



Appeal Decision

Site visit made on 20 June 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2022

Appeal Ref: APP/A4710/W/22/3292988

Garage 1 adjacent to 7 Forest Hill Road, Sowood, Elland HX4 9LB

- 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 Kayleigh Oakes against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/00690/FUL, dated 19 June 2020, was refused by notice dated 10 December 2021.
 - The development proposed is a new 4 bed detached house over 4 levels with attached garage to side and 2 parking spaces to the front of the house.
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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 relevant development plan policies and the National Planning Policy Framework (the Framework), including the effect 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 living conditions of residents of 6 Forest Hill Road with particular regard to outlook;
 - the effect of the proposal on the use of the highway with regard to safety and accessibility; and
 - if the proposal is inappropriate development, whether 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

Inappropriate Development and Openness

3. The proposed development would involve the demolition of the existing garages located to the front of the site and the erection of a detached stone-built dwelling with a stone tile roof.
4. Paragraph 147 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. The Framework advises that openness

and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects.

5. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than in a number of exceptions. The exception at paragraph 149 g) allows for the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. There appears to be no dispute between the parties that the area of the site where the garages are located, and where the dwelling is mainly proposed to be located, is previously developed land.
6. Policy GNE1 of the Replacement Calderdale Unitary Development Plan, 2006 (the UDP) seeks to restrain development outside the urban areas through the general extent of the Green Belt which will be maintained around the main built-up areas.
7. The single storey garages on the site can be seen from Forest Hill Road and in views from certain vantage points in the surrounding area including stretches of the B6112 road and glimpsed views along limited stretches of Gosport Lane. However, they are unobtrusive given their limited scale and height and allow for open views across the site to the surrounding countryside.
8. The proposed development would, by contrast, be a substantial dwelling. It would be three storeys to the front including the two dormer windows serving the accommodation in the roof space. It would be four storeys at the rear, including the rooflights. An attached garage is proposed as well as a parking area to the front for two cars and a rear garden. The appellant states that the site is 243 square metres (sqm) and the footprint of the existing garages is 70sqm, increasing to 84sqm when the driveways are included. The proposed dwelling would have a footprint of 84sqm. While the proposed development would have a slightly larger footprint than the garages, it would nevertheless result in a built form that would be considerably larger than the development currently on the site in terms of its scale and massing.
9. Although a relatively large part of the site would be used as a garden, the proposed dwelling would be a prominent feature and would obscure views of the countryside when viewed from the surrounding area including stretches of Gosport Lane and the B6112, as well as Forest Hill Road in the vicinity of the site. It would significantly diminish the openness of the Green Belt, in both visual and spatial terms, due to its scale and massing.
10. For the above reasons, the proposed development would have a greater impact on the openness of the Green Belt than the existing development. Accordingly, it would be inappropriate development in the Green Belt, and would be inherently harmful to it.

Character and Appearance

11. The site lies between two rows of stone built terraced dwellings. The land slopes downwards from Forest Hill Road to a track which serves a number of properties. Due to the sloping nature of the land, the terraces are two storeys to the front and three storeys to the rear, other than no. 11, which is two storeys at the rear. The building adjacent to one of the terraces has its gable to Forest Hill Road.

12. While both terraces have been altered somewhat over time, they still have a mainly uniform and traditional appearance, with relatively consistent frontage widths, window styles and low walls along the narrow pavement enclosing a small outdoor amenity area. This gives a relatively coherent and balanced appearance in the street scene in the immediate vicinity of the site.
13. The proposed development would result in a broad frontage which would significantly depart from the character and appearance of the nearby built form and would emphasise the visual prominence of the proposed dwelling. The window positions and sizes proposed for the dwelling would be very different, as would its overall scale and mass. The two dormer windows in the roof would further add to the proposed dwelling's bulk. Notwithstanding the use of matching materials, the combined effect of these variances in design would result in the proposed development appearing at odds with the relatively harmonious character and appearance of the terraces. It would therefore be visually incongruous within the street scene.
14. While the appellant's suggestion to remove the dormer windows could lessen these concerns, it would not adequately overcome the harm caused by the overall form of the proposed dwelling.
15. For the above reasons, I conclude that the proposed development would have a significantly harmful effect on the character and appearance of the area. As such, it would be contrary to Policy BE1 of the UDP which requires development proposals to respect or enhance the established character and appearance of existing buildings and surroundings amongst other matters, and the design objectives of paragraph 130 of the Framework.

