



Appeal Decision

Site visit made on 19 September 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2023

Appeal Ref: APP/Z4718/W/23/3320078

Old Biggin Farm, Cold Hill Lane, New Mill, Holmfirth, Kirklees HD9 7DN

- 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 and Mrs Glenn and Antoinette Paxman against the decision of Kirklees Council.
 - The application Ref 2022/62/91154/W, dated 30 March 2022, was refused by notice dated 21 October 2022.
 - The development proposed is replacement dwelling including new landscaping and tennis court.
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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, including its effect on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the character and appearance of the area; 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 Inappropriate Development

3. Paragraph 147 of the National Planning Policy Framework 2023 (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt. The Framework states that openness and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects.
4. 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.
5. The exception at paragraph 149 d) allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy LP57(b) of the 2019 adopted Kirklees Local Plan Strategy and Policies (the Local Plan) includes a similar exception. The policy also states

that the design and materials should have regard to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.

6. The proposed development would be the same use as the existing building (i.e. residential), and so would be compliant with the first test of paragraph 149 d) and Policy LP57(b). The second test is a matter of judgement based on the evidence of each case as the Framework does not define 'materially larger'. Nor has my attention been drawn to any definition in the Local Plan.
7. The test to be applied in determining whether the new building would not be materially larger than the one it replaces requires a comparison of the sizes of the existing and proposed building and not whether the proposal would have a greater impact on openness. As such, I find no sound reason to omit the basement when deciding whether the proposed dwelling would be materially larger than the existing one.
8. A variety of figures have been presented by the main parties, with the appellants disputing the dimensions for the proposed dwelling used by the Council. In any event, I was able to appreciate the development by comparing the existing and proposed plans and considering the proposal as part of my site visit.
9. The height of the proposed dwelling above ground level, which would be predominantly two storeys, would not be markedly greater than the two-storey part of the existing dwelling, but it would obviously be higher than its single storey elements. The footprint of the proposed dwelling would either not be significantly larger than the existing dwelling or would be quite a bit smaller depending on whether the Council's or appellants' figures are used. However, irrespective of which figures are used, the proposed dwelling would have a much greater floorspace than the existing dwelling and its volume would be considerably greater.
10. Given the above, I find that the proposed dwelling would be materially larger than the one that would be replaced. The proposal would not therefore fall within exception d) of paragraph 149 of the Framework or Policy LP57(b).
11. The proposal can also be considered in relation to exception g) of paragraph 149 of the Framework, and Policy LP59 of the Local Plan, which allow for the redevelopment of previously developed land and brownfield sites respectively. These exceptions require consideration of whether the proposal would have a greater impact on the openness of the Green Belt than the existing development in terms of paragraph 149 g), and in the case of Policy LP59 whether the existing footprint is exceeded.
12. Policy LP59 also requires that redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for. There is no evidence to indicate that the proposal would result in the loss of such land. In addition, the policy states that regard should be had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.
13. As noted above, the proposed dwelling would have a lesser footprint than the existing dwelling based on the appellants' figures, although it would exceed the existing footprint if using the Council's figure. However, in my view, it does not

automatically follow that a reduction in overall footprint would inherently preserve openness within the terms of Framework paragraph 149 g) or not detract from the Green Belt setting with reference to Policy LP59.

14. Part of the existing dwelling is two-storey and double ridged, but it has a substantial single storey element to its east elevation and a smaller single storey element to its west and north elevations. Therefore, while it is a large dwelling, it nevertheless sits relatively unobtrusively within the site.
15. The proposed development would, by contrast, present as a substantial two-storey dwelling on its west, north and east elevations. Furthermore, while the full extent of the basement would not be readily apparent as its north, west and east elevations would be enclosed, its southern elevation, which would include garage doors and glazing, would be open. The proposed dwelling would therefore present as a three-storey dwelling on its southern elevation which would also include a terrace on the roof of that part of the basement that projects beyond the footprint of the ground floor.
16. While the proposed dwelling would not extend across the site to the same extent as the existing dwelling, 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.
17. The Council raises concerns about the engineering operations proposed, including the excavation required to create the basement and the areas of hard surfacing. Paragraph 150 b) of the Framework states that engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
18. I note the appellants' argument that the areas of hard surfacing proposed would not be significantly different in extent to the existing situation. While this may be the case, the areas of hard surfacing would extend further outwards from the proposed dwelling than is the present case, which would have something of an encroaching urbanising effect. Due to the uses proposed for the areas of hard surfacing, such as the large terrace on the roof of the basement, the dining terrace and increased parking and turning areas, this would also extend outwards the associated domestic activities and paraphernalia which would, in all likelihood, have a greater effect on openness and result in some countryside encroachment at odds with one of the purposes of the Green Belt.
19. Removing the proposed tennis court as requested by the appellants would reduce the overall extent of hard surfacing in a location towards the edge of the site and, in turn, the absence of required fencing around the tennis court would also reduce the collective harm caused to the openness of the Green Belt. However, even if it were possible for me to remove this development by condition, it would not sufficiently offset the harm caused to the Green Belt arising from the remaining development.
20. The engineering works required to create the basement would likely be quite extensive given its substantial size. However, such works would be temporary and of a relatively short duration. In my judgement therefore, of itself, the engineering operation to create the basement would not harmfully erode the openness of the Green Belt or conflict with the purposes of including land within it.

21. Based on the submitted evidence and what I observed at my site visit, the proposed development would be screened from outside of the property boundaries in most directions by the dense and relatively tall vegetation that occupies much of its perimeter. I am mindful that I visited the site when trees were in full leaf and there may be a greater degree of visibility during winter months. Nonetheless, even with less tree coverage, views of the proposed development from public areas would be relatively limited.
22. However, the proposed development would be visible from the main driveway entrance and in views from the Public Right of Way (PRoW) that runs to the south. In views from stretches of the PRoW, the proposal would appear as a substantial three-storey dwelling. Its smaller footprint would not offset its overall greater massing, which, together with the hard surfaced areas, would be more conspicuous than the existing dwelling. Consequently, the proposal would result in a visual as well as spatial reduction in openness.
23. For the above reasons, I find that the proposal would have a greater impact on openness than the existing development. It would not therefore fall within exception g) of paragraph 149 of the Framework. For the same reasons the proposal would materially detract from its Green Belt setting notwithstanding that the proposed dwelling may have a smaller footprint, and so would not fall within the exception in Policy LP59.
24. The proposal would result in a materially larger development than currently exists, which would reduce the openness of the Green Belt in both spatial and visual terms and would therefore fail to preserve its openness. This would result in encroachment of development into the countryside, in conflict with this Green Belt purpose.
25. I therefore conclude that the proposal would be inappropriate development in the Green Belt under the terms of paragraphs 149 and 150 of the Framework. As such, it would, by definition, be harmful to the Green Belt.

Character and Appearance

26. The area in the vicinity of the site generally comprises relatively large properties set within generous grounds. The proposed dwelling would be set within an extensive plot and despite its size, would not appear over dominant within the context of the site.
27. Given the sloping topography, the proposed development would not feature prominently in views from the north across the valley. The proposed property would be experienced as a large dwelling. The gables proposed would add to the building's mass and scale, although their dominance would be tempered to an extent by the use of glazing. In my view, the gables would not be so dominant that they would be visually overwhelming or discordant features.
28. The proposed dwelling would have comparable finishes to other residential properties in the area including the use of oak, albeit not at the same scale as proposed. In my judgement, the extent of oak proposed would not appear as an unsympathetic feature.
29. It is likely that lighting at night would be noticeable due to the extensive glazing proposed in the gables. However, while the glazing in the existing dwelling is not as extensive as that proposed, there would already be visible

lighting at the site. The engineering works to create the lower ground floor would be temporary.

30. I therefore conclude that the proposal would not cause harm to the character or appearance of the area. The proposal would therefore accord with Policies LP2, LP11 and LP24 of the Local Plan and Policies 1 and 2 of the 2021 Holme Valley Neighbourhood Development Plan 2021 – 2031 (the NP). Amongst other matters, these policies require development to protect and enhance the qualities which contribute to local character; be informed by and respect the key characteristics of the landscape character area in which they are located; and be of a high quality and design that respects and enhances the character of the townscape, heritage assets and landscape. The proposal would also accord with the design objectives in chapter 12 of the Framework and the guidance in Principles 2, 13 and 14 of the 2021 Housebuilders Design Guide Supplementary Planning Document relating to local character, materials and detailing; and windows and doors.
31. The Council has referred to a conflict with Policy LP1 of the Local Plan in its reason for refusal relating to this matter. This policy reflects the Framework's presumption in favour of sustainable development and so I do not consider it to be directly relevant to this main issue.

Other Considerations

32. I note the appellants claims that the proposed development would be of a high-quality design that would be an improvement to the existing dwelling which has had incremental additions. However, the overall design is not so truly innovative and of exceptional quality as to represent a significant benefit in terms of the character and appearance of the surrounding area.
33. The low energy credentials are referenced. However, given that energy saving measures would generally be expected with a new development, I attribute limited weight to this matter.
34. The appellants highlight that the proposed development would not be within an area identified as having a high landscape value, nor would it be within a conservation area, and the existing dwelling is not listed. While this may be the case, an absence of harm in other respects is effectively neutral in establishing whether very special circumstances exist.

Balance and Conclusion

35. The proposal would be inappropriate development in the Green Belt even accounting for the potential to remove the proposed tennis court. I attribute substantial adverse weight to this matter. The harm to the openness of the Green Belt would be moderate and there would be conflict with one of the purposes of the Green Belt.
36. Although I have found that the proposal would not cause unacceptable harm to the character and appearance of the area, this is a neutral factor and does not outweigh the harm that I have identified. I conclude that the harm by reason of inappropriateness in the Green Belt, and the conflict with one of the purposes of the Green Belt, would not clearly be outweighed by the other identified considerations so as to amount to the very special circumstances required to justify the proposal. The proposal would conflict with the requirements of Policies LP57 and LP59 of the Local Plan and chapter 13 of the Framework as

summarised above. It would also conflict with Policy 6 of the NP which supports housing development where it is acceptable in terms of national Green Belt policy.

37. The Council has referred to a conflict with Policy LP56 of the Local Plan and paragraph 149 b) of the Framework which relate to facilities for outdoor sport and outdoor recreation amongst others, in the Green Belt. The appellants request the tennis court aspect of the proposal to be removed. It has not therefore been necessary for me to come to a view on any conflict with Policy LP56 or paragraph 149 b) as it would not alter or outweigh my conclusion on the harm to the Green Belt which is decisive in the planning balance.

38. Therefore, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR