



Appeal Decision

Site visit made on 3 July 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/A4710/W/23/3316816

17 Tripping Green, Union Lane, Ogden, Halifax HX2 8XS

- 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 Michael Dean against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 21/01126/FUL, dated 13 August 2021, was refused by notice dated 26 August 2022.
 - The development proposed is 2no Double Detached garages for 17 and 19 Union Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council determined the application in relation to policies contained within the Amended Replacement Calderdale Unitary Development Plan 2009 (UDP). Subsequently, the Council formally adopted the Calderdale Local Plan 2018/19 – 2032/33 (CLP) on 23 March 2023. This now forms the statutory development plan for the area substituting the UDP. Both parties have had opportunity to comment on the new local plan policies applicable to the development proposal during the appeal process. For the avoidance of doubt, I have determined the appeal based on the development plan (CLP).
3. The lawful use of the land is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (the Act). In this regard, it is open to the appellant to apply to have this matter determined under section 191 of the Act, and such an application would be unaffected by my determination of this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the development plan and the National Planning Policy Framework (the Framework), including the effect upon the openness of the Green Belt, and,
 - Whether any 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 or not the development would be inappropriate

5. 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.

6. New buildings within the Green Belt are inappropriate with the exceptions of the types of development listed in paragraph 149 of the Framework, subject to certain conditions. The appellant contends the appeal site is domestic curtilage, which allows for the construction of domestic ancillary buildings, and also the proposed development comprises infill. The appellant does not explicitly state which elements of infill, as listed in paragraph 149 of the Framework, they consider to be applicable. I have therefore considered the proposed development against paragraph 149 c) of the Framework, which considers extensions to buildings, and paragraphs 149 e) and g) of the Framework, which consider infill.
7. If the lawful use of the appeal site was found to be domestic, paragraph 149 c) of the Framework allows for the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building.
8. The proposed garages are required to serve 17 and 19 Union Lane. Neither property is included within the boundary of the appeal site, which forms a separate parcel of land. Although No 17 adjoins the appeal site and is linked via a staircase, due to land levels, the property is elevated and therefore appears physically separate from the appeal site. The location of the proposed garages, towards the rear of the appeal site and away from No 17, would further reinforce this separation. In the case of No 19, this property is physically separated from the appeal site due to the intervening highway.
9. Having regard to this, the proposed development is physically and visually remote from Nos 17 and 19 and, as such, it could not reasonably be regarded as an extension. Therefore, it does not fall under the exception of paragraph 149 c) or criteria c) of CLP Policy GB1 I. Given the proposed development cannot be regarded as an extension, it is not necessary to assess whether the development would result in a disproportionate addition over and above the size of the original building.
10. Paragraph 149 e) of the Framework allows for limited infilling within villages. The appeal site does not lie within a village envelope. There are low numbers of dispersed properties and a golf club along Union Lane, with no services or other facilities within close proximity of the appeal site. Union Lane is largely single track width, with limited passing places and no footpaths. Beyond, and in between the built development, lies open countryside. For these reasons, I would not describe the appeal site as being located within a village. The proposed development does not fall under the exception of paragraph 149 e) of the Framework or criteria e) of CLP Policy GB1 I.
11. Paragraph 149 g) of the Framework considers, among other things, 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 is limited evidence before me which confirms the appeal site is previously developed land in the context of the definition in Annex 2 of the Framework. I understand that the land has been used for the parking of vehicles, historically in association with the golf club and more recently in connection with Nos 17 and 19. Although evidence has been

submitted in order to demonstrate the land has been in continuous domestic use for over 10 years, there is no lawful development certificate before me which confirms this.

12. Nevertheless, if I were to accept the site is previously developed land, I must consider the impact upon openness. The site is laid to hardstanding and, other than low fencing, is devoid of any buildings. The two garages are sizable structures with large footprints. Although they would be sited between Nos 17 and 18 and an existing outbuilding, they would fill almost the full width of the appeal site. The quarry face provides a backdrop to the rear of the site however the site is open to views from Union Lane. The proposed garages would therefore be clearly visible on the site and would intrude upon the openness of it. Therefore, they would have a far greater impact upon the openness of the Green Belt than the parked vehicles, hardstanding and fencing that exist currently. The proposed development does not therefore fall under the exception of criteria g) of paragraph 149 of the Framework or criteria f) of CLP Policy GB1 I.
13. For the above reasons, the proposed development would comprise inappropriate development within the Green Belt. In accordance with paragraph 148 of the Framework, I give substantial weight to the harm identified.

Other considerations

14. The proposed development would provide two domestic garages to serve Nos 17 and 19. I understand that No 17 had no other parking space up until the appeal site was purchased in 2011. There are limited options for on-street parking provision along Union Lane. The provision of two garages would provide some benefits for the owners of Nos 17 and 19. However, given that the land is already used for the parking of vehicles, I give this matter limited weight.
15. I have had regard to the triple garage at Broad Acres. This is not directly comparable, insofar as the development comprised an extension to the property, sited in close proximity to the host property, and Broad Acres was located within the red line application site boundary. In any case, I have had regard to this appeal based on its own merits.

Green Belt Balance and Conclusion

16. The proposal would constitute inappropriate development in the Green Belt and would harm openness. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. The other considerations in this case are not sufficient to comprise the very special circumstances necessary to justify this development. The development is contrary to the Framework and to CLP Policy GB1, which seek to protect the Green Belt. I have considered all other matters raised but none outweigh the conclusions I have reached. For the reasons set out above, I dismiss the appeal.

S Pearce INSPECTOR