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# Appeal Decision

Site visit made on 28 March 2023

**by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

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

**Decision date: 17 April 2023**

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**Appeal Ref: APP/P2365/W/22/3311201**

**Doctors Cottage, Doctors Lane, Sollom, Tarleton PR4 6HU**

- 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 Mrs Eva Westland against the decision of West Lancashire Borough Council.
  - The application Ref 2022/0021/OUT, dated 11 January 2022, was refused by notice dated 20 May 2022.
  - The development proposed is proposed new dwelling. Two storey, 4 bedroomed cottage. Detached double garage.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The planning application was submitted in outline including the matters of landscaping and appearance with the matters of access, layout and scale reserved. Although access is a reserved matter, the appellant is required to show how the site will be accessed within the outline submission. I recognise that the indicative layouts provided are intended solely to demonstrate the potential for the scheme to accommodate the scale of development proposed.

## Main Issues

3. The main issues in relation to this appeal are;
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - The effect on highway safety, with particular regard to visibility splays; and
  - Whether the harm by reason of inappropriateness, and any other harm, would clearly be outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

## Reasons

### *Inappropriate Development*

4. The appeal site is located within the Green Belt. Policy GN1(b) of the West Lancashire Local Plan 2012-2027, Development Plan Document 2013 (LP) sets out that development proposals within the Green Belt, will be assessed against national and any relevant LP policies.

5. The Framework sets out the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 149 of the Framework indicates that other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. 'Limited infilling in villages' is one of the exceptions and upon which the appellant's case relies.

#### *Limited Infilling in Villages*

6. The appellant considers the appeal site to fall within the village of Sollom. Caselaw<sup>1</sup> suggests that it is for the decision-maker to reach a judgement about whether a site is within a village, and that it is a matter of the facts on the ground, as well as taking account of any relevant policies. In my opinion, villages typically consist of a group of houses, along with some associated buildings for community use such as a public house, church, primary school, village hall and local convenience shop. They are larger than a hamlet (a small settlement) and smaller than a town.
7. The appeal site forms part of a loose group of dwellings along Doctors Lane, a narrow rural lane which extends westwards from Liverpool Road (A59) into the open countryside. There are no road signs marking the entrance to Sollom, and there was no apparent reduction in the 60mph speed limit along the A59 to indicate to drivers that they are entering a village. Moreover, no policies have been drawn to my attention with respect to any boundary for Sollom, or its status in any settlement hierarchy within the LP. The appeal site forms part of a loose collection of buildings, predominantly dwellings, in a generally rural setting, such that it does not form part of a village.
8. Even if Sollom were to be considered as a village, the proposal would need to constitute infilling. There is no definition of 'limited infilling' within the Framework. Again, it is a matter of planning judgement taking into account the nature and size of the proposed development, the location of the site, and its relationship to existing development adjoining and adjacent to it. In my opinion, infilling must occur when a gap between buildings is filled, such as when an otherwise built-up frontage is completed.
9. Development on both sides of Doctors Lane is sporadic with dwellings of various styles, set at irregular intervals with open space forming domestic garden between some of them. The gaps between the properties contribute to the rural character of the lane and provide a link to the wider countryside which surrounds it. The appeal site reads as part of an extensive garden belonging to Doctors Cottage which makes a contribution to the openness of the Green Belt, rather than as a gap in a developed frontage.
10. The proposed dwelling would be set back into the plot away from, but facing Doctors Lane, and alongside an existing building belonging to the neighbouring dwelling of Linden Lea. In contrast, Doctors Cottage faces towards the A59 with the side elevation abutting Doctors Lane. A gap would be retained between the proposed dwelling and Doctors Cottage including the garden with an existing mature tree and the proposed new access to this dwelling. In light of the gap, differing position and orientation of Doctors Cottage, the proposed dwelling

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<sup>1</sup> Court of Appeal judgement *Julian Wood v SSCLG and Gravesham Borough Council*, 2015.

would not visually relate to existing built development to either side. Thus, it would not constitute 'limited infilling' to meet the exception identified under paragraph 149e of the Framework. Whilst layout is a matter reserved for a future application, I am not convinced based on the indicative plans before me, and the arrangement of and distance between existing development nearby, that a layout could be achieved that would constitute infilling.

11. It is suggested that appeal decision APP/F2360/W/20/3244797 is comparable when considering the concept of 'infilling.' However, there are notable differences including that the site was considered to be located within a village and it was enclosed by existing development, which made a limited contribution to the openness of the Green Belt. Moreover, the previous appeal related to a proposal for permission in principle. This is an alternative way of obtaining planning permission, which is not achieved until both the permission in principle and a further technical details stage have been completed. In this regard, the procedure differs significantly from an outline permission which would be 'the planning permission.' The procedural circumstances and context of the previous appeal are therefore different to those before me.

#### *Previously Developed Land*

12. The Council assessed the proposed development against paragraph 149g of the Framework, as the appeal site was considered to constitute previously developed land (PDL). Annex 2 of the Framework advises that the definition of PDL can include residential gardens where they are not in built-up areas. Although it is not my role to determine the lawful use of an appeal site as part of this appeal, I saw that it consisted of lawn, hardstanding for the parking of vehicles and outbuildings that appeared to be in domestic use. With no evidence presented that would lead me to form a different view, the land would appear to be previously developed.
13. Nevertheless, the exception under paragraph 149g of the Framework, only applies where there is no loss of openness, or the proposal would contribute to meeting an identified affordable housing need within the Council's area. As there is no suggestion that the proposal would meet an identified affordable housing need, the consideration is whether it would result in a greater impact on the openness of the Green Belt than the existing situation. Paragraph 137 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension.
14. Although layout and scale would be reserved matters, the appearance of the proposed 2-storey dwelling as shown on the indicative plans would have a greater overall floorspace, volume and height when compared to the existing single garage and garden shed currently occupying the appeal site. A detached double garage would further be located to the front of the plot. The amount of development on the appeal site would be significantly increased and an erosion of 3-dimensional space would occur as a result.
15. The appeal site benefits from mature landscaping to the north and eastern boundaries as well as a brick wall and close boarded fence to the boundary with Doctors Lane. Whilst providing a good degree of screening, the proposed dwelling due to its height and scale, and forward position of the proposed garage would nonetheless be visible above the wall and fence, through the revised access positions and in the gap between landscaping when viewed from

the footpath alongside the A59. Such views would be relatively limited and localised, but the development due to its appearance would nonetheless have a significant effect on openness.