Living Conditions

16. The blank end elevation of the proposed dwelling would be reasonably close to the window at ground floor and the one at first floor level in the gable of the adjacent property at 6 Forest Hill Road. Annex A of the UDP requires a nine metre separation distance (secondary to side aspects). The proposed dwelling would be closer to the gable of no. 6 than nine metres, with the Council's officer report indicating three to four metres.
17. There are no details of the internal layout of this neighbouring property to demonstrate the nature of the rooms served by the windows, nor is there any evidence on whether these are the only windows serving these rooms. However, the appellant states that they serve a kitchen and bathroom and the Council states that they serve a living room and bedroom. In my experience, bathrooms are not normally considered to be habitable rooms, whilst living rooms and bedrooms normally are and kitchens often are.
18. The first floor window of no. 6 is set close to the front of the property. The proposed dwelling would be set slightly further back and as such would not be directly opposite this window. Even if this window does serve a habitable room, outlook from it would not be unacceptably affected by the proposal due to its positioning relative to the proposed dwelling.
19. The existing outlook from the ground floor window of no. 6 is already somewhat restricted due to the proximity of the side entrance porch of this property and its garage, which sits almost in between the ground floor window and the proposed dwelling. However, the additional height of the end elevation

of the proposed dwelling at a relatively close distance would result in an increased sense of enclosure, unduly dominating the outlook from the ground floor window.

20. The appellant has suggested that the position of the proposed dwelling within the site could be amended to locate the attached garage adjacent to no. 6 rather than no. 7. This would increase the distance between the gable of no. 6 and the full height end elevation of the proposed dwelling. This amendment may affect the positioning of the access point to the highway and would bring a full height end elevation nearer to no. 7, although I note that there are no windows in the gable of this property. Such an amendment would result in a markedly different scheme in terms of positioning to that considered by the Council. The appeal process should not be used to evolve a scheme and it is important that what is assessed by the Inspector is essentially what was considered by the Council, and on which people's views were sought. Parties may be prejudiced or caused injustice by my consideration of this amendment and so I have not taken it into account in my assessment.
21. Consequently, based on the submitted evidence, I conclude that there would be harm to the living conditions for residents of 6 Forest Hill Road due to a loss of outlook. The proposed development would therefore conflict with the residential amenity requirements of Policy BE2 of the UDP.

Use of the Highway

22. While the appellant's appeal statement indicates that the proposed garage would be the only parking provision, the application form states that three spaces would be provided, which is consistent with the submitted plans. In addition, the description of the proposal on the application form includes reference to two parking spaces to the front of the house. I have therefore proceeded on this basis.
23. The Council's evidence states that on a road which is subject to the national speed limit, which Forest Hill Road is in the vicinity of the site, the sight lines should be 215 metres. The Council's view is that this would not be achieved at the site due to the road layout and position of the existing buildings fronting onto the road, which I also observed during my site visit.
24. The dwellings in the vicinity of the site appear to mainly rely on on-street parking provision. During my site visit on a weekday afternoon, which I appreciate was only a snapshot in time, a number of cars were parked on the road. Visibility in both directions at the site was curtailed by the parked cars.
25. Consequently, there would be impediments to visibility in both directions. Therefore, the position of the access would pose significant risks to highway safety both in terms of drivers emerging from the site without being fully aware of oncoming traffic, and them being unseen by drivers travelling at speed on Forest Hill Road until the last moment.
26. Moreover, no details are provided to demonstrate how the parking arrangements for three vehicles would work. Based on the information that has been submitted and my site visit observations, the arrangements would make it difficult for a vehicle to turn within the site, so as to be able to leave in a forward gear, particularly if more than one vehicle was to be parked on site. Given this constraint, there is a strong likelihood that residents would have to

either stop in traffic to reverse into the site or reverse largely unsighted onto the road. Both scenarios would exacerbate the risk to highway safety.

27. The appellant highlights that the proposed visibility would be the same as that currently achieved at the site, which can provide garaging space for up to five vehicles. The garages appear to have been at the site for a considerable period of time and no evidence is before me about their planning history. Although the garages sit slightly further back in the site than the proposed dwelling would, access to and from them would be similarly constrained in terms of visibility. I do not therefore regard the presence of the garages as setting a precedent to be followed.
28. Based on the information before me, future residents of the proposed development would likely be heavily reliant on a private vehicle to access day to day services and facilities. This is because of the distance to nearby settlements and/or the nature of the routes which have a narrow pavement or no separate footway, and the lack of a regular bus service that would provide a genuine alternative.
29. For the above stated reasons, I conclude that the proposed development would cause harm to the use of the highway with regard to safety and accessibility. Consequently, it would conflict with the locational aims set out in Policy GP2 of the UDP to avoid unsustainable patterns of development, Policy BE5 of the UDP which seeks to secure highways and accesses whose design and layout ensure the safe and free flow of traffic and the provision of convenient pedestrian routes amongst other considerations, and the requirements of paragraph 110 of the Framework regarding safe and suitable access to the site for all users amongst other matters.

Other Considerations

30. The Council's evidence confirms that it cannot demonstrate a five year supply of deliverable housing sites. Therefore, the Framework paragraph 11. d) is engaged, albeit that Green Belt is a particular policy of protection referred to in associated footnote 7. Nevertheless, the benefits of the scheme in terms of housing provision in that context are relevant in terms of the fifth main issue in this appeal, to which I now turn.
31. In that context the proposal would have certain benefits, notably in terms of housing provision in an area with an acknowledged lack of forward supply. However, given that the proposed development is for one dwelling, this benefit would be limited and as such has limited weight.
32. The appellant has identified some doubt about the structural soundness of the garages in the event that repairs were to be undertaken. However, while my site visit observations were that the garages are in a somewhat poor state of repair, no substantive evidence has been presented about their structural soundness, and as such I give this matter very limited weight.
33. The appellant states that the garages are beyond economical repair, which could potentially cause harm to the Green Belt. The essential characteristics of Green Belts are their openness. Any visual improvement that may stem from the removal of the garages would be distinct from openness. For the reasons already given, the proposal would result in a development that would have a

greater impact on the openness of the Green Belt. I therefore give this matter very limited weight.

34. However, in terms of character and appearance of the area, there would be some benefit to the removal of the garages, although there is no substantive evidence to indicate that this could not be achieved via an alternative less harmful scheme. Accordingly, I give this matter limited weight.
35. The appellant has highlighted that the Framework supports opportunities to use the airspace above existing residential and commercial premises for new homes, but that is not what is being proposed in this case. The proposal would include making use of previously developed land, which I give some limited weight to.

Balance and Conclusion

36. The proposed development would be inappropriate development in the Green Belt, which is by definition harmful. In line with paragraph 148 of the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness. Additionally, I have found harm to the character and appearance of the area, the living conditions of nearby residents and the use of the highway.
37. I have taken into account the aforementioned other considerations, including the small contribution that the proposed development would make to boosting the supply of housing where a five year supply of deliverable housing sites cannot be demonstrated. However, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposed development do not exist, and thus there is a clear reason to refuse the proposed development in line with Framework paragraph 11. d) i.
38. The proposed development would therefore conflict with Policy GNE1 of the UDP and the requirements of chapter 13 of the Framework which have been summarised above.
39. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations that indicate the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR