

Appeal Decision

Site visit made on 7 November 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 18th November 2016

Appeal Ref: APP/X1355/W/16/3156113

Land east of Ravenscroft, High Urpeth, Stanley, County Durham DH9 0SJ

- 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 Andrew Coyle against the decision of Durham County Council.
 - The application Ref DM/15/03625/FPA, dated 20 November 2015, was refused by notice dated 26 February 2016.
 - The development proposed is erection of a single 4 bedroom dwelling and 2 outbuildings as well as extensive landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address differs on the application form to the appeal form and decision notice. I have used the address on the appeal form and decision notice as I consider it to be a more accurate description of the location.

Main Issues

3. The main issues in this case are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt and Green Belt purposes;
 - whether occupants of the proposed development would have reasonable access to shops and services; 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 or not the proposal is inappropriate development in the Green Belt

4. The appeal site fronts onto Stoney Lane between Urpeth and Beamish and to the north of High Handenhold. It is situated within the North Durham Green Belt. By virtue of paragraph 89 of the National Planning Policy Framework (the
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Framework) the construction of new buildings in the Green Belt is inappropriate subject to a number of specified exceptions.

5. Two small cottages occupied the site in the broad location of the proposed dwelling, however, those properties were removed approximately 45 years ago and the land has been in agricultural use since. There are no signs of any permanent structures or fixed surface structures and the remains of the cottages have blended into the landscape. The land does not, therefore, fall within the definition of previously developed land set out in the glossary of the Framework. Consequently, bullet point 6 of paragraph 89 of the Framework which allows for the limited infilling or the partial or complete redevelopment of previously developed sites does not apply. I consider that the proposal does not fall within the other exceptions set out in paragraphs 89 and 90 of the Framework.
6. The proposal is, therefore, inappropriate development. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. I give this conclusion substantial weight.

Openness of the Green Belt

7. There is no definition of openness in the Framework but, in the Green Belt context it is generally held to refer to freedom from, or the absence of, development. The essential characteristics of Green Belts are their openness and their permanence and one of the purposes of the Green Belt is to keep land permanently open.
8. The appeal site fronts onto Stoney Lane where a hedge above a high embankment forms the front boundary of the site. The land falls 24m within the site to the north, away from the former railway embankment of the C2C Consett and Sunderland Railway Path. The western boundary of the application land is overlooked by Ravenscroft, a large early 20th Century two-storey detached dwelling. The eastern boundary is defined by another road, with hedges and a small triangular area of established woodland. The site is unimproved agricultural land with no evidence of any structures on it.
9. The proposal is for a large, modern, detached 'L' shaped two-storey dwelling accessed from Stoney Lane and two large flat roofed outbuildings, one a garage, the other an animal shelter and workshop. The wider site would be sub-divided into orchards and two paddocks.
10. The significant footprint of the buildings, their bulk, mass and domestic paraphernalia on land which is currently free from development would inevitably lead to a loss of openness. Whilst the existing hedgerows and intermittent trees and proposed landscaping would provide an element of screening the proposed dwelling would be situated at a higher level than the road and would be highly visible within the gently undulating open countryside. The proposal would also result in encroachment of development into the countryside.
11. I, therefore, conclude that the proposal would lead to a significant loss of Green Belt openness and conflict with the Green Belt purpose of safeguarding the countryside from encroachment. I give substantial weight to that harm.