16. Furthermore, there are a number of existing predominantly evergreen trees along the western boundary of the appeal site that are not shown on the submitted plans. If they were to be removed to accommodate the proposed dwelling and garage, the buildings would become more visible, particularly in views from Doctors Lane. Whilst this may be offset from the proposed planting adjacent to the southern boundary of the appeal site, such landscaping would take a significant amount of time to establish. In any event, landscaping should not be used to screen development that is otherwise inappropriate.
17. Reference is made to 2 buildings previously being located on the appeal site. However, it is clear from the evidence and my own observations, that they no longer exist. Any increase in built development cannot be offset by buildings that no longer exist. Therefore, they are not determinative in respect of the impact of the proposal on openness.
18. The appearance of the proposed development along with the indicative layout and scale would clearly have a greater impact on the openness of the Green Belt and the purpose of including land within it, than the existing situation. The exception for PDL under paragraph 149g of the Framework would not be met.
19. Consequently, the proposal would fail to meet any of the exceptions set out by paragraph 149 of the Framework and would be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *Highway Safety*

20. The existing access into the appeal site would be closed off and 2 new accesses, one for the proposed dwelling and one for Doctors Cottage, would be created. The Council's officer report advises that Highway Engineers are not satisfied that the proposal provides adequate visibility splays to maintain highway safety but that this could be designed out.
21. Aside from the potential harmful effect wider visibility splays may have on the character and appearance of the area, I have no substantive evidence before me to indicate what the required visibility splays would be and more importantly, that they could be achieved at the appeal site for both accesses.
22. Given that the proposed access to Doctors Cottage would occur at a pinch point in Doctors Lane, that it would be located immediately to the west of the existing dwelling and that the existing boundary wall and fence would be retained at the back edge of the carriageway, it may be inherently difficult to achieve the required splays for both proposed accesses. Despite access being a reserved matter, it would not be appropriate to grant a substantive permission subject to conditions, whilst such significant reservations regarding the ability to provide safe and suitable accesses persist.
23. Accordingly, the proposal would be contrary to Policy GN3 of the LP which amongst other things, seeks to ensure that proposals for development incorporates safe and suitable access.

### *Other Considerations*

24. Reference is made to the erection of a number of agricultural workers dwellings within Doctors Lane despite the Green Belt designation. An agricultural workers dwelling is a different form of development that is required to demonstrate and fulfil a particular agricultural need. Any subsequent removal of an agricultural tie is incumbent upon a case being made that there is no existing or foreseeable need for this type of dwelling. There is limited evidence before me for example, decision notices, officer or committee reports and local plan policies which explain the reasons for any planning permissions or removal of conditions applications that may have been granted. Irrespective of this, the presence of existing or former agricultural workers dwellings does not justify the erection of a new dwelling that I have found would be harmful to the openness of the Green Belt. There is no evidence before me to suggest that the proposal is anything other than an open market dwelling.
25. The appellant advises that the neighbouring villages of Tarleton and Hesketh Bank have had both small and extensive developments permitted on Green Belt land over the years. No evidence has been presented of such developments that I may compare to the scheme before me. Whether or not the appeal site borders any greenfield land, does not nullify the fact that it is located within the Green Belt.
26. It is suggested that Policy RS1 of the LP allows for limited garden development. This policy is not referenced by the Council in their reasons for refusal, officer report or appeal statement. The policy is not before me and there is no evidence that it would support the erection of an open market dwelling in an existing garden within the Green Belt. Likewise, there is no evidence before me by way of specific permissions relating to the development of garden plots within the Green Belt in neighbouring local authority areas. Green Belt designation is not a preclusion to new development, but it must be demonstrated that schemes comply with national and where applicable local Green Belt policies.
27. The acceptability of the scheme in respect of the living conditions of the occupants of Doctors Cottage and neighbouring dwellings including a lack of complaints would be neutral factors that weigh neither for, nor against the proposal. Although not determinative here, it is noted that 2 letters from local residents were submitted during the application process, raising concerns about the impact of the proposed development.
28. The appeal site would be within walking distance of bus stops located on the A59 and a nearby supermarket. However, there is no evidence before me as to how frequent the bus service is, so this would attract only limited weight in its favour. The appellant advises that other facilities including schools, shops, post office and Doctors surgery would be 2km away in the village of Tarleton. The future needs of the occupiers are therefore likely to be reliant on the private car for day-to-day needs.

### **Planning Balance and Conclusion**

29. 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.

30. The proposal would amount to inappropriate development in the Green Belt resulting in a significant loss of openness. There are no matters individually or collectively that provide anything other than limited weight in favour of the proposal. These other considerations do not outweigh the substantial weight that I give to Green Belt harms. Harm has also been found to highway safety but the harm to the Green Belt would have been enough in this instance to make the proposal unacceptable. The very special circumstances necessary to justify the proposal do not exist. Accordingly, the appeal is dismissed.

*M Clowes*

INSPECTOR