

Appeal Decision

Site visit made on 25 October 2016

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/Z4718/W/16/3155647

Land to the east of Field Head Lane, Birstall, Batley WF17 9LJ

- 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 Mrs Yvonne Lindley-Ree (Lindley Ree Properties) against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/91205/E, dated 8 April 2016, was refused by notice dated 7 June 2016.
 - The development proposed is the erection of 9no. dwellings on 0.30ha of land to the east of Field Head Lane, Birstall.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for outline planning permission with approval being sought for access, landscaping and layout at this stage. Appearance and scale are reserved matters. A proposed site plan was submitted with the application and I have had regard to this in reaching my decision.
3. The Planning Statement submitted with the application on behalf of the appellant acknowledged that the site is identified as being within the Green Belt on the Kirklees Unitary Development Plan (UDP) proposals map. However notwithstanding this, in the grounds of appeal the appellant states that the appeal site is not in the Green Belt. I have been provided with a copy of an extract from the UDP proposals map by the Council and I am satisfied that the appeal site is located within the Green Belt.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide satisfactory living conditions for future occupiers of the dwellings having regard to noise levels within external amenity spaces;
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- The effect of the proposal on flood risk;
- The effect of the proposal on the Council's housing land supply;
- 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 proposal.

Reasons

Whether the proposal is inappropriate development

5. The appeal site comprises a roughly rectangular shaped piece of land located adjacent to Field Head Lane. At the time of my visit the site was largely grassed and overgrown and no remnants of previous development or buildings were visible. However from the available evidence it appears that there was previously a building on part of the site and that it was most recently used as a pet food distribution and storage facility. However it appears that this use ceased sometime before 2000 when the appellant purchased the appeal site. I understand that the remains of the building are still on site and that it was located on an area of hardstanding. The appeal site is located in the Green Belt.
6. Paragraph 89 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. An exception to this includes 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 purposes of including land within it than the existing development.
7. The Planning Statement submitted with the application on behalf of the appellant stated that the proposal was considered to be inappropriate development in the Green Belt as it would have a greater impact on the openness of the Green Belt than the existing development. Though I note that in the grounds of appeal the appellant states that the proposal would have no impact on openness, having regard to the scale of development proposed compared to the most recent development on site, I consider that the proposal would have a greater and significant impact on the openness of the Green Belt. In addition having regard to the largely undeveloped nature of the appeal site and to the scale of built development proposed, it would also involve encroachment into the countryside and, consequently would conflict with the purposes of including land in the Green Belt. This would also weigh against the proposal.
8. Taking the above matters into consideration, I conclude that the proposal would be inappropriate development in the Green Belt, would reduce the openness of the Green Belt and would conflict with the purposes of including land in it. The proposal is therefore contrary to paragraphs 79, 80 and 89 of the Framework.

Character and appearance

9. As stated, the appeal site is currently overgrown, with part of the site containing the remnants of a building previously used for commercial purposes.

The site is adjacent to and visible from Field Head Lane with the immediate surrounding area containing both residential and commercial buildings of various sizes and designs, the A650 Bradford Road and the M62 motorway.

10. Although the surrounding area is mixed in character, the appeal site is prominent and the proposed development of 9 dwellings and associated access road would result in a high density development allowing little scope for any meaningful landscaping, particularly to the site boundaries. The proposed dwellings either side of the access road would be located much closer to Field Head Lane than surrounding development and a number of the dwellings would be located very close to the appeal site boundaries. Consequently I consider that the development would appear cramped and out of keeping with the character and appearance of the area which is generally characterised by buildings set further back from the road and in larger plots.
11. Additionally the position and orientation of the proposed dwellings and the size and position of the proposed access road would result in a development of a poor quality design that is not visually attractive and which would be dominated by the access road.
12. Taking the above matters into consideration, I conclude that the proposal would adversely affect and would result in significant harm to the character and appearance of the area. It is therefore contrary to Policy BE1 of the UDP and to relevant paragraphs, in particular paragraph 64, of the Framework. These policies seek to ensure, amongst other things, good quality design that improves the character and quality of an area.

