
Appeal Decision

Site visit made on 1 February 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 13th March 2017

Appeal Ref: APP/A4710/W/16/3162358

West View, Harper Royd Lane, Sowerby Bridge HX6 3QQ

- 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 David Sutcliffe against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 15/01633/FUL, dated 10 December 2015, was refused by notice dated 26 May 2016.
 - The development proposed is a single dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a single dwelling at West View, Harper Royd Lane, Sowerby Bridge HX6 3QQ in accordance with the terms of the application, Ref 15/01633/FUL, dated 10 December 2015, subject to the conditions on the attached schedule.

Preliminary Matter

2. The address of the site given on the original application form, appellant's appeal form and Council decision notice are all different. For the avoidance of doubt, I have used the address given on the appeal form as I consider this provides the fullest and most accurate description of the site's address.

Main Issues

3. The main issue is 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.

Reasons

4. The appeal site is the side garden of a dwelling known as West View. The site forms a gap within a row of relatively loose knit, but largely continuous line of dwellings that extends from some distance either side of the site. The site lies opposite a row of terraced dwellings. The Council has raised no concerns or objections to this development other than they consider it inappropriate development in the Green Belt and that very special circumstances needed to justify the development do not exist.
5. Saved Policy GNE1 of the Unitary Development Plan¹ (UDP) states that development outside urban areas will be restrained through the general extent

¹ Replacement Calderdale Unitary Development Plan – Adopted 25 August 2006. As amended by discretion of the Secretary of State: 3 August 2009.

of the Green Belt. This policy reads as a blanket restriction of development within the Green Belt and, as a result, is not fully consistent with the Framework. Paragraph 89 of this document advises that the construction of new buildings is inappropriate in the Green Belt, subject to a number of exceptions. These exceptions are not reflected within Policy GNE1. In line with paragraph 215 of the Framework, I have therefore given this policy limited weight in my decision. Consequently, I have assessed the proposal primarily against the policies in the Framework which are material considerations of considerable importance.

6. One of the exceptions listed in paragraph 89 is that limited infilling of villages would be not inappropriate development in the Green Belt. The Framework does not define what is meant by 'limited infilling'. However, it would be reasonable to assume the development of a single dwelling within a built-up frontage, as is the case here, would meet these requirements. Therefore, the first part of the exception is met.
7. The site lies outside the settlement boundary as defined by the development plan. However, the courts have held² that it is not necessary to be within a defined village envelope in the development plan to meet the requirements of the Framework. This does not appear to have been challenged by the Council who have accepted the site is within a village setting. While the settlement appears relatively loose knit and dispersed in nature, the site is within a cluster of housing lining the road and is clearly part of the wider village. Therefore, I see no reason to conclude other than that the development would constitute limited infilling within a village.
8. The Council have argued that the development does not meet the relevant exception because it would not constitute limited affordable housing for local community needs. The fifth bullet point of paragraph 89 does not require limited infilling within villages to also be limited affordable housing for local community needs. These represent two separate exceptions and it is not necessary to meet both requirements to be considered not inappropriate.
9. I am satisfied therefore that the proposal would meet one of the exceptions given in paragraph 89 of the Framework, and as such would not be inappropriate development in the Green Belt. It follows also therefore that it would have no material adverse effect on the openness of the Green Belt. Consequently, very special circumstances are not required to justify the development.
10. While the proposal would conflict with Policy GNE1, the limited weight given to the policy and the consistency of the development with the requirements of the Framework, would justify a decision other than in accordance with the development plan in this case.

Other matters

11. I have already concluded that the development meets one of the exceptions listed in Paragraph 89 of the Framework. As such, it is not necessary to give further consideration to the Council's argument that the site does not meet the exception set out in the sixth bullet of that paragraph relating to previously developed land.

² *Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195*

12. A neighbour raised an issue relating to vehicular access, visibility and parked cars. I am satisfied that a satisfactory access could be created and there is nothing to suggest the development would cause or worsen highway issues in the area, even if cars were to be parked on the opposite side of the street. The provision of appropriate sight lines can also be required and retained by condition.

Conditions

13. I have considered the suggested conditions from the Council in accordance with the guidance contained in the Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have also imposed conditions specifying the relevant drawings as this provides certainty.
14. I have imposed a condition requiring the details of materials to be agreed. I have amended the Council's suggested wording to improve the clarity and precision of the condition. In the interests of protecting the living conditions of neighbouring and future occupants and the character and appearance of the area, I have imposed the suggested condition requiring the agreement of the details of boundary treatments. I have made minor amendments to the suggested wording to ensure it is related to the development.
15. To ensure the site would be adequately drained I have imposed a condition requiring the agreement of the details, and subsequent implementation, of foul and surface water drainage measures. I have amended the suggested condition in the interests of clarity to remove superfluous wording and to remove the requirement for this to be addressed prior to development starting. This has not been justified as being necessary in terms of the guidance set out in the PPG.
16. In the interests of highway safety and the living conditions of future occupants, I have imposed conditions requiring the implementation of the access and parking areas to be constructed and for the appropriate sight lines from the access to be provided and kept free of obstructions. I have amended the suggested condition relating to the parking and turning areas to remove unnecessary wording pre-empting the details that are to be agreed.
17. I have not imposed the suggested conditions on the installation of either a vehicle charging point or the agreement of details for the provision of broadband. I consider neither condition to have been adequately justified by the Council as being necessary in the context of the tests set out in the PPG. Furthermore, I have not imposed the suggested condition removing permitted development rights. The PPG states that such conditions should only be applied in exceptional circumstances. Insufficient justification has been provided by the Council to demonstrate such circumstances exist in this case.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Preliminary MDA(01), Roadside Elevation MDA(01), Gable Elevations MDA(01), Rear Elevation MDA(01), Ground Floor Plan MDA(02), Upper Floor Plan MDA(01), other than as required by conditions 3, 4 and 5.
- 3) The facing and the roofing of the dwelling hereby permitted shall not commence until details of the proposed facing and roofing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The dwelling hereby permitted shall not be occupied until foul and surface water drainage facilities shall have been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 5) The dwelling hereby permitted shall not be occupied until a scheme of boundary treatment has been submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be implemented prior to first occupation of the dwelling and shall be retained thereafter.
- 6) The dwelling hereby permitted shall not be occupied until the off-street parking and turning area shown on the approved plans has been constructed and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles.
- 7) The vehicular access identified on the approved plans shall not be brought into use until sight lines of 2.0m x site frontage in both directions at the centre point of the access at its junction to Harper Royd Lane. The sight lines shall be thereafter kept free of obstruction to visibility exceeding 0.9m in height.