
Appeal Decision

Site visit made on 5 September 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2016

Appeal Ref: APP/P4415/W/16/3150404

**The Mill, Norwood Lock, Rotherham Road, Killamarsh, Sheffield,
South Yorkshire S21 2DS**

- 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 Jeremy White against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2016/0104, dated 19 January 2016, was refused by notice dated 4 April 2016.
 - The development proposed is a new eco dwelling on the site of former dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all detailed matters reserved for future approval. I have dealt with the appeal on that basis, treating the site plan (drg no. 15/01/03/003A) as illustrative.
3. The Council's decision notice refers to Policy SP34 of the emerging Rotherham Local Plan Sites and Policies document which was published on 18 September 2015. However, this document has not been adopted at the present time. Furthermore, there is no evidence before me with respect to whether there are unresolved objections to Policy SP34 which limits the weight that I can give to it. I have therefore determined this appeal principally on the basis of the policies of the Rotherham Local Plan Core Strategy 2013 - 2028, adopted September 2014 (CS), the saved policies of the Rotherham Unitary Development Plan, adopted June 1999 (UDP) and the National Planning Policy Framework (the Framework).
4. Recent appeal decisions in the immediate surroundings of the site have been drawn to my attention at The Mill, Norwood Lock for retention of existing building for eight stables, covered yard and tack room and associated parking spaces¹, and at The Boatman for a new eco dwelling on the site of a former tennis court². I have had regard to those decisions and there are some similarities with the proposal at The Boatman and main issues considered. Nevertheless, the circumstances in each case differ from the development proposal before me relative to the characteristics of the site. I have therefore determined this appeal on its own merits based on the evidence before me.

¹ APP/P4415/W/16/3144968

² APP/P4415/W/16/3150399

Main Issues

5. The main issues are:

- Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
- The effect on the openness of the Green Belt and the purposes of including land within it;
- Whether the proposal would result in a sustainable form of development with particular reference to its location;
- The effect on the Chesterfield Canal;
- The effect on biodiversity, and;
- If the proposal is inappropriate development, whether the 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 development.

Reasons

Whether the proposal is inappropriate development in the Green Belt

6. Policy CS4 of the CS states that land within the Rotherham Green Belt will be protected from inappropriate development as set out in national policy. The appeal site is a roughly rectangular shaped plot comprising of an enclosed field and sections of a pond that also adjoins an existing dwelling to the east, known as The Mill. A disused section of the Chesterfield Canal lies to the north of the site, together with a shared driveway and public footpath. To the west of the site is a tennis court associated to an existing dwelling known as The Boatman. The wider surroundings of the site comprise agricultural fields to the north and woodlands to the south. The site is within the Rotherham Green Belt.
7. Paragraph 89 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain exceptions. New buildings within the Green Belt are inappropriate unless, amongst other things, they comprise limited infilling in villages, or limited infilling or the partial or complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
8. The site is located within a scattered group of housing and other rural buildings that adjoin the alignment of the shared driveway and a disused section of the Chesterfield Canal. However, these buildings lie within a rural setting of woodland, open fields and agricultural land rather than forming part of a village. I therefore do not consider the development to be limited infilling in a village as defined by the Framework.
9. The Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. The definition excludes, amongst other things, land that was previously developed but where

the remains of the permanent or fixed surface structure have blended into the landscape in the process of time.

10. Based on the evidence before me, the site was previously occupied by a dwelling which was demolished a number of years ago. At the time of my visit, it was evident that any remains of the dwelling have now blended into the landscape. In such circumstances, I do not consider that the site comprises previously developed land as defined by the Framework.
11. In reaching the above findings, I have also taken into account that private residential gardens in rural areas are not excluded from the general definition of previously developed land because the definition in the Framework only excludes such land 'in built-up area'. Nevertheless, although there is direct access to the site from The Mill, the land is clearly outside of the enclosed residential curtilage of that property and also has an independent access from the shared driveway. I therefore do not consider that the site comprises private residential garden.
12. I conclude that the proposal would comprise inappropriate development in the Green Belt as it would not represent limited infilling in a village or, limited infilling or the partial or complete redevelopment of a previously developed site. The proposal would therefore conflict with Policy CS4 of the CS, the associated guidance within the Rotherham Supplementary Planning Guidance – Development in the Green Belt, adopted March 2014, and the Framework.