Access to shops and services

12. The Local Plan was adopted some time before the publication of the Framework. The County Durham Plan Submission Draft 2014 has now been withdrawn by the Council and consequently the policies contained therein hold no weight. No detailed evidence relating to housing land supply is before me; however, the Council accept that they cannot demonstrate a five year supply of deliverable housing sites. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of housing.
13. The proposal should, therefore, be considered in the context of paragraph 14 of the Framework which sets out the presumption in favour of sustainable development. It also states that where the development plan is absent, silent or out of date permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits.
14. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
15. Saved Policy NE2 of the Local Plan states that outside settlement boundaries as defined on the Proposals Map, development will be strictly controlled. Permission for new dwellings will be granted only where there is a need to support existing agricultural or forestry activities. The Policy seeks to protect the countryside from all new development, not just housing and the Policy, therefore, has resonance with paragraph 17 of the Framework which recognises the intrinsic character and beauty of the countryside. However, insofar as the Policy seeks to control new housing development outside of settlement boundaries the Policy is out-of-date. Only limited weight can, therefore, be attached to it in my Decision.
16. Saved Policy HP9 relates to residential development within the boundaries of settlements listed in Policies HP6, HP7 and HP8 and sets out residential design criteria. As the appeal proposal is situated in the open countryside I consider that this Policy does not apply.
17. Saved Policy T15 sets out access and safety considerations in design and expects, amongst other things, that there are adequate links, access, to and provision for public transport. The Policy does not seek to control new housing development and is consistent with section 4 of the Framework which seeks to promote sustainable transport modes. Significant weight can, therefore, be attached to it in my Decision.
18. I shall, therefore, consider the appeal proposal with regards to the advice set out in paragraph 14 of the Framework and also paragraph 55 which state that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local Planning Authorities should avoid isolated new homes in the countryside unless there are special circumstances.
19. The site is situated approximately 1 mile south of the small settlement of High Urpeth. However, the settlement has few services or facilities and reaching the settlement would involve a walk along a mainly unlit country road with no footpath. The small settlement of High Handenhold lies approximately 1 mile to the south of the appeal site. The settlement has few services or facilities although there are bus stops within the village which provide links to higher

order centres. However, reaching the bus stop would involve a long walk along a mainly unlit unrestricted road with no footpath. Notwithstanding the use of part of the route for recreational walking, I consider that the walk would be off-putting to future occupiers on a regular basis to meet day-to-day needs. Occupiers would, therefore, be reliant on the private car in order to reach the majority of day-to-day services.

20. The appellant proposes a more direct pedestrian route to the nearest settlement avoiding a section of public highway which involves crossing the C2C Cycle Route (National Cycle Route 7) which is situated on an embankment to the north of the site. Access onto and over the cycle route would require engineering works and consent from Sustrans. There is no evidence before me that demonstrates that this is a feasible option and I can, therefore, only give it limited weight in my Decision.
21. The appeal site does not relate well either visually or functionally to existing settlements and consequently, I consider that the appeal site is isolated in the context of paragraph 55 of the Framework which seeks to avoid isolated housing in the countryside. Furthermore, I do not consider that the proposal would enhance or maintain the vitality of rural communities.
22. The appellant contends that the proposal would fall within the remit of bullet point 4 of paragraph 55 of the Framework which allows for dwellings of exceptional quality or innovative design. However, whilst I recognise that the proposal would be zero to low carbon; I am not persuaded that the modern design is truly outstanding or innovative or that the proposal would significantly enhance its immediate setting or is sensitive to the defining characteristics of the local area. This exception does not, therefore, apply to the appeal proposal. None of the other exceptions set out at paragraph 55 are applicable.
23. Attention is drawn to two appeal decisions¹ which the appellant considers supports his case. In the case of both Prospect Farm and Land East of the Nursery the proposed dwellings are within the small settlement of Medburn. Consequently, neither case is directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.
24. Attention is also drawn to a number of planning applications granted permission for new dwellings in the vicinity. No information is available relating to the proposal for 8 dwellings in High Urpeth and I can, therefore, only afford it very limited weight in my Decision. In the case of Urpeth South Farm the proposal was for the conversion of existing farm buildings which falls within the remit of one of the exceptions set out at paragraph 55 of the Framework. I note that the proposal at Westacre is located within a group of existing buildings and that very special circumstances were deemed to exist on the basis of the history of the site; the fall-back position and the quality of the proposed design. None of these cases are, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.
25. Whilst the proposal may bring some economic benefits during the construction phase, these would be very modest and short term. In terms of the social aspect of sustainability, the proposal would make a contribution, albeit small, to housing land supply. However, the proposal would not enhance or maintain the vitality of rural communities.

¹ Appeal decisions: APP/P2935/A/12/2176272; APP/P2935/A/13/2195890

26. Although the proposal would be zero-low carbon, I consider that this must be weighed against the reliance which future occupants would have on the private car. I, therefore, consider that the proposal would not meet the environmental dimension of sustainable development. The proposal would not, therefore, constitute sustainable development as required by paragraph 14 of the Framework.
27. I, therefore, conclude that the proposal is contrary to paragraphs 14 and 55 of the Framework. I also find conflict with saved Policies NE2 and T15 of the LP which weighs against the proposal.

Other considerations

28. The appellant considers that the proposal would contribute to unmet housing need as the Council is unable to demonstrate that it has a five year supply of deliverable housing sites. Whilst no specific evidence is before me in relation to housing land supply the Council acknowledge that they do not have a five year supply of housing.
29. The appellant has drawn attention to the cases of Suffolk Coastal District Council and Hopkins Homes Limited and SSCLG, Richborough Estates Partnership LLP and Cheshire East Borough Council and SSCLG². Paragraph 49 of the Framework states that *'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'* and the judgment establishes that the decision maker has the flexibility to determine in the circumstances before him/her what policies fall within the ambit of paragraph 49, and how much weight to be given to them in the overall planning balance.
30. I have, already concluded that only limited weight can be given to Policy NE2 of the Local Plan insofar as it seeks to control the supply of housing. Saved policies NE4 and NE5 set out the approach to appropriate development and new dwellings in the Green Belt respectively. Both policies pre-date the Framework and the list of appropriate development in the Green Belt set out in Policy NE4 reflects the previous guidance. However, the fundamental thrust of the Policy is to prevent inappropriate development in the Green Belt, not just housing and to keep land permanently open thereby protecting the essential characteristics of Green Belts which are their openness and their permanence. This is consistent with paragraph 79 of the Framework which states that the Government attaches great importance to Green Belts. Consequently, I consider that Policy NE4 can be attributed significant weight in my decision.
31. Policy NE5 seeks to specifically restrict new dwellings in the Green Belt other than for new non-agricultural enterprises in order to maintain and enhance their economic prospects. Insofar as the Policy seeks to restrict new residential development in the Green Belt, I can only attach limited weight to it in my Decision.

² Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v Cheshire East BC & SSCLG [2016] EWCA Civ 168.

32. The proposal would make a contribution to housing land supply although this contribution would be limited due to the small scale of the proposal and consequently, I attach moderate weight to this benefit in my Decision.
33. It is also suggested that the historic residential use of the site is a material consideration which weighs in favour of the proposal. However, the site has not been occupied by residential development for over 40 years and no remnants of those properties or associated infrastructure remain. Indeed the site has grassed over and has been in agricultural use for many years. The proposal would not, therefore, meet the definition of previously developed land set out in the Framework. I, therefore, attach limited weight to this consideration in my Decision.
34. I acknowledge that the proposal would be low carbon and that there would be some improvements in biodiversity and landscaping. However, the appellant's aspirations towards self-sufficiency rely on the wider operation of the landholding upon which the planning system has no control. Furthermore, these benefits must be weighed against the effect of the proposal in terms of encouraging additional car based journeys. On balance, therefore, I can only attach moderate weight to these benefits in my Decision.
35. Attention is also drawn to the local support which the proposal has and the connections the appellant has with the local community and the site. However, the appellant does not seek a personal consent and planning permission runs with the land. This limits the weight which I can give this in my Decision.

Conclusion

36. I have concluded that the proposal would be inappropriate development in the Green Belt and would, therefore, by definition be harmful to the Green Belt. I have also concluded that the proposal would harm the openness of the Green Belt and conflict with Green Belt purposes. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt.
37. Whilst there may be some benefits of the proposal in terms of contributing to housing land supply and the low carbon design of the house I consider that the substantial weight to be given to Green Belt harm is not clearly outweighed either individually or cumulatively by other considerations sufficient to demonstrate very special circumstances. Consequently, the very special circumstances to justify the development do not exist.
38. For the reason stated above and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector