



Appeal Decisions

Site visit made on 8 November 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2023

Appeal A Ref: APP/A4710/W/23/3322471

31 Syke Lane, Lightcliffe, Brighouse HX3 8SY

- 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 J Bicknell against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/01324/FUL, dated 5th December 2022, was refused by notice dated 24 March 2023.
 - The development proposed is Replacement Building (Retrospective).
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Appeal B Ref: APP/A4710/W/23/3322913

31 Syke Lane, Lightcliffe, Brighouse HX3 8SY

- 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 J Bicknell against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/01323/FUL, dated 5 December 2022, was refused by notice dated 24 March 2023.
 - The development proposed is Change of use of land and engineering works to form garden (retrospective).
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Decision

1. Both Appeal A and Appeal B are dismissed.

Preliminary Matters

2. As set out above there are two appeals at this location. I have considered each proposal on its individual merits. To avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.
3. In relation to both appeal schemes, each development appeared to have been completed at the time of my site visit. Nevertheless, I have determined both appeals based on the plans before me.

Background and Main Issues

4. For each appeal, the Council has proposed only one reason for refusal which differ in their wording. In both cases, harm is identified to the openness of the area, and the character, referencing local plan policies relating to Green Belt and high quality inclusive design, as well as parts of the National Planning Policy Framework (the Framework) relating to achieving well designed places, protecting Green Belt land, and conserving and enhancing the natural environment. As such, in both appeals, the main issues are:

- i. Whether each appeal scheme would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework including, where appropriate, the effect on openness;
- ii. The effect of each development upon the character and appearance of the area; and
- iii. Whether any harm by reason of inappropriateness, or any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposals.

Reasons

Whether inappropriate development

5. The host property is a large, detached dwelling located to the west of Syke Lane, on the edge of Lightcliffe. Immediately to the north of the host dwelling, a patio has been laid and a levelled area of lawn has been engineered using a grassed embankment, adjacent to which there is a detached single storey building. This land and building are being used in connection with No 31 and lie within the Green Belt.
6. Syke Lane leads northwards from Lightcliffe into open countryside. To the western side of the lane, there is continuous development of closeknit housing, ending at Nos 27, 29 and 31. Here, there is a notable change, the land directly north of these dwellings is open and for the most part, undeveloped grass land. Along with the building subject of Appeal A, a section of post and rail fencing divides this land, and some moveable football goals are present. Nevertheless, this land does not appear domesticated. It remains open and it relates visually to the fields that lie to the north and west.
7. Policy GB1 of the Calderdale Local Plan 2018/19 – 2032/33, adopted March 2023 (LP), sets out the types of development that would not be inappropriate development in the Green Belt and these reflect those set out at paragraphs 149 and 150 of the Framework. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Appeal A

8. Paragraph 149 of the Framework establishes that the construction of new buildings should be regarded as inappropriate, except in specific circumstances. The appellant contends that the appeal scheme should benefit from exception (d) the replacement of a building. Both LP Policy GB1 and the Framework require that replacement buildings are in the same use and are not materially larger than the one replaced. The test is not whether the development would result in disproportionate additions over and above the size of the original building, this test relates to exception 149 (c), the extension or alteration of a building.
9. The information before me indicates that the appeal building has replaced a former building in approximately the same or similar location. The former building is described as providing storage for land maintenance equipment associated with the previous use of the land as a paddock. The use of the land

has subsequently changed to residential garden and retrospective planning permission is sought for this change (Appeal B). The land subject of the change of use includes this replacement building. The appellant confirms at paragraph 4.4 of the submitted Statement of Case that the building is now used for storage associated with the dwelling and surrounding land. Residential use of the building would differ from use for storage associated with a paddock, and so the replacement building is not within the same use.

10. Even if the use of the building was unchanged, the replacement building must not be materially larger than the one it replaces. Neither LP Policy GB1, nor the Framework, provide any definition of 'materially larger', and so a judgement is required in each case.
11. The appellant indicates that the replacement building would be 23% larger than the former building. However, no precise scaled plans of the former building are before me to confirm its dimensions or the resulting increase. The only available evidence of the size of the former building is provided by photographic images and the LP policies map.
12. This information, particularly the photographs, suggest that whilst similar in height and depth, the replacement building would be notably wider than the former building. This increase in width impacts on the openness of the Green Belt, to a greater extent than the former building, both visually and spatially. As such, the replacement building appears to be materially larger than the one it replaces and consequently, it is inappropriate development.

Appeal B

13. Paragraph 150 of the Framework states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The appellant suggests that the development subject of Appeal B benefits from exception (e) material changes in the use of land.
14. The change of use from paddock to garden projects 50m to the north and is 30m in width. Whilst a boundary fence is shown on the plans, it is not included in the description of the development appealed. The development does include engineering works which have artificially raised ground levels to create a levelled lawn over a large part of this area. Whilst the lawn itself is presently free from any new structures or planting, this increase in ground levels has had modest spatial impact on the openness of the Green Belt, whilst encroaching visually into some views across it.
15. Whilst permitted development rights for incidental buildings, as well as walls, fences and other means of enclosure can be controlled by planning condition, this would not control all forms of domestic paraphernalia associated with residential gardens. Given the size of the site and its elevated position, such domestic paraphernalia would also harm openness.
16. The purposes of the Green Belt are set out at paragraph 138 of the Framework and include safeguarding the countryside from encroachment. The appeal site protrudes beyond the edge of the settlement to the west and adjoins open fields to the north. To the east, beyond the driveway serving No 29 Syke Lane, grassed land slopes towards the road and is free from any permanent buildings. Therefore, the change of use to garden and the resulting

domestication appears as an encroachment into the countryside. The significant extent of the site and its exposed position adds weight to these concerns of encroachment. Subsequently, there is conflict with one of the purposes of including land within the Green Belt.

17. For these reasons, the development does not preserve the openness of the Green Belt and it conflicts with one of the purposes of including land within it. These are the key tests of LP Policy GB1 and paragraph 150 of the Framework, and so the development does not benefit from exception (e). As such, it is inappropriate development.

Character and Appearance

Appeal A

18. Whilst it is set away from the host dwelling, the siting of the appeal building has been determined by it being a replacement structure. Its scale is smaller than those buildings closest to it. It is simple in form and the dark panelled materials give an unfussy finish. Whilst some window and door glazing has been included, the appearance of the building is not overly domesticated. As such, it does not appear incongruous or out of character with the urban backdrop to the south or its more immediate rural context.
19. As such, the replacement building does not harm the character and appearance of the area. It would accord with LP Policy BT1, which requires amongst other matters, that aesthetics are considered as part of any new development, including that the design style proposed should respect or enhance the character and appearance of the surroundings. Further, the replacement building would comply with paragraphs 130 and 174 of the Framework, which collectively require that new development adds to the overall quality of an area, is sympathetic to local character, including the surrounding landscape setting, and contributes to and enhances the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Appeal B

20. The patio area immediately to the north of No 31 would relate closely to the built form of the dwelling and would be seen along with it. However, the change of use to garden extends much further north than this. The levelled lawn is domestic in appearance, whilst the engineered grass embankments contrast with the natural and gradual rise in land levels from Syke Lane, jarring the eye. Use as a garden would likely introduce domestic paraphernalia which would be highly visible given the exposed position of the site. This domestic character contrasts with the more rural character of surrounding land, resulting in an uncharacteristic encroachment, particularly when viewed from the adjacent public footpath.
21. For these reasons, the scheme subject of Appeal B would harm the character and appearance of the area, conflicting with LP Policy BT1 and paragraphs 130 and 174 of the Framework, the purposes of which, have been set out above.

Other considerations

22. The appellant considers that the original garden serving the host property, which extends to 80sqm, is disproportionately small in relation to the size of the approved family dwelling. In this regard, I have been provided with

extracts of LP Policy BT2, and LP Annex 2, which collectively require the provision of adequate private amenity space for future occupiers, with garden areas proportionate to the size of the dwelling. Additionally, I am referred to a nearby Authority, where 2/3 of the floor area is required to be provided as garden.

23. This information demonstrates that the Council does not have a policy specifying garden size, and a judgement is required in each case. The Council has already considered the planning permission which comprised the host dwelling and there is no evidence before me to suggest that the Council omitted consideration of garden size or considered it to be inadequate. Whilst I accept that 80sqm is relatively small, it is not unreasonably so. The appeal scheme would provide the appellant with a much more generous area of outdoor space, however, I give this limited weight given that in approving the dwelling comprising No 31, the Council has already judged it to provide acceptable living conditions.
24. The appellant contends that the Green Belt boundary is not reasonable or robust. Paragraph 143 of the Framework advises that Green Belt boundaries should be defined clearly using physical features that are readily recognisable and are likely to be permanent. However, any concerns with the alignment of the Green Belt boundary would be a matter for detailed consideration and analysis in any future review of the plan, rather than for this decision.
25. For the appeal site, the Green Belt boundary is clearly demarcated along the northern edge of the host dwelling. I have had regard to the points made and I have made my own observations during my site visit, in order to reach my own conclusions on both appeal schemes with regards to the Green Belt boundary and policy.

Other Matters

26. The Council raises no concerns with either scheme in relation to trees or any landscape or ecological designation and I have no reason to disagree. These are neutral matters that do not weigh for or against the appeal schemes.
27. I note some level of support for both developments, and I have considered a number of the points raised in my assessment above. Whilst I note comments relating to the unkempt and unsightly appearance of a former farm at 27 Syke Lane, the information provided does not demonstrate that this extended to the appeal site, and in any event, I must make my decision based on the circumstances at the present time.

Planning and Green Belt Balance

28. Both appeals schemes are inappropriate development in the Green Belt, which is, by definition, harmful to it. I have also concluded that both appeal schemes would harm the openness of the Green Belt. Further, Appeal B would be contrary to one of the purposes of the Green Belt, which is to assist in safeguarding the countryside from encroachment. I give the harm identified substantial weight in both appeals, as required by paragraph 148 of the Framework. Additionally, Appeal B would harm the character and appearance of the area.
29. I have had regard to the other considerations put before me in favour of both appeal schemes. However, I conclude that these other considerations taken

together do not clearly outweigh the substantial weight I have afforded to the Green Belt harm, and the other harm identified in relation to character and appearance for Appeal B. Consequently, the very special circumstances necessary to justify either development do not exist. Both developments therefore conflicts with LP Policy GB1 and the requirements of the Framework.

Conclusion

30. For the reasons set out above, the developments subject of Appeal A and Appeal B conflict with the development plan when taken as a whole and there are no other material considerations worthy of sufficient weight to suggest the decision should be made other than in accordance with it. Both appeals should therefore be dismissed.

S Brook

INSPECTOR