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# Appeal Decision

Site visit made on 1 March 2022

**by Paul Martinson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 May 2022**

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**Appeal Ref: APP/X4725/W/21/3285991**

**511 Aberford Road, Stanley, Wakefield WF3 4AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R Eggleston against the decision of Wakefield Metropolitan District Council.
  - The application Ref 21/00264/FUL, dated 2 February 2021, was refused by notice dated 13 August 2021.
  - The development proposed is described in the application form as 'Detailed application for replacement dwelling (including demolition of existing property)'.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and the development plan policies;
  - the effect of the proposal upon the openness of the Green Belt; and
  - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

## Reasons

### *Whether Inappropriate Development*

3. The appeal property is a detached red brick dwelling with a hipped tiled roof. The dwelling has a large garden which includes a detached garage sited towards the rear boundary, some distance from the dwelling. The site is in a generally rural setting, backing onto open farmland.
4. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 149 makes it clear that, other than in specified circumstances, new buildings are inappropriate development. One of the exceptions at 149. d) is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Similarly, Policy D23 of the Council's Local Development Framework Development Policies (LDF) 2009 follows the same principles.

5. The appellant has provided details of the volumes of the existing and proposed dwellings. The volume of the existing dwelling is given as 625 cubic metres<sup>1</sup>, however the appellant has included the volume of the existing detached garage within this figure. As the exception to the Framework refers solely to the replacement of an existing building in the singular, and as the garage is physically distant from No 511 and shares no clear visual affinity with it, this should not be included within the volume of the existing building in order to comply with 149 d).
6. The proposed dwelling would have a volume of 904 cubic metres. Whilst the volume of the existing dwelling should be lower owing to the inclusion of the garage, this would nonetheless represent a substantial difference in volume of close to 45%. The new building would, therefore, be materially and significantly larger than the one it would replace. Consequently, the proposal would be inappropriate development that is, by definition, harmful to the Green Belt. In accordance with paragraph 148 of the Framework, this is a matter to which I attach substantial weight.

### *Openness*

7. Paragraph 137 of the Framework states that 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.
8. The appeal site forms part of a small cluster of dwellings along this side of Aberford Road. This comprises of four detached dwellings on reasonably large plots and two pairs of semi detached dwellings on smaller plots. The openness of the Green Belt is clearly evident around the existing buildings, particularly those with larger plots. Here dwellings are set back from the road with distinctive gaps between them, some of which allow views through to the open farmland to the rear.
9. The area between the side of the appeal property and the boundary with No 509 is open and predominantly hardsurfaced. The dwelling at No 509 is similarly positioned away from the boundary and as such there exists a substantial gap between the two dwellings. This contributes to the openness and spacious character of the area. Whilst there are trees towards the front of the appeal site, the detached garage to the rear is relatively low in height and being sited towards the back of the site, behind the existing dwelling, it is not prominent.
10. Whilst lower than the ridge of the roof of the existing dwelling, the proposed replacement dwelling would have a much more extensive footprint. It would also occupy a much greater proportion of the width of the plot at the frontage of the site, resulting in a substantial increase in bulk, all of which would be two storey. It would also extend significantly closer to No 509, building over much of the aforementioned gap, reducing openness<sup>2</sup>.
11. Furthermore, the proposed white rendered walls and large areas of glazing would have a much more striking appearance than the existing red brick

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<sup>1</sup> Whilst references are made to 'sq m' by the appellant, it is clear from the statement that these calculations refer to volume rather than area.

<sup>2</sup> Acknowledging that a gap would still remain, as noted in the correspondence before me from the Council to the appellant of 19 July 2021.

dwelling and would be more readily visible through the trees and hedge to the front of the site. As a result, it would become a notably more dominant feature in the rural landscape resulting in further harm to openness.

12. For the above reasons, I conclude that the proposal would result in significant harm to the openness of the Green Belt, contrary to the provisions of the Framework in this regard. The proposal would conflict with Policy D23 of the LDF for the same reasons.

### **Other Matters**

13. The appellant argues a fall-back position exists whereby a single storey flat roof side extension and a two storey hipped roof rear extension could be added to the existing building, whilst a large indoor swimming pool could be constructed at the back of the site, behind the existing garage, under permitted development. These are the subject of a Certificate of Lawful Development<sup>3</sup>, which I accept demonstrates that there is a reasonable prospect of this being implemented, notwithstanding that the amount of weight attributable to it is inherently a matter of planning judgement. For comprehensiveness I also accept the premise of the appellant's argument that the existence of a realistic fallback position may contribute towards the existence of very special circumstances.
14. The appellant indicates that the fallback position would have a materially greater effect on openness than the appeal proposal and has submitted a unilateral undertaking agreeing to not implement the certified development or construct the swimming pool building in the event of the appeal being allowed.
15. The volume of the existing dwelling with the addition of the two fall back extensions would be 1014 cubic metres as opposed to the new dwelling which would have a volume of 904 cubic metres, a difference of around 10%. It is important to note however that the fallback dwelling figure includes the volume of the existing garage, whilst the volume of the proposed dwelling does not, which could account for a sizeable portion of the difference between the two. Whilst the appellant states the garage is a functioning part of the site and should be included within the fallback volume, the garage is a low building at the back of the site and is not prominent in views from outside it. This part of the total volume of the fallback proposal is therefore not directly comparable with the volume of the appeal proposal.
16. Nonetheless the assessment of the effect on openness is not simply a mathematical exercise based on the calculation of volumes but requires a planning judgement. The fallback proposal would retain the existing width of the dwelling within the plot at two storey, whilst the single storey side extension would not extend as far towards No 209 as the appeal proposal. Furthermore, being significantly lower and single storey, the extension would help to retain the existing aforementioned gap to a degree.
17. The two storey rear extension would certainly affect openness, although its effect would be reduced by being located in a less prominent position and being partly located over an existing single storey extension. As it would not extend to the side, it would not significantly reduce the space between the dwellings. The large indoor swimming pool would also adversely affect openness,

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<sup>3</sup> 20/01969/CPL

although this would be mitigated in part by its single storey nature, and its position close to the boundary at the back of the site, behind the existing garage and away from the dwelling.

18. As much of the development proposed as part of the fallback position would be at single storey, whilst the existing gap to the side would be retained to a degree, I am not convinced that the fallback position would have a materially greater effect on openness than the appeal proposal. The weight I can therefore give to the fallback position in justifying allowing the appeal is therefore limited.
19. The processing and level of communication and advice during the planning application, which forms an extensive element of the appellant's appeal statement, relates to the practical administration of the application rather than to the acceptability of the scheme. Whilst I have noted that history, I have nonetheless determined the appeal scheme with regard to its planning merits.
20. I have been provided with examples of case law and appeal decisions by the appellants to which I have had regard. However, I have not been provided with full details of the schemes to which these relate, or the comparability of the circumstances there in terms of the existing nature of the site, the development proposed, and effects on the Green Belt. Each case turns on its own particular merits, and therefore they are not directly comparable to the circumstances here<sup>4</sup>.

### **Planning Balance and Conclusion**

21. The proposed development would be inappropriate development in the Green Belt and would harm openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. For the reasons I have set out above, the weight I would attach to the other considerations would, when taken together, be limited, such that they would not clearly outweigh the harms. The very special circumstances required to justify the proposed development do not therefore exist.
22. The appeal scheme would conflict with the development plan and there are no material considerations, including the approach of the Framework, worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

*Paul Martinson*

INSPECTOR

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<sup>4</sup> Noting the cases referred to me at 673 Denby Dale Road and Ackworth Park.