
Appeal Decision

Site visit made on 9 January 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 1st February 2017

Appeal Ref: APP/A4710/W/16/3159744

1 Lumbrook Close, Northowram, Halifax, Calderdale HX3 7UD

- 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 Mrs K Malone against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 16/00194/FUL, dated 13 February 2016, was refused by notice dated 20 May 2016.
 - The development proposed is detached bungalow.
-

Decision

1. The appeal is dismissed.

Procedural Matter

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 in the banner heading above as having visited the site it appears to correctly identify the application site.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on the character and appearance of the area.
 - 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

Whether or not the proposal would amount to inappropriate development

4. The appeal site comprises part of the rear garden area of 1 Lumbrook Close, a detached dwelling which sits alongside the A644. No 1 is located within an
-

- attractive and spacious cul-de-sac development at the northern end of the small settlement of Lumbrook which is within the Green Belt.
5. Section 9 of the National Planning Policy Framework (the Framework) attaches great importance to the Green Belt, the essential characteristics of which are its openness and permanence. Paragraph 89 of the Framework establishes the construction of new buildings as inappropriate in the Green Belt subject to a list of exceptions which includes limited infilling in villages.
 6. Although it predates the Framework, Policy NE7 of the Replacement Calderdale Unitary Development Plan (2006) (RCUDP) similarly indicates that infill development will be permitted in some circumstances within defined settlement limits of villages in the Green Belt, as identified in the plan as Named Village Envelopes. Whilst the Policy contains other tests as to whether development would be acceptable, it is nevertheless, broadly consistent with the guidance in the Framework with respect to bullet point 5 of paragraph 89.
 7. Lumbrook is within a Named Village Envelope within the Green Belt as identified in the RCUDP. From my observations on the ground the site is clearly within the settlement limits of Lumbrook with built development to the north, south and west and for these reasons I am satisfied that for the purposes of the exceptions within the Framework, the site can be considered as being located within a village. In such cases, and by reference to paragraph 89 of the Framework, some limited infilling would be permitted within this location.
 8. There is no definition of 'limited infilling' within the Framework. However, The RCUDP identifies an infill site as 'a small gap in a group of buildings or otherwise continuously built-up frontage bounded by buildings on at least two sides'.
 9. Along this stretch of the A644 there are three distinct groups of buildings. Lumbrook Close, to which the appeal site belongs, is an attractive and spacious cul-de-sac development of dwellings, staggered in their plots, fronting onto the cul-de-sac. There is a large gap between the appeal site and the higher density terraced properties to the south which sit at the junction of the A644 and Westercroft Lane. A pair of semi-detached bungalows lie to the south west of the appeal site, one of which would share the access with the proposed dwelling. The bungalows sit side on to the A644 and are set back from it.
 10. To my mind, despite the presence of other properties in and around the appeal site, by virtue of the distinct and separate patterns of development, the site does not appear in the street scene as a small gap, nor does the surrounding development form a continuously built up frontage. Given the particular circumstances obtaining on the ground, I cannot accept that the development as proposed would constitute infill development. As such the proposal does not meet the tests of Policy NE7 or this particular exception in the Framework.
 11. The Framework at paragraph 89 also lists as an exception the limited infilling or the partial or complete redevelopment of previously developed sites. However, given that the site forms part of a garden within the built up area of the village, the proposal could not be considered to fall under this exception as the definition of previously developed land as set out in the Framework specifically excludes private residential gardens within built up areas.

12. I therefore find that the proposal would fail to accord with the exceptions to Green Belt policy as set out in paragraph 89 of the Framework and conflicts with Policy NE7 of the RCUDP. As such, the proposal would be inappropriate development which is, by definition, harmful to the Green Belt. I attach substantial weight to this harm.

Openness

13. The fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to prevent urban sprawl by keeping land permanently open. The construction of a dwelling on the site would result in built development where there is presently none, inevitably leading to a loss of openness.
14. I acknowledge that the existing vegetation would go some way in screening the dwelling from the A644 particularly given its single storey height. However, the dwelling would still be visible from the road, its visual impact increased by the removal of some 10 metres of hedgerow which would be required by the Highway Authority for visibility. The proposal would therefore have an adverse physical and visual impact on the openness of the Green Belt. In that the site is located within the village and given the presence of other development surrounding the site, I quantify that the harm to the openness of the Green Belt would be moderate.

Character and appearance

15. My attention has been drawn to a previously dismissed appeal at the site for the erection of a house and garage¹. The previous Inspector found that there was a clear distinction in views from the north and south along the A644 between the higher density development to the south and south east and the more spacious development of Lumbrook Close and that this distinction made a significant contribution to the character and setting of the settlement. Although some time has lapsed since this decision, from my observations on site and the information before me, I agree that this continues to be the case.
16. I acknowledge that the current proposal has been reduced in scale from the earlier proposal. However, the previous Inspector found that, despite the dense boundary hedging, even a single storey dwelling would be visible in the main views along the A644. Given that there has been no change in circumstances, this would still be so. Furthermore, the current scheme would appear cramped and physically constrained within its plot at odds with the spacious character of Lumbrook Close. Moreover, I agree with the previous Inspector that the consequential loss of the spacious setting of 1 Lumbrook Close and the erosion of the visual gap that the site contributes would unacceptably harm the character and appearance of the area.
17. I therefore find that the proposal would have a detrimental impact on the character and appearance of the surrounding area and would conflict with Policies NE7 and BE1 of the RCUDP in this regard, which seek, amongst other things, to ensure development is of a high quality design which would not adversely affect the visual amenity of the Green Belt or the character and appearance of its surroundings.

¹ APP/A4710/A/08/2070778

Other considerations

18. The appellant argues that an ancillary building of a similar size could be built using permitted development rights with a subsequent application to convert the building to a dwelling. However, there are no plans or figures before me to demonstrate that a building of a similar size could be achieved under permitted development and even if such a building could be constructed, the conversion to a dwelling would require the submission of a further planning application, the Green Belt implications of which are a matter outside of this appeal. As such this matter has only limited weight.
19. The appellant has drawn my attention to a Green Belt review under which he states the site is performing poorly when assessed against Green Belt purposes. However, this does not change the current designation of the appeal site which remains within the Green Belt. In such circumstances the proposal must be judged against Section 9 of the Framework and policies set out in the RCUDP that relate to the Green Belt. This factor therefore carries very little weight.
20. An example of another Green Belt scheme has been put forward by the appellant. However, very little information has been provided regarding the circumstances of this scheme and I cannot therefore make any comparisons with the appeal scheme. For this reason, this matter attracts limited weight.
21. I note that the Council cannot demonstrate a 5 year supply of deliverable housing sites. The provision of one dwelling would contribute to housing supply and is a benefit which weighs in favour of the appeal. However, the contribution to the shortfall in housing sites would be modest and accordingly I give this factor moderate weight.
22. The Council have not objected to the design or proposed materials of the dwelling. Having regard to the submitted plans and from my observation on site, I consider that both the design and scale of the proposed dwelling would be generally reflective of surrounding development. I also note that the proposal would be energy efficient. I give these matters limited weight in favour of the proposal.
23. I note that the Council has not raised any concerns in relation to highway safety, impact on living conditions of neighbouring residents, flood risk, contaminated land and wildlife and I have no reason to take a different view. However the lack of harm in relation to these matters is a neutral factor neither for nor against the proposal.

Green Belt Balance and Conclusion

24. The Framework indicates that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. In addition, any harm to the Green Belt carries considerable weight 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. In this case, I have found harm from inappropriateness as well as a moderate loss of openness to the Green Belt and harm to the character and appearance of the area.
25. The contribution towards housing supply carries moderate weight and I give little weight to the other considerations referred to above. I consider that the

harm to the Green Belt and the harm to the character and appearance of the area are not clearly outweighed either individually or cumulatively by other considerations sufficient to demonstrate the very special circumstances that are necessary to justify inappropriate development in the Green Belt.

26. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five-year supply of deliverable housing sites. Policy NE7 defines Named Village Envelopes within the Green Belt indicating where development may be acceptable. It therefore has the effect of restricting the locations where housing may be developed. As a result, it affects and constrains the supply of housing land. Consequently, it should be regarded as a relevant policy for the supply of housing in this case. However, the Government attaches great importance to Green Belts and because it is broadly consistent with the Framework I give Policy NE7 significant weight.
27. In circumstances where relevant policies are out-of-date, the Framework indicates that permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that there are no very special circumstances, Green Belt policy provides that to be the case here. Overall, therefore, the proposal does not represent sustainable development. It is contrary to Policies NE7 and BE1 of the RCUDP and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan.
28. For the reasons set out above, the appeal should be dismissed.

Caroline Jones

INSPECTOR