

Appeal Decision

Site visit made on 28 November 2016

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/X4725/W/16/3157833

Land Adjacent to 35 Milnthorpe Drive, Sandal, Wakefield WF2 7HU

- 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 Mr A Barker against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/01029/OUT, dated 15 April 2016, was refused by notice dated 1 July 2016.
 - The development is described as "outline one detached dwelling".
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Decision

1. The appeal is allowed and outline planning permission is granted for one detached dwelling at Land adjacent to 35 Milnthorpe Drive, Sandal, Wakefield WF2 7HU in accordance with the terms of the application, Ref 16/01029/OUT, dated 15 April 2016, subject to the conditions set out in the schedule to this decision below.

Procedural Matter

2. The appeal is in outline with all matters reserved. A plan submitted with the application shows a 3 bedroom detached house on the plot, which I have treated as illustrative.

Main Issues

3. The appeal site lies within the Green Belt. Consequently, I consider the main issues to be firstly, whether or not the proposed development would constitute inappropriate development for the purposes of local and national policy; and secondly, the effects of the proposed development on the character and appearance of the area.

Reasons

Whether or not inappropriate development

4. The appeal site is adjacent to a turning head set back from the front building line of the odd-numbered side of Milnthorpe Drive, and bounded by close boarded fencing. To the other side of the site, there is the side garden of No 34, a property that fronts the turning head with a principal building line roughly perpendicular to that of the dwellings on the odd-numbered side of the drive. Although there is a telephone exchange building inter-visible with the appeal site, the drive is principally residential, and comprises, in the main,
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- detached two-storey dwellings. To the rear of the appeal site and its adjacent dwellings on the same side of the drive, the area is of a considerably more agricultural character, with a markedly more scattered pattern of development.
5. The appellant contests whether the site is within the Green Belt and has supplied references to the planning history of the site¹ which establish its use as a residential garden and for the installation of hard-standing and fencing. However, the Council supplied a map of the Green Belt boundary, which clearly shows that the site, and portions of the adjacent rear gardens of its neighbouring properties are washed over by the Green Belt.
 6. The National Planning Policy Framework ('the Framework') establishes that the Government attaches great importance to Green Belts. Paragraph 79 of the Framework makes it clear that the aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. With limited exceptions, the construction of new buildings is inappropriate in the Green Belt.
 7. I have considered whether the proposed development would constitute limited infilling in a village, one of the exceptions given in paragraph 89 of the Framework. As only one dwelling is mooted the proposed development would undoubtedly be of a limited amount. Moreover, the appeal site, whilst set back from the principal building line of the odd-numbered side of Milnthorpe Drive, due to its location on the turning head and close relationship with No 34 clearly reads as part of a residential frontage. Furthermore, due to its boundary treatment and fencing the appeal site already has a residential character considerably different to the more rural and open nature of the agricultural fields beyond its rear boundary. Due to the domestic character of the appeal site, and its close relationship with the turning head and its flanking dwellings, its development would consolidate an otherwise built-up area, and would fill in a gap in the frontage adjacent to the drive. As a result, the proposed development would clearly read as limited infill, and would thus not constitute inappropriate development for the purposes of the Framework.
 8. Whilst I note that the Council's decision notice refers to the proposed development being outside a settlement boundary, I have been supplied with no plan to show the extent of the relevant boundary. Moreover, Policies CS1 and CS3 of the Wakefield Local Development Framework: Core Strategy (adopted April 2009) (the Core Strategy) referred to in the decision notice refer to restricting development outside of settlement boundaries where they would be contrary to national Green Belt policies. Thus as I have found that the proposed development would constitute limited infill, I can find no conflict with either national planning policy in relation to Green Belts or the Local Policy in relation to settlement boundaries.
 9. Accordingly, the proposed development would not conflict with the Framework, and Policies CS1 and CS3 of the Core Strategy. Taken together, these policies seek to safeguard the openness and permanence of the Green Belt and define the settlement hierarchy for the District, which restricts inappropriate development within Green Belts.

¹ Council refs: 79/99/23415 and 12/06772/FULL

Character and appearance

10. As I have found that the development of the appeal site would be limited infill for the purposes of the Framework, and thus not inappropriate development, its effects on the openness of the Green Belt would therefore be acceptable in terms of national policy. Thus in this instance I find that the proposed development would cause no harmful effects to the visual openness of its surroundings.
11. Furthermore, for the reasons given above, the appeal site clearly reads within the context of the grain of the surrounding residential development pattern. Consequently, I can find that no materially harmful effects would flow from the proposed development to the character and appearance of its immediate surroundings.
12. Moreover, as the appeal relates to an outline scheme with all matters reserved I can find no demonstrable harm to the character and appearance of the area more generally, or any special landscape designations or features. Thus I cannot discern a conflict with Policy CS10 of the Core Strategy; or Policies D9 and D12 of the Local Development Plan: Development Policies (adopted April 2009). Taken together, and amongst other matters, these are high level design policies which seek to ensure that development proposals avoid harm to the character and appearance of their surroundings, and special landscape areas and features.

Other Matters

13. I have found that the specific locational aspects of the appeal site mean that its residential development would constitute limited infill for the purposes of the Framework. Whilst the appeal site is behind the rear building line of the odd-numbered side of the drive, the expanse of open field behind it still affords extensive views of Sandal Castle, and the proposed development would not interfere with these to a degree that would be of material harm. Thus I am not persuaded that its development would set a precedent for inappropriate development that would cause harmful effects to the Green Belt or to its surroundings more generally, including proposals that would cause materially harmful impacts to views of Sandal Castle.
14. I note references to restrictions on structures within the residential gardens of the odd-numbered side of the drive. Moreover, I am aware that the appeal site may have been left undeveloped to allow access to the field beyond for future development. However, these are essentially private matters that are of limited weight in the overall planning balance.
15. The limited scale of the proposed development would mean that any effects on parking in the local area would not be of a scale to cause material harm to either the living conditions of the occupants of its neighbouring properties or highways safety more generally. I also note that the local highway authority has not objected to this aspect of the scheme. In any event access arrangements are a reserved matter which will be considered at the appropriate stage of the planning process.
16. I note concerns regarding private views from adjacent residential property. The UK Courts have generally held that rights to private views cannot be instrumental in planning decisions. Consequently, this is a matter that does

not weigh heavily against the proposed development in the overall planning balance.

Conditions

17. I have considered the Council's suite of conditions against the tests given in paragraph 206 of the Framework. This states that conditions should only be imposed where they are necessary; relevant to planning and the development to be permitted; enforceable; precise; and reasonable in all other respects.
18. I have attached a suite of conditions requiring timely submission of the relevant reserved matters applications. In the interests of certainty, I have also attached a condition specifying the approved plan.
19. In order that the proposed development makes adequate provision to protect its future occupants from the effects of radon gas, I have attached a condition requiring submission to, and approval by the Council of either measures for a scheme of protection, or a report advising that such protection measures are not required.
20. However, as all detailed matters are reserved, I consider it unnecessary at this stage to attach conditions relating to the materials to be used in the construction of the dwelling and boundary treatments; or a scheme of details of slab and floor levels and related drainage matters. Neither, as access is a reserved matter, is it necessary to attach conditions relating to verge crossings or the surfacing and drainage of parking and pedestrian accesses at this stage.

Conclusion

21. I conclude, for the reasons given above, and having regard to all other matters raised, that the appeal should succeed.

G J Fort

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: LOCATION PLAN 1:1250th. Dated 11.04.2016
- 5) No part of the development hereby approved shall be occupied or brought into use until either: [i] a scheme demonstrating how suitable 'basic' radon gas protection measures will be installed has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be retained and maintained for the lifetime of the development; or [ii] a suitable Radon Report is submitted to the Local Planning Authority for approval that advises that radon protection measures are not required within the development and the Local Planning Authority has confirmed acceptance of the report and its findings in writing.