Openness and Green Belt purposes

13. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to prevent urban sprawl by keeping land permanently open, with openness identified as one of the essential characteristics of the Green Belt.
14. The construction of a dwelling on the site would result in built development where there is presently none. The application is in outline with all matters reserved, therefore I have only illustrative details of the siting of the dwelling and no specific details relating to its scale, height, massing and design. Nevertheless, the footprint of a dwelling and the resultant bulk, scale and massing, together with an access and other accompanying domestic paraphernalia, would inevitably lead to a loss of openness. This harmful effect would be particularly evident as the site currently has no buildings or other development on it and remains relatively open with only a post and rail fence enclosing its northern and western boundaries.
15. The development would be viewed prominently along the shared driveway and public footpath due to largely open views to the north and the reducing land levels to the west, together with the limited screening offered by the existing tennis court and intermittent trees to this aspect. As a consequence, it would erode the contribution that the existing site makes to the countryside. The design and layout of the new dwelling could respect and integrate with the scale, materials and appearance of The Mill and other nearby buildings, and suitable landscaping could be incorporated. Nevertheless, the very presence of development would have a significant negative impact for users of the public footpath which runs along the shared driveway. As I have found that the site lies in open countryside rather than comprising part of a village, the proposal would, therefore, lead to a detrimental encroachment of development into the

countryside in conflict with the related purpose of the Green Belt set out in paragraph 80 of the Framework.

16. I conclude that the development would lead to a significant loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment. The proposal would, therefore, conflict with Policy CS4 of the CS, the associated guidance within the Rotherham Supplementary Planning Guidance – Development in the Green Belt and paragraphs 79 and 80 of the Framework.

Whether the proposal would result in a sustainable form of development

17. Policy CS14 of the CS seeks, amongst other things, to promote accessibility through the proximity of people to employment, leisure, retail, health and public services by locating new development in highly accessible locations which are well served by a variety of modes of travel. In this context, paragraph 55 of the Framework also states that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
18. The site is in a rural location that is isolated from services and facilities required for day to day living, despite the presence of a small group of existing dwellings. Killamarsh is the nearest settlement with a range of services and facilities located approximately 1.5km from the site. However, access to this settlement would be via long shared driveways and a public footpath that is largely unlit, leading to Rotherham Road and Mansfield Road where the nearest bus stops and employment area are located. It is therefore highly unlikely that occupiers of the dwelling would regularly access the local services and facilities on foot or via bicycle, particularly at night or in inclement weather. Consequently, it is likely that the proposed development would encourage dependency on private car use and therefore, the site is not a sustainable location in transport terms.
19. The proposal would not, of itself, generate a large number of traffic movements and some dependency on car use is inevitable in rural locations. However, the cumulative effect of allowing development in isolated locations would be likely to increase the amount of unsustainable journeys made.
20. There are three dimensions to sustainable development in the Framework: economic, social and environmental. These roles are mutually dependant and should be jointly sought to achieve sustainable development. The proposal would offer potential benefits to the social dimension of sustainability in terms of increasing housing supply and choice, and use of energy efficient features. The development of the site for residential purposes would also have potential economic benefits to the local area through Council tax and New Homes Bonus revenue. Furthermore, there would be temporary economic benefits with respect to the construction works associated with the development. However, the extent of these benefits is limited for a development comprising a single dwelling. Consequently, when taken in combination with other related benefits such as the contribution of additional residents to the rural economy and sustaining services in Killamarsh and neighbouring settlements, these factors do not outweigh the shortcomings of the development with respect to the site being an unsustainable location in transport terms.

21. Taking all of the above into account, I conclude that the proposal would not result in a sustainable form of development. The development would, therefore, conflict with Policies CS14 and CS33 of the CS, whereby the development plan seeks to direct residential development towards the most sustainable and least environmentally sensitive locations. These policy objectives are consistent with the Framework.

Chesterfield Canal

22. The explanatory text of Policy CS19 of the CS identifies the Chesterfield Canal as a green infrastructure asset of sub-regional significance and Policy CS23 of the CS also identifies it as requiring conservation and enhancement given its contribution to the Borough's distinct identity and industrial past as a non-designated heritage asset. In addition, saved Policy CR2.4 of the UDP seeks to support the restoration and navigable status of canals through the protection of lines of canals from development likely to prejudice any future restoration.
23. During my visit, I observed that the section of the disused canal adjoining the appeal site has largely blended into the landscape, unlike more visible sections further to the west. Nevertheless, given the arrangement of the site relative to the shared driveway and the position of the pond, it is reasonable to consider that a proposed access would be required to cross part of the disused canal and therefore could have a potential effect upon it and any future restoration. However, the application has been submitted in outline with all matters reserved. In such circumstances, the detailed issues relating to the siting of the dwelling and the design of the access, together with the relationship to the historic fabric and setting of the canal and any proposals for its future restoration, could be appropriately addressed at reserved matters stage and conditioned accordingly.
24. In reaching the above findings, I have taken into account that there are other dwellings in the immediate surroundings that are located in close proximity to the canal. Furthermore, there are existing accesses nearby which demonstrate that crossing the alignment of the canal is feasible whilst preserving its historic fabric and setting.
25. I conclude that the development would not have a harmful effect on the Chesterfield Canal, including its green infrastructure function, historic fabric, setting and any future restoration. The development is not, therefore, contrary to Policies CS19 and CS23 of the CS and Saved Policy CR2.4 of the UDP.

Biodiversity

26. Policy CS20 of the CS seeks to conserve and enhance Rotherham's natural environment, including biodiversity resources such as nationally and locally prioritised sites, habitats and features and protected and priority species. The approach of Policy CS20 is consistent with the Framework. The site is designated within a Local Wildlife Site identified for its woodland, grassland, wetlands and the presence of specific plant species. I observed that the site comprises predominantly grassland and wetland habitats, with species of flora and fauna associated to the waterbodies within the site and surrounding woodland.
27. An ecological survey has not been provided and there are no details of specific species present within the site which may or may not be protected by law.

Without such information, it is not possible for me to conclude that the development would not significantly harm the biodiversity of the Local Wildlife Site of which the site forms part, or that such harm could be adequately mitigated or as a last resort, compensated for. In such circumstances, planning permission should be refused in accordance with the Framework.

28. In reaching the above findings, I have taken into account that the siting and design of the dwelling, together with matters of access, are reserved matters. Nevertheless, in assessing the principle of development of the site it is necessary that the proposal should set out now what effect the development would have on biodiversity and any mitigation and compensation measures, if any, would be necessary. Whilst I recognise that the Council did not request this information prior to making their decision, this appeal is necessarily determined on the merits of the proposal based upon the evidence before me.
29. I conclude that there is insufficient information to demonstrate that the proposal would be suitable with respect to its effect on biodiversity. The development, therefore, conflicts with Policy CS20 of the CS and paragraph 118 of the Framework.

Other considerations

30. The dwelling is identified as an eco-dwelling and associated design principles could be secured by condition and determined at reserved matters stage. However, given that the proposal is an outline application for the principle of development with all matters reserved, the absence of detail at this stage limits the weight that can be attached to any benefits in the respect.
31. The appellant has referred to other similar developments having previously been granted planning permission in the Green Belt. However, no specific details with respect to their location or circumstances have been provided and in any case, I have considered the appeal proposal on its own merits.
32. Given my conclusions with respect to the harm to the Green Belt and other harm identified, I do not consider that the development would make a positive contribution to regeneration following the conversion of existing buildings nearby. Furthermore, the effect of a potential future route of the High Speed 2 railway is a matter I can give little weight to when determining this appeal.

Conclusion

33. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be significant harm to openness and the Green Belt purpose of safeguarding the countryside from encroachment. Furthermore, the proposal is not in a sustainable location and would therefore result in harm due to the likely increase in the amount of unsustainable journeys made. I have also identified potential harm relating to biodiversity. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
34. I give moderate weight to the limited contribution that the proposal would make to rural housing, including its potential to be an eco-dwelling, and the associated support for the viability of local services. Limited weight is given to the presence of third party representations in support of the development.

35. Having taken all of the above into account, I find that the other considerations in this case do not clearly outweigh the substantial weight to be given to the totality of harm to the Green Belt and other harm arising from the proposed development. Consequently, the very special circumstances necessary to justify the development do not exist.

36. For the reasons given above, the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR