
Appeal Decision

Site visit made on 18 October 2016

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 21 November 2016

Appeal Ref: APP/N4205/W/16/3155631

7 Old Colliers Row, Colliers Row Road, Bolton BL1 7PS

- 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 Jan Szulec against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 96177/16, dated 23 March 2016, was refused by notice dated 10 May 2016.
 - The development proposed is a new live/work unit to replace the existing garage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Jan Szulec against Bolton Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are (i) whether the proposal would be inappropriate development in the Green Belt and its effect on the openness of the Green Belt having regard to the National Planning Policy Framework (the Framework); (ii) the effect of the proposal on the character and appearance of the area; (iii) the effect of the proposed access and parking arrangement on highway safety in Colliers Row Road and (iv) would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

The approach to the decision

4. The Council is currently unable to demonstrate a five year supply of deliverable housing¹ sites as required by paragraph 47 of the Framework. Therefore policies relating to the supply of housing to be out-of-date, however, it is a matter of judgement for the decision maker as to the amount of weight to be attached rather than simply carry no weight or be disregarded². In accordance with paragraph 49 of the Framework, I consider Policy CG7AP of the Local Plan: Bolton's Allocation Plan (BAP) has a reduced weight. In any event the

¹ Appeal Decision Ref: APP/N4205/W/15/3136446

² Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East, SSCLG [2016] EWCA Civ 168

appellant accepts Green Belt policies in the Framework are a material consideration in planning decisions.

Whether inappropriate development and its effect on openness

5. The Framework establishes that new buildings in the Green Belt are inappropriate unless they are one of the exceptions listed in paragraph 89. The Framework also sets out the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
6. I share the parties view that the site is previously developed³ based on my observations on site.
7. It is accepted by the appellant that the proposal is larger than the garage. This is in terms of volume and footprint. Whilst the proposal would be sited on an area of hardstanding, it would result in a significant loss of openness through the additional scale of the live/work unit in comparison to the hardstanding and the detached single storey garage. It follows therefore that the proposal would not safeguard the countryside from encroachment and the proposal would conflict with one of the purposes set out in paragraph 80 of the Framework.
8. Given the appeal scheme would have a greater impact on the openness of the Green belt and conflict with one of the purposes of including land in the Green Belt, I agree with the parties that the proposed development would not meet the exceptions of paragraph 89 of the Framework.
9. Accordingly, the proposal would be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would be contrary to paragraphs 80 and 89 of the Framework and in its reduced capacity Policy CG7AP of the BAP. These policies seek to prevent inappropriate development which does not maintain the openness of the land.

Character and Appearance

10. The proposal would replace a single storey pitched roof detached garage with render and stone walls. The garage is set back from Colliers Row Road. Opposite is an elevated row of stone cottages on the northern side of Colliers Row Road. Colliers Row Road dissects the West Pennine Moorlands, which provides for an undulating and largely open landscape. Notably, levels on the site fall away to the south from Colliers Row Road, with levels increasing to the north of the cottages facing. Moreover, Colliers Row Road descends to the west beyond a bend in the highway. A copse of trees is adjacent to the western boundary of the site, whilst a garden containing outbuildings and Highertongs Farm are to the east. Dry stone walls provide for distinct boundaries along Colliers Row Road.
11. The proposal would be constructed on a split level which would make best use of the site's contours. However the bulk of the dwelling would increase towards its rear elevation. The effect of which would be limited on approach from the west on Colliers Row Road due to the copse of trees which heavily screen the site. However, despite the vegetation, dry stone walls and

³ Annex 2, the Framework

outbuildings to the east, its bulk would be particularly noticeable as it would extend considerably above these.

12. Although, stone is proposed for the front elevation, the remaining three elevations would be finished in render. Such a wide spread use of render would significantly depart from the wide scale application of stone to nearby buildings, which include the row of cottages opposite. I recognise the nearby agricultural buildings are not constructed from stone. Even so, the use of stone forms a significant role in the areas character and appearance. I consider the use of render would add to the prominence of the appeal proposal, and even though a split level design is proposed, its use would amplify the bulk of the proposed development especially on approach to the site from the east.
13. For these reasons on this issue, I conclude that the proposal would significantly harm the character and appearance of the area and the proposal would be contrary to Policies CG3 and OA5 of Bolton's Core Strategy (CS). These policies seek to ensure development is compatible with the character of the surrounding area in terms of scale and massing, but also that special attention is paid to the use of materials in new development.

Highway Safety

14. The appeal site currently serves a dual purpose. Part of the site contains the garage which has space in front for two vehicles associated with the appellant's dwelling to park off the highway. The remaining part of the site is largely hardsurfaced and used to store vehicles in connection with the appellant's internet operated car sales business. Numerous vehicles were stored on site, parked in columns multiple vehicles deep. Separate access points onto Colliers Row Road serve each use, with a dry stone wall lining the remainder of the boundary with the highway.
15. The live/work unit would also fulfil a dual purpose, with a single point of access from Colliers Row Road. The full depth of the eastern side of the site would be retained for parking, with a turning area to the front adjacent to the highway.
16. Colliers Row Road is used by vehicles, walkers, cyclists and horse riders. Although there are no parking restrictions in force along Colliers Row Road, I share the view of the Council's Highway Engineer that each vehicle associated with the proposal should be able to enter and leave the site in forward gear. This is due to the national speed limit, the location of the site immediately adjacent to a bend and the significant descent thereafter. Vehicles do travel at speed along Colliers Row Road and it is used by other users of the highway, who do not travel at the same speed.
17. Whilst the appellant considers the second response by the Council's Highway Engineer to fall short of an objection, I consider it re-affirms earlier concerns regarding the availability of customer or visitor parking spaces and the inconvenience and difficulties that would ensue from needing to move vehicles off the site in order to remove a sold vehicle from the rear of the parking area.
18. Based on the scale of operations the number of customers is unlikely to be significant and a single customer parking space would be adequate. However, the proposed parking arrangement would mean multiple vehicles manoeuvring in order to allow a car sales vehicle to enter or leave the site. Although the visitor space shown may not always be utilised, it together with the turning

area could only accommodate two vehicles. Consequently it is highly probable vehicles would manoeuvre onto Colliers Row Road. Whilst, this practice may currently occur, the constraints of the existing and proposed sites would be very different as a result of the larger live/work unit which would limit the space available on site to manoeuvre vehicles around. I note the appellant intends to scale back their business, however the effect on highway safety in this location would be severe due to the potential for conflict with various highway users travelling at different speeds and the site's location on a bend.

19. Despite the suggested highway conditions, which were caveated in any event, I do not consider that they would make this otherwise unacceptable development acceptable. For these reasons, I conclude that the proposed access and parking arrangement would have a severe effect on highway safety. This is contrary to Policies P5 and S1.2 of the CS which seek to developments which provide satisfactory parking provision to promote road safety.

Other Considerations

20. The Council is currently unable to demonstrate a five year supply of deliverable housing sites. In such situations, as the appellant points out bullet point 4 of paragraph 14 sets out *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.*
21. In the second indent of bullet point 4 in paragraph 14, footnote 9 identifies that Green Belt can be such a policy. Thus, even if the development plan is out-of-date, it would not alter my approach in the event of a conclusion that Green Belt policies indicate that the development should be restricted.
22. I understand the appellant is seeking to downsize and the proposal would result in an extra dwelling which would contribute to the Framework's overall aim of boosting the supply of housing. However, as the scale of the contribution is modest, despite the lack of a five year supply of deliverable housing sites, I consider this only attracts a limited weight.
23. Paragraph 28 of the Framework supports economic growth in rural areas in order to create jobs and prosperity. I consider there would be economic and social benefits associated with retaining this established business in the rural area and on a distinct site from the existing residential property. I also recognise that working from home and living on the site would offer logistical and security benefits, particularly in terms of natural surveillance.
24. However, there is no evidence to counter the Council's claim that there is a lack of alternative sites in the urban area. Even though moving to another business premises may not be economically feasible for the appellant, this has not been demonstrated in evidence. The wish to remain in the rural area needs to be seen in the context of the Framework as a whole, which seeks to secure good design and protect green belt land. For these reasons, I can only attribute a modest weight to the live/work unit and the economic and social benefits that go with this.
25. The proposal would result in economic benefits through its construction in terms of materials and labour, but also upon completion council tax and new

homes bonus payments to the local authority. However, given the proposal is for a single unit, these benefits only attract a limited weight.

26. Compared to the existing site, the area covered by hardstanding would be reduced. The redevelopment of the site and provision of an ecologically friendly garden and landscaping attract a modest weight.
27. My attention has been drawn to a number of sites in the area which have been granted planning permission. Whilst there is a need for consistent decision making these decisions were for very different sites and I do not have the full details of them before me. Whilst the appellant considers the circumstances of this case to be equal to the circumstances of the Smithills Coaching House⁴ site, I do not have any financial details to support the appellant's point that development of the site is required in this case. Thus, I do not consider it sets a precedent for the appeal scheme and I therefore attach a minimal weight.
28. In terms of the Brownstones⁵ site, both applications pre-date the Framework and the development plan. Whilst I appreciate the appellant's point that the site has changed considerably, I do not have details of the policies in place at the time of these decisions to form a view as to whether it sets a precedent. A minimal weight is therefore attached. With regards to the Grundy Fold Farm⁶ site I have set out above that the proposal attracts a modest weight in terms of the retention of the business in the rural area. As the live/work unit is a mixed use, I do not consider the Grundy Fold Farm permission sets a precedent.
29. As the Council points out and as the appellant accepts, the proposal is larger than the garage that would be replaced. The Burnthwaite Old Hall⁷ site does not therefore set a precedent and I attach it a very limited weight.

Conclusion

30. The appeal scheme would be inappropriate development in the Green Belt and by definition this is harmful. I attach this harm substantial weight as required by paragraph 88 of the Framework and as such there is a clear conflict with the environmental role of sustainable development. I have also concluded that the appeal scheme would significantly harm the character and appearance of the area and that the access and parking arrangement would have a severe highway safety effect. Both these matters are afforded significant weight and they conflict with the environmental role of sustainable development.
31. I have considered matters put before me in favour of the scheme by the appellant, however I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal does not represent sustainable development.
32. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR

⁴ Council Application Ref: 88290/12

⁵ Council Applications Refs: 60477/01 and 74590/06

⁶ Council Application Ref: 91673/14

⁷ Council Application Ref: 90507/13