Living conditions

13. As stated, the appeal site is located close to a number of roads and commercial premises. A Noise Impact Assessment (NIA) dated March 2016 was submitted with the application.
14. The NIA states that for all perimeters of the site, predicted noise levels exceed the noise limits for residential amenity set out within BS 8233:2014 Sound Insulation and Noise Reduction for Buildings. Whilst it appears that the impact of noise on living conditions within the proposed dwellings could be mitigated, based on the available evidence it is not clear that this would be the case for the external amenity areas of the proposed dwellings. The NIA states that dependent on the site layout and use of boundary fencing, it is likely that some external amenity areas may be able to comply with the recommendations but that this would need to be reviewed by means of an acoustic modelling exercise. It does not appear that any such exercise has been carried out.
15. Approval for layout is being sought at this stage and I note that the majority of the proposed dwellings are positioned very close to the appeal site boundaries where the NIA found noise levels to exceed the recommendations within BS 8233:2014. Having regard to this and in the absence of an acoustic modelling exercise having been carried out, I am not satisfied that the proposal would provide satisfactory living conditions for future occupiers of the dwellings having regard to noise levels within external amenity spaces and the proposal would be likely to result in significant harm to living conditions. It is therefore contrary to Policy EP4 of the UDP which states that proposals for noise sensitive development in proximity to existing sources of noise will be

considered taking into account the effects of existing noise levels on the occupiers of proposed noise sensitive development.

Flood risk

16. The proposal would increase the amount of built development and hard surfacing on the appeal site compared to the previous development. No formal assessment of flood risk has been provided to support the proposal. Whilst there is anecdotal evidence from interested parties as to poor surface drainage, the objection from the Council's Flood Management Team concerned a lack of information rather than an objection in principle. Moreover it appears that soakaways are thought to be viable on the site.
17. Nevertheless, the proposal as it stands fails to show that issues relating to flood risk could be addressed, as required by paragraph 103 of the Framework. This carries moderate weight against the proposal.

Housing Land Supply

18. Both main parties agree that the Council cannot currently demonstrate a five year supply of deliverable housing sites. The Planning Statement submitted with the application refers to the Council's Annual Monitoring Report 2012/13 which states that the Council has a 2.45 year housing land supply. This figure has not been disputed by the Council though I am advised that the Council is currently preparing an up to date housing land supply position.
19. Having regard to the housing land supply shortfall of the Council and to the fact that 9 dwellings are proposed, I consider that the proposal would make a moderate contribution to the Council's housing land supply.

Other considerations

20. The appellant argues that the proposal would visually improve the entrance to Birstall as in its current state it forms an 'eye sore' in a prominent gateway location. However whilst I acknowledge that at the time of my visit the site was unkempt and overgrown, in my view it does not have a significant adverse effect on the character and appearance of the area. This together with the concerns that I have regarding the particular scale and layout of the proposal means that I do not consider that it would improve the visual appearance of the area.
21. The proposal would facilitate the safe removal of asbestos from the appeal site and would deliver some ecological improvements from the provision of bird boxes and new planting. It appears that these benefits are unlikely to occur without the site being re-developed, albeit not necessarily at the scale proposed, and as such would be modest benefits arising from the proposal.
22. Part of the appeal site is previously developed land, it is in a reasonably accessible location and the provision of housing on the site would help to meet the demand for housing in the Batley and Spen sub-area as identified in the Council's 2015 Strategic Housing Market Assessment. It would also provide revenue for the Council through the New Homes Bonus (NHB) though there is no evidence regarding whether the Council would use the revenue in a way which is material to the development being proposed. The Planning Statement submitted with the application states that affordable housing may be provided subject to discussions regarding viability.

23. As stated, the provision of 9 dwellings would make a moderate contribution to the Council's housing land supply and this would be a modest benefit arising from the proposal. Given the uncertainty regarding affordable housing provision and the lack of evidence regarding the NHB I cannot be certain that these would be benefits associated with the proposal.
24. The proposal would also provide some modest economic benefits by providing employment during the construction period and by supporting the local economy.
25. Finally I note that the application followed pre-application discussions with the Council and the appellant's willingness to amend the proposal in order to overcome any concerns raised in relation to it. I also note that reference has been made by the appellant to other development in the locality. However I am not aware of the details or particular circumstances relating to these developments and I must determine the proposal on its own merits and as shown on the submitted plans.

Conclusion

26. As set out in the Framework at paragraphs 14 and 49, housing applications should be considered in the context of the presumption in favour of sustainable development, unless specific policies indicate development should be restricted. This proposal concerns land designated as Green Belt, where footnote 9 of the Framework indicates development should be restricted.
27. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that substantial weight should be given to any harm to the Green Belt and 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.
28. The proposal is inappropriate development and it would result in significant harm to the character and appearance of the area and to the living conditions of future occupiers of the dwellings and would result in moderate harm having regard to flood risk.
29. The proposal would make a moderate contribution to the supply of land for housing and there would be some modest economic and environmental benefits arising from it. However I find that these other considerations are not sufficient to clearly outweigh the harm that I have identified. Consequently the very special circumstances necessary to justify the proposal do not exist and it does not represent sustainable development.
30. The proposal is contrary to relevant paragraphs of the Framework and to policies BE1 and EP4 of the UDP. Having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR