% larger, with the appellant estimating that it would be approximately 10% larger².
9. Accordingly, whilst the indicative proposal would not be significantly larger in terms of its footprint, it would be materially larger by a factor of approximately 10% when considering its volume and massing. As a result, I find that the indicative proposal would be materially larger than the existing dwelling to be replaced and

² See appellant's submitted Planning Statement (August 2018).

would therefore not fall within exception d) of Paragraph 145 of the Framework. To this extent, and in principle, the proposal would be inappropriate development within the Green Belt in conflict with the aims of the Framework.

10. I acknowledge that the submitted plans show only an indicative proposal. However, I do not have any other indicative plan(s) before me showing whether it would be possible to erect a different replacement dwelling on the site. Consequently, and even if I were to completely disregard the indicative plans for the purposes of considering the effect of the proposal on the Green Belt, I would conclude that I had insufficient information before me to reach a decision, in principle, that the development would not be inappropriate development in the Green Belt.

Openness and Green Belt purposes

11. The appellant argues that there is no requirement within the Framework for the replacement building to be located upon the same general footprint of the building to be replaced. However, as set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm and has both spatial and visual aspects.
12. The indicative replacement dwelling would be located a good distance from the site of the existing dwelling (and the contiguous linear group of dilapidated agricultural buildings beside it), within an open field where there is currently no development. In simple spatial terms, this would have a clear and demonstrable effect on the openness of the Green Belt by introducing development to land which is presently permanently open. The construction of a detached dwelling on the appeal site would therefore bring about built development where there is presently none.
13. I note the Appellant's point that the proposal would not be visible 'from any public viewpoint'. However, regardless of whether or not the proposal would be conspicuous from a public vantage point the fact remains that the indicative development would have an adverse effect on the openness of the Green Belt.
14. As a result, given the clear linkage between the undeveloped appeal site and the more open agricultural land surrounding it, I find that the indicative proposal would lead to a demonstrable loss of openness to the Green Belt causing significant harm. Furthermore, in principle the erection of a dwelling on the appeal site would lead to encroachment of development into the countryside, which would fail to serve the related Green Belt purpose and therefore it would clearly conflict with the fundamental aim of national Green Belt policy. Consequently, it would also conflict with the aims of Policy GB1 of the DCLP and Policy GB1 of the PDLP.

Other considerations

15. In support of the appeal scheme the appellant has argued that the proposal would provide an economic benefit in relation to the expansion of the existing agricultural business. I acknowledge that the proposal would potentially provide a limited economic benefit that weighs in favour of it.
16. The Appellant has cited the provision of a newly approved agricultural building on the footprint of the existing dwelling (and that of the neighbouring smaller group of dilapidated agricultural buildings) as a justification for the proposal as this would be less harmful to the openness of the Green Belt as the alternative (should the proposal be refused) would be to place the new agricultural building in the same

location as the appeal scheme. However, it is far from certain that this would be the case and I therefore afford this factor little weight.

17. The Appellant has also referred to an appeal decision³ to which I have had regard. Whilst it relates to the question of a replacement building in the Green Belt, there are differences in the circumstances of this case, including the relative sizes and locations of the existing and proposed dwellings. Accordingly, I do not draw direct comparisons with the appeal scheme before me which I have considered on its own merits. This decision does not therefore weigh in favour of the appeal scheme.

Planning balance and conclusion

18. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the indicative plans demonstrate that such a dwelling would have adverse impacts on openness and the Green Belt purpose of safeguarding the countryside from encroachment. If I were to completely disregard the indicative plans for the purposes of considering the effect of the proposal on Green Belt, I would conclude that I had insufficient information before me to reach a decision that the development would not be inappropriate development in the Green Belt. Either way, these are matters to which I afford substantial weight in the planning balance.
19. In the context of the above, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm. Principal amongst these is the fact that the proposal would provide a limited economic benefit in relation to the expansion of the existing agricultural business. Whilst I acknowledge this, and the other identified considerations put forward by the Appellant, the Framework makes it clear that all development in the Green Belt is subject to stringent national planning policy tests, which I have applied.
20. I therefore conclude that the identified other considerations put forward which weigh in favour of the proposal fail to clearly outweigh the substantial harm by reason of inappropriateness and the other harm that I have identified. In this case, the substantial weight to be given to Green Belt harm has not been clearly outweighed by the other considerations sufficient to demonstrate very special circumstances.
21. Accordingly, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR

³ APP/C2741/W/18/3208493



Appeal Decision

Site visit made on 17 September 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2019

Appeal Ref: APP/M5450/W/19/3232030

Linden House, South View Road, Pinner HA5 3YD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Sanjay Budhdeo against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2008/19, dated 4 April 2019, was refused by notice dated 25 June 2019
 - The development proposed is described as: 'Outline application with all matters reserved for redevelopment to provide a two-storey detached building with basement and accommodation in roof to create nine flats'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Outline planning permission is sought, but with all detailed matters reserved for future consideration. Plans showing possible layout, floorplans and elevations have been submitted. However, given that layout, scale, appearance, landscaping and access are reserved matters, I have treated the plans solely as an indication of how the site might be developed. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to national policy and relevant development plan policies;
 - the effect of the proposed development on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the appeal site, the surrounding Pinner Hill Estate Conservation Area (PHECA) and the Harrow West Ridge Area of Special Character (HWRASC);
 - the effect of the proposed development on trees; and,
 - 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

Inappropriate Development

4. The appeal site currently comprises a large detached dwelling and detached garage set within a notable plot in a row of residential dwellings, which is accessed off South View Road. The site is located within the Green Belt, the PHECA and the HWRASC. The proposal is to convert the existing property into 9 no. flats with accommodation and communal facilities located over 5 floors.
5. Both parties have brought to my attention an extant appeal decision¹ (the approved scheme) that was allowed, granting outline consent with all matters reserved for the demolition of the existing detached dwelling house and redeveloping the site with a two-storey detached building with basement and accommodation in roof to create nine flats with basement parking.
6. Additional appeal decisions² for the site have been provided by the appellant, and reference has been made to a number of approved planning applications³ in the locality. However, in all instances, relatively little detail has been provided regarding the particular planning backgrounds to these schemes and I do not know what evidence was before the Inspector at the time of his decision. However, these schemes only involve one dwelling. Consequently, I cannot be sure that these are entirely representative of the circumstances in the appeal before me, in any event all appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.
7. Whilst the scheme subject of this appeal now seeks to convert the existing property, rather than demolish it, there are differences to the approved scheme, such as the proposed link (the link) from the main building to the detached garage, an increase in fenestration on both front and rear elevations and an external area of car parking to the rear of the property, amongst other things. Nevertheless, due to the similarities between the approved scheme and the case before me, I consider the recent appeal decision for the approved scheme to be a material consideration in the determination of this appeal.
8. I note that the appellant has sought to replicate the roof design to that proposed within the approved scheme and that overall the alterations to the property, including the link would not necessarily amount to inappropriate development. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate subject to exceptions. One of the exceptions listed at paragraph 145 c) of the Framework is for the extension of a building provided that it does not result in disproportionate additions over and above the size of the 'original building'.
9. There is no definition within the Framework of 'disproportionate'. However, on the evidence before me, I conclude that, due to its size, the proposed extensions and alterations would not amount to disproportionate additions to the original building. Consequently, this element of the scheme complies with the exception listed under paragraph 145 c) of the Framework.

¹ APP/M5450/W/17/3190981

² APP/M5450/W/15/300223 and APP/M5450/W/15/3002473

³ P/2042/12 & P/2533/12

10. Paragraph 146 of the Framework states that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These other forms of development include the re-use of buildings provided that the buildings are of permanent and substantial construction.
11. The proposed car park to the rear of the host property comprises operational development within the meaning of Section 55 of the Town and Country Planning Act 1990 (the Act) and does not fall within one of the exceptions within paragraph 145 of the Framework and must be considered as inappropriate development in the Green Belt. The development also includes the re-use of a building and therefore in line with paragraph 146 of the Framework it needs to be assessed in terms of whether the openness of the Green Belt would be preserved.
12. The proposed car park is not visible in wider public views and I note that it is proposed to use Grasscrete in its construction. However, it would nevertheless be prominent when viewed in closer proximity and would represent a sizeable area when compared to the host property. The hard standing facilitates the parking of vehicles that, whilst not constituting an act of development in itself, adds to the loss of openness on an intermittent basis when the area of car parking is in use. Accordingly, it would not preserve the openness of the Green Belt. This is a notable difference when compared to the approved scheme.
13. Having regard to the above, I conclude that the proposed development is inappropriate development in the Green Belt, and in this regard, it would conflict with the Harrow Core Strategy 2012 (CS) Policy CS1.F, Harrow Development Management Policies 2013 (DM) Policy DM16, Policy 7.16 of the London Plan 2016 (LonP) and with the Framework.

Character and appearance

14. The site is within the PHECA and the host property is specifically mentioned in the Council's Pinner Hill Character Appraisal and Management Strategy 2009 (CAMS) as Neo Classical Architectural Inspired Design, positively contributing to the PHECA. DM Policy DM7 states that proposals should preserve and enhance heritage assets in the borough. The site and surrounding area are also within the HWRASC. Within special character areas DM Policy DM6 states that proposals will be considered having regard to the strategic value of the area. Proposals that cause substantial harm to the area or its setting will be refused.
15. I note that in the approved scheme, the Inspector noted that whilst there would be an uplift in density, which would be at odds with the character of the immediate area comprising large family dwellings, the appearance of the property itself would remain largely unchanged as a detached residence. On the evidence before me and given that the existing property is now going to be converted, I agree with this observation too. Additionally, I find that the proposed alterations to the host property, including the link to the detached garage are still within the spirit of the approved scheme, and would not create any adverse visual issues.
16. However, the proposed area of car parking to the rear of the property is a notable change when compared to the approved scheme, which was located underground. I find that such an approach would significantly change the character and appearance of the site, to the detriment of the PHECA and the

HWRASC. Whilst I acknowledge that public views of the rear parking area would be limited, I find that the introduction of the parking area to the rear of the property for the development would be notable, especially as no other such arrangements are evident in the immediate locality of the site. In the context of the area surrounding the site, I find that the provision of a rear parking area as proposed in the appeal scheme would be distinctly at odds with the character of neighbouring dwellings, as it would appear discordant in its location, creating a strident feature, out of keeping with the prevailing character of this area of the PHECA and the HWRASC.

17. Having regard to the above, I conclude that the proposed development would fail to preserve or enhance the character or appearance of the PHECA. It would, therefore, not comply with the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 concerning the desirability of preserving or enhancing the character or appearance of the conservation area.
18. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the character and appearance of the appeal site and the surrounding PHECA and HWRASC. Therefore, the proposal would not accord with the design, character and appearance aims of CS Policy CS1 and CS6.A, DM Policies DM1, DM6 and DM7, LonP Policies 7.4B and 7.8C/D. Accordingly the proposed development would fail to accord with the aims and objectives of the CAMS.
19. Additionally, the proposed development would not conserve the heritage asset in a manner appropriate to its significance in line with the Framework. I find that the proposed development would result in "less than substantial" harm to the PHECA for the purposes of paragraph 196 of the Framework. The proposal would contribute positively towards the Council's supply of homes, and the site is located in an accessible location, which would result in some limited economic and social benefits. However, as public benefits, these would not outweigh the less than substantial harm to the significance of the PHECA.

Trees

20. There are numerous mature trees in the rear garden of the host property, which form an important characteristic of the site, significantly contributing to the wider effect that it and other residential gardens with mature trees have on the estate, contributing to the significance of the PHECA. I note the comments by the appellant that no trees on the site are the subject of an individual or a group Tree Preservation Order (TPO), which is not disputed by the Council. However, all trees within a conservation area are safeguarded by its designation, under Section 211 of the Town and Country Planning Act 1990.
21. It is obvious that the tree survey⁴ (the survey) supplied by the appellant precedes the appeal proposal by some time and is therefore not specific to the proposed development subject of this appeal. Whilst, the survey carries some merit, its age and no accompanying tree plan to enable satisfactory identification of the trees on site, reduces the weight that I can attach to it. Therefore, I cannot be certain of the trees classification or whether or not the trees, where development is proposed within their root protection areas would be suitable for any such incursion.

⁴ Henry Girling Arboricultural Consultant 2014

22. However, as I am dismissing the appeal for other reasons, I have not pursued this matter further with the main parties. In any event, even if an accompanying plan to the survey were to be provided, I would not be satisfied that the proposed development would not result in material harm to the health of any trees. Furthermore, such matters should be addressed and considered at this stage and not by means of the imposition of a planning condition. As a consequence, I cannot completely disregard the possibility of potential harm to trees.
23. I therefore conclude that it has not been demonstrated that the proposed development would not have an unacceptably harmful effect on the health and long-term viability of trees. The proposal thus fails to accord with the character, appearance and environmental aims of DM Policy DM22, LonP Policy 7.21B and the Framework.

Other considerations

24. With the exception of the harm to the Green Belt, Heritage Assets, character and appearance and trees, the proposed development would not have any other adverse impacts to the area or the occupants of nearby residential properties or raise any highway safety issues. These matters attract neutral weight.
25. I also acknowledge that the development would bring some social and economic benefits to the area through the creation of the additional dwellings and during the construction phase of the development. However, these are minor factors in favour of the development.
26. The appellant has raised issues surrounding the viability of the approved scheme in his submission. However, for the reasons outlined above, I do not consider the issue of the viability of development to be sufficient enough to justify the proposed development in the face of the harm that I have identified with regards to the Green Belt, character and appearance of the PHECA, the HWRASC, and to existing trees on site.
27. The outline status of the current appeal proposal means that the required assessment of the effect of a proposal on the Green Belt and character and appearance of the PHECA and HWRASC is more limited. Nevertheless, the submitted indicative drawings demonstrate how the appellant intends to provide car parking for the development, in light of the misgivings surrounding the underground solution originally proposed on the approved scheme.
28. The indicative approach of providing a notable amount of car parking to the rear of the host building to serve the proposed flat conversion would raise adverse issues in respect of the Green Belt, character and appearance of the PHECA and HWRASC, and on existing trees on site. Thus, I am not satisfied that a successful scheme could be produced through a reserved matters submission which would avoid harm to the above matters through the redevelopment of this site as proposed.

Other Matters

29. Third parties, including local residents and Pinner Hill Residents Association have also expressed a wide range of concerns on the application including, but not limited to the following: highway safety; noise and disturbance; drainage; services and infrastructure, amongst other things. However, I note that these

matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand these concerns, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

30. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.

Conclusion

31. Section 38(6) of the Planning Compulsory Purchase Act 2004, as amended, indicates that proposal should be made in accordance with the development plan unless material considerations indicate otherwise.
32. The proposal would be inappropriate development in the Green Belt and there would be a moderate reduction in openness. According to the Framework substantial weight must be given to any harm to the Green Belt. Additionally, there would be harm to the PHECA, the HWRASC and to existing trees on site. The other considerations which arise do not clearly outweigh the totality of the harm. Consequently, very special circumstances do not exist and the development would conflict with the development plan when taken as a whole, and there are no other considerations which outweigh this finding. It would also be at odds with the requirements of the Framework.
33. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR