
Appeal Decision

Site visit made on 1 November 2016

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 28 November 2016

Appeal Ref: APP/E2340/W/16/3156386
Wellhead, Winewall, Lancashire BB8 8BW

- 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 Dean Balmforth against the decision of Pendle Borough Council.
 - The application Ref 13/15/0628P, dated 21 December 2015, was refused by notice dated 19 April 2016.
 - The development proposed is the construction of a two-storey dwelling onto vacant land adjacent to the former 'Wellhead Mill'.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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; (ii) the effect of the proposed development on the character and appearance of the Winewall and Cotton Tree Conservation Area (WCTCA); and (iii) if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to be the very special circumstances required to justify the proposal.

Reasons

The approach to the decision

3. The Council is currently unable to demonstrate a five year supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (the Framework). As such, in accordance with paragraph 49 of the Framework, policies relating to the supply of housing are out-of-date. This includes Policies SDP2 of the Pendle Local Plan Part 1: Core Strategy (Core Strategy) and Policy 3 of the Replacement Pendle Local Plan (RPLP) which are relevant to the supply of housing. However, it is a matter of judgement for the decision maker as to the amount of weight to be attached to any out-of-date policies, rather than simply considering that they carry no weight or can be disregarded. I therefore consider these policies have a reduced weight.
 4. In any event the parties have made submissions in respect of the proposal's compliance with Green Belt policies in the Framework which is a material consideration in planning decisions.
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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 that 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. Of the exceptions listed in paragraph 89, the parties have drawn my attention to bullet point 5. This exception is the *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*. Winewall, as the appellant accepts, is not within one of Pendle's villages or higher category settlements defined by Core Strategy Policy SDP2. Nevertheless, the site is adjacent to No 2 The Old Mill which is a converted mill, and there are groups of properties nearby. However, it is located away from the tight knit, continuous form of development that lines Wellhead and New Row. The site is set some way down from New Row and as such does not readily visually connect with the terraces on New Row. Beyond the junction of Wellhead and New Row gaps between properties become discernibly larger and the form of development does become more scattered. The appeal site with its relatively wide frontage represents a definite visual break. It marks a point whereby the character changes. Whilst the site is not in the open countryside, I do not consider that it forms part of a village either.
7. Thus, whilst the site is close to nearby built up frontages that form part of Winewall which is a reasonable distance to Colne and Trawden, the proposal does not satisfy bullet point 5 of paragraph 89. Even with its reduced weight, I consider that the proposal does not conform to Core Strategy Policy SDP2.
8. It is the appellant's contention that the proposal fulfils the final bullet point of paragraph 89 which sets out: *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), 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*.
9. The site was formerly part of Wellhead Mill. This ceased operation in 2004 and the mill building which is adjacent to the site has now been converted into two dwellings. A small part of the appeal site is covered by hardstanding and continues to be used for car parking. This is previously developed land.
10. Indifferent evidence is presented regarding the much larger part of the site, with the appellant's latest submissions pointing to a Class B2 industrial use. Even if this is taken to be true, the site is overgrown and covered by scrub. While the appellant disagrees with the Barrowford decision¹, I consider this part of the site is not previously developed land as per Annex 2 of the Framework. It follows that the entirety of the appeal site should not necessarily be developed, given the distinct differences between the scrubland and the area of hardstanding.
11. In order to satisfy the exception, the proposal must also not have a greater impact on the openness of the Green Belt than any existing development on the site. Even though the land and wider Wellhead Mill site may at one time

¹ Appeal Decision Ref: APP/E2340/W/15/3129843

been occupied by buildings, they are no longer on the site and the appeal site has been severed from Wellhead Mill. So, despite comparisons to these buildings and volume calculations, they do not bear relevance to the proposal which would be of a significant size.

12. The proposal would infill an open gap in the landscape that allows for views across this elevated landscape towards the terraced rows on Skipton Road and New Road and the more spacious grounds around between existing dwellings. I recognise the site's contribution to openness does vary from other vantage points due to the undulating nature of the landscape and the presence of nearby properties. However, the proposal would occupy a substantial part of the site and the dwelling would have a pronounced impact due to the rise in land levels and the proposal's elevated ridge line above the converted Mill.
13. Even though the Landscape and Visual Impact Assessment considers the proposal would not cause unacceptable harm to the openness of the Green Belt, this is a very different test to that found in bullet point 6 of paragraph 89. Whilst the proposal would only use a very small part of the overall quantum of land in the Green Belt, I consider the proposal would have a significantly greater impact on openness than the current condition of the site does, and result in encroachment in the countryside. Thus, the appeal scheme would not satisfy the second aspect of this exception and it would therefore be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. This harm would not be reduced by restricting future development on the site as suggested by the appellant.
14. For these reasons, the proposal would be inappropriate development in the Green Belt. Significant harm would also arise in respect of a loss of openness in the Green Belt and the proposal would not safeguard the countryside from encroachment. The proposal is therefore contrary to paragraphs 79, 80 and 89 of the Framework and in their reduced capacity Policies SDP2 and ENV2 of the Core Strategy and Policy 3 of the RPLP. Amongst other matters, these policies seek to prevent inappropriate development which does not maintain the openness of the land.

Character and Appearance of WCTCA

15. The appeal site lies in the midst of the WCTCA which encompasses the settlements of Winewall and Cotton Tree. The WCTCA also extends across the rolling landscape to the north, east and south. The site itself was once part of the Wellhead Mill. The overall design of buildings varies substantially and in response to the varied topography that characterises the area. They are positioned adjacent to narrow roads. In tandem with the public right of way network this creates a variety of views into, through and out of the WCTCA.
16. Akin to properties in the area, the proposed dwelling would be set into the landscape. It would appear well proportioned and add to the diverse composition of the WCTCA, in terms of design. The proposed use of stone and natural blue slate would also reflect the cottages lining New Row. I share the Council's concern in terms of the use of UPVC windows. Nevertheless I recognise that timber windows could be secured through a planning condition.
17. I therefore consider the proposed dwelling would not harm the character and appearance of the area of the WCTCA as the effect would be neutral and the

area's character and appearance would therefore be preserved. For these reasons, in respect of this issue, I conclude that the proposal accords with Policies ENV1 and ENV2 of the Core Strategy and paragraph 132 of the Framework. These policies seek to ensure development proposals preserve or enhance heritage assets through good design that reinforces local distinctiveness.

Other considerations

18. As set out earlier, the Council is currently unable to demonstrate a five year supply of deliverable housing sites. In such situations, 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.*
19. In the second indent of bullet point 4, 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. Whilst the appellant is critical of the Council's net completions in recent years, the proposal would not on its own resolve the current under supply. The proposal would contribute to boosting the supply of housing, but given the scale of the contribution, I consider this only attracts a moderate weight.
20. The appellant refers to a site at Winewall Mill. I understand this site is part of a much larger number of sites which are being put forward as part of the Pendle Local Plan Part 2: Site Allocations and Development Policies process. Although the Winewall Mill site is also in the Green Belt, the Council is, as part of this process, reviewing its Green Belt boundaries. In time the Council's plans will be examined and this site may or may not remain in the Green Belt. I can only therefore attach this site a very limited weight.
21. The proposal would re-use an area of previously developed land and notwithstanding my findings concerning the remainder of the site; the proposal would enhance the current environmental quality of the land through landscaping. I give this a moderate weight and no weight either way to the proposal's neutral effect on the character and appearance of the WCTCA.
22. The site is outside of a defined settlement, but it is not far away from Trawden village or the Town Centre of Colne which can be accessed by bus. The latter in particular provides a range of facilities and services. In these respects the development would be relatively sustainable for its location. Occupants of the dwelling would also support the viability of local facilities. I attribute a limited weight to these given the location and scale of contribution.

Other Matter

23. Although pre-application advice was sought by the appellant, the Council are not bound by this view and in any event I have determined this appeal on its own merits against the development plan and with regard to the material considerations of the case.

Conclusion

24. The appeal proposal would be inappropriate development in the Green Belt and by definition this is harmful. I attach substantial weight to this harm, as required by paragraph 88 of the Framework. In addition the proposal would adversely affect openness and result in encroachment. Both are attached substantial weight and as such, there is a clear conflict with the environmental role of sustainable development.
25. 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.
26. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR