

Appeal Decision

Site visit made on 4 October 2016

by Michael Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 27 October 2016

Appeal Ref: APP/C2741/W/16/3154113

Land south of Strensall village, Strensall YO32 5XB

- 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 Shirethorn Ltd against the decision of City of York Council.
 - The application Ref: 15/02353/OUTM, dated 13 October 2015, was refused by notice dated 11 January 2016.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with all matters other than access reserved for future approval. I have assessed the proposal on this basis and treated the submitted site layout plan, elevation drawings and floor plans as illustrative only.
3. A unilateral undertaking in respect of the submission, approval and implementation of a Detailed Habitat Management Plan (DHMP) for an ecological enhancement area to the west of the appeal site has been submitted. I return to this matter later in the decision.

Main Issues

4. The main issues are:
 - (i) whether the appeal site is within the general extent of the Green Belt;
 - (ii) if so, whether the proposal would be inappropriate development in the Green Belt as set out in the *National Planning Policy Framework* ('the Framework') and the development plan;
 - (iii) if so, the effect of the development on the openness of the Green Belt; and
 - (iv) the effect of the proposed development on highway and pedestrian safety;
 - (v) the implications of the proposal for nature conservation, with particular reference to the Great Crested Newt; and
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- (vi) if it 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 very special circumstances.

Reasons

Is the site within the Green Belt?

5. The Framework requires local planning authorities to establish Green Belt boundaries in their local plans having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period. It also states that when drawing up or reviewing Green Belt boundaries account should be taken of the need to promote sustainable development.
6. There is no adopted Local Plan for the City of York. The *City of York Development Control Local Plan* (2005)¹ includes the appeal site within the Green Belt. Although adopted for development control purposes, the document has not progressed to formal adoption and its policies can therefore be accorded only very limited weight.
7. The Council is preparing a new Local Plan and the *Preferred Options Draft Local Plan* (June 2013) allocated the appeal site as part of a larger site for residential development. However, the subsequent *Preferred Sites Consultation* (July 2016) identifies sufficient land to meet the five year housing land requirement but excludes the appeal site from allocation in favour of more sustainable sites. The exercise will inform the ongoing preparation of the Local Plan which the Council advises is likely to be issued for public consultation in January 2017 followed by submission in May 2017. An adopted Local Plan is therefore unlikely to be in place before mid-2018. As the plan has quite some way to go in the process leading to formal adoption it can only be accorded very limited weight in the context of this appeal.
8. Accordingly, the development plan comprises the saved policies of *The Yorkshire and Humber Plan: Regional Spatial Strategy to 2026* (RSS) which, amongst other things, identifies the general extent of the Green Belt. Policy Y1 states that the City of York Local Development Framework (LDF) should define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from the city centre. Policy YH9 indicates that the general extent of Green Belts in the Region should not be changed.
9. The precise boundaries of the Green Belt have therefore never been formally established in an adopted local plan or other development plan. Indeed, over the past few decades the appeal site has been included within the Green Belt in a number of draft local plans and other documents and excluded in others, some of which identified or allocated the site for development. Furthermore, Inspectors and the Secretary of State, in considering appeals for residential development in the York area stretching back over some 25 years, have reached different conclusions regarding the Green Belt status of various sites, including one of which the current appeal site formed part. They include proposals at Princess Road, Strensall², Germany Beck, Fulford/Metcalf Lane,

¹ City of York Draft Local Plan Incorporating the 4th set of changes: Development Control Local Plan

² T/APP/D2728/A/90/156889/P5

Osballdwick³, Westview Close, York⁴ and Brecks Lane, Strensall⁵. I have given careful consideration to each of these decisions insofar as they are relevant to the proposal before me.

10. The appellant submits that the appeal site does not fall within the general extent of the Green Belt due to its enclosure by existing housing and separation from the open countryside by substantial hedgerows and the railway line. However, I consider that the starting point should be an assessment of the site against the five purposes of the Green Belt set out in paragraph 80 of the Framework. In this respect my attention has been drawn to the findings of the Green Belt Local Plan Inspector together with two appeal decisions regarding the Green Belt function of land which incorporated the current appeal site. However, I take a different view in this case as I shall explain.
11. The site is on the fringe of the village. It adjoins housing to the north and east, open fields to the west and a railway line to the south with open countryside beyond. Strensall is a settlement of significant size with extensive modern housing estates extending from the historic core of the village. The Green Belt purpose of checking the unrestricted sprawl of large built-up areas is applicable here and the proposal would conflict with this purpose. The nearest settlements to Strensall of any size are Haxby/Wigginton and Stockton on the Forest. As the separation distances involved are fairly significant, the proposal would not compromise the Green Belt purpose of preventing neighbouring towns merging into one another.
12. The site is not within the built-up limits of Strensall. It is an undeveloped greenfield parcel on the edge of the village with open countryside to the south and west. In extending built development into the countryside the proposal would amount to encroachment in conflict with the third bullet point in paragraph 80. In terms of the fourth bullet point, York is the nearest 'historic town' to Strensall. However it is some distance from the village and the proposed development would not be observed in the context of the city's special character or setting nor would it compromise views of York Minster. As such, the proposal would not harm the setting and special character of the city.
13. To reduce pressure for development on greenfield sites the fifth bullet point promotes urban regeneration by encouraging the recycling of derelict and other urban land. Although the appeal site is small, by resisting development on the land it may, to a modest degree, encourage development on previously developed land within the city, thereby contributing to urban regeneration.
14. The main parties have set out in some detail the relevant planning policy background and the rather tortuous path it has taken. As a result, the appeal site has been subject to allocation for housing, de-allocation and inclusion within the Green Belt. Moreover, various appeal decisions in the York area, including Strensall, have reached different conclusions on whether a particular site is within the Green Belt.
15. However, none of the plans produced has been formally adopted and their relevance and applicability to the appeal proposal therefore carries very limited

³ APP/C2741/V/05/1189897 & APP/C2741/V/05/1189885

⁴ APP/C2741/A/13/2191767

⁵ APP/C2741/V/14/2216946

weight. That leaves the saved policies of the RSS as the most relevant policy document in relation to the proposed development in this case. Although the RSS objective of defining the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt in the LDF has not been realised to date this does not warrant exclusion of the appeal site from the Green Belt. I therefore consider that the site should be regarded as being within the Green Belt until such time as the detailed boundaries are identified in a Local Plan. Accordingly, I conclude that the appeal site lies within the general extent of the Green Belt and fulfils a number of Green Belt purposes as described above.

Whether inappropriate development

16. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It advises that the construction of new buildings is inappropriate in the Green Belt unless it falls within certain categories of development. The proposal for housing on the appeal site does not fall within any of the categories of development set out in paragraph 89 of the Framework and accordingly the proposal represents inappropriate development in the Green Belt. The Framework states that such harm attracts substantial weight.

Effect on openness

17. The Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with paragraph 79 identifying openness as one of the essential characteristics of the Green Belt. The erection of 11 dwellings on the site would clearly reduce openness in this part of the Green Belt in conflict with this aim.
18. Together with inappropriateness, the loss of openness would conflict with three of the purposes of Green Belt designation. I attach substantial weight to the totality of harm that would be caused to the Green Belt arising from the appeal proposal.

Effect on highway and pedestrian safety

19. The appellant's *Highway Access Appraisal* concludes that The Village and wider highway network are capable of accommodating traffic generated by the proposed development and the visibility splays at the access are likely to be achievable. A *Supplementary Transport Note* submitted with the appeal papers addresses the Council's concerns regarding these and other matters, and includes a revised access design.
20. Although formal consultation has not taken place on the amended access details they appear to include adequate visibility splays and a shared access way, which would be sufficient to serve the proposed development and would not prejudice the development of adjoining land in the event that it came forward for development at some time in the future. No technical evidence has been provided by the Council to demonstrate that the revised proposals would be unsatisfactory in these respects.
21. The proposal would involve cutting back some vegetation to either side of the access within the appeal site which the Council has reservations about in terms of visual amenity. However, this would have a modest impact on the street scene and the amenity of adjoining occupiers and could be compensated for by

suitable landscaping measures at the detailed design stage. Similarly, the treatment of verges could be determined at this later stage without detriment to the overall functioning of the development.

22. On the basis of the original and amended access arrangements I am satisfied that the proposal would not compromise the free flow of traffic and pedestrian safety on the main street and the visual amenity of the area would not be materially harmed. As such, I find no conflict with relevant highway safety and visual amenity objectives in paragraphs 17 and 32 of the Framework.

Implications for nature conservation

23. The amended *Great Crested Newt Survey Report* (June 2016) includes proposals for off-site enhancement of the newt breeding pond some 200m to the west of the appeal site. It also proposes enhancement and widening of the western hedgerow on the site, which would be retained outside domestic curtilages of the development. The Council's Countryside and Ecology Officer has confirmed that the report addresses her concerns regarding the implications of the proposal for the species.
24. These and other measures would be included in the DHMP provided for in the appellant's unilateral undertaking, which requires approval by the Council and implementation before the development commences together with maintenance thereafter. The Council has continuing concerns, however, regarding provision in the undertaking for safeguarding the Great Crested Newt.
25. The Council notes that the illustrative site layout plan accompanying the application shows removal of the western hedgerow and is concerned that mitigation/enhancement measures for the hedge to ensure its separation from residential curtilages are not shown on an appropriate plan. However, as the illustrative layout plan is not binding and the DHMP requires the Council's approval, I see no reason why the document could not include full details of the hedgerow mitigation measures.
26. I am satisfied that the unilateral undertaking would enable the Council to ensure that the implications for nature conservation arising from the proposal, and specifically the Great Crested Newt, can be adequately addressed. No substantiated evidence has been provided to demonstrate that the proposal would harm other wildlife on or around the site. There would therefore be no conflict with paragraphs 109 and 118 of the Framework which are concerned with the conservation and enhancement of biodiversity and minimising impact with suitable mitigation.

Other considerations

27. In the event that the site is concluded to be within the Green Belt the appellant submits that the other considerations exist to justify the development. I have already considered above the planning and appeal history of the appeal site and other land in the Strensall and York area promoted by the appellant in favour of the proposal.
28. The appellant sets out in some detail the housing land supply situation in York and includes their own objectively assessed need for housing. In terms of the five year housing land supply required by the Framework it is submitted by the appellant that there is only at best 3.01 years' supply and more likely 1.82

years. Based on its *Strategic Housing Market Assessment* and other work the Council maintains that it has a supply of sites to meet its objectively assessed need and can demonstrate a five year supply for the emerging plan period, but concedes that it does not currently have a Framework-compliant housing land supply.

29. On this basis the housing land supply objectives of the Framework are not met. The contribution that the appeal proposal would make to housing need would be very modest but nevertheless weighs in favour of the scheme. That said, the *Planning Practice Guidance* (PPG) states that unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt.
30. I have concluded that the appeal site should be treated as being located within the general extent of the Green Belt and the proposal would result in loss of openness and conflict with the purposes of the Green Belt. Given the PPG's stance in relation to the consideration of unmet housing need in the Green Belt, and in the absence of an adopted local plan which demonstrates whether (and, if so, when) the appeal site should be developed, the need for housing to meet the shortfall in the five year supply does not justify the proposal before me. Nevertheless, and notwithstanding the PPG stance, modest weight can reasonably be accorded to the unmet housing need and this should be weighed in the planning balance.
31. The appellant cites the three dimensions of sustainable development in support of the proposal. In relation to the economic role the scheme would bring about employment opportunities and support for local suppliers during the construction phase and support for local services and facilities thereafter. It may also enhance the potential for recruitment and retention of a labour resource for employers in the York area by providing new housing for employees. These benefits would, however, be very limited given the modest scale of the proposal. The financial benefits to the Council of the New Homes Bonus do not weigh in favour of the proposal as such payments are designed to promote housing on appropriate sites. The social benefits of the proposal increasing the supply of housing have been addressed above.
32. In environmental terms the accessibility of the site to local services and facilities, retention of hedgerows, additional landscaping, safeguarding of habitat and sustainable construction methods are ascribed only very limited weight in favour of the proposal.

The planning balance

33. The site lies within the general extent of the Green Belt and as such I have concluded that the proposal is inappropriate development in the Green Belt. It would also diminish openness and conflict with three of the five purposes of the Green Belt.
34. I do not find harm in respect of highway and pedestrian safety or visual amenity and no detriment to nature conservation would arise. Modest weight is attached to the unmet housing need, and the scheme's economic and environmental benefits carry some limited weight. However, these matters promoted in support of the proposal are not ones to which I attach significant weight.

35. Accordingly, these matters do not clearly outweigh the substantial weight to be attached to the protection of this site, which is in the general extent of the Green Belt and fulfils some of the purposes of the Green Belt, and the other harm identified. Very special circumstances necessary to justify inappropriate development in the Green Belt have not therefore been identified.

Other Matters

36. As the layout of the proposal is not for consideration at this stage the potential impact on the living conditions of adjacent residents would be assessed at the detailed design stage if the appeal were to succeed.

37. Other concerns have been raised in connection with the capacity of schools, drainage infrastructure and medical facilities to accommodate the development together with impact on air quality, but there is no specific and/or technical evidence before me to substantiate those matters and they have not been decisive in my findings.

Conclusion

38. For the reasons set out above I conclude that the appeal should be dismissed.

Michael Moffoot

Inspector