

Appeal Decision

Site visit made on 27 April 2017

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 24 May 2017

Appeal Ref: APP/Z4718/W/17/3168419

Land adjacent to 18 Dodlee Lane, Longwood, Huddersfield, West Yorkshire, HD3 4TZ

- 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 J Wimpenny & Mr D Wimpenny against Kirklees Council.
 - The application Ref 2016/60/93321/W, dated 30 September 2016, was refused by notice dated 16 December 2016.
 - The development proposed is for the erection of a residential development (within a conservation area).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters (access, layout, appearance, landscaping and scale) reserved for later approval. I have therefore dealt with the appeal on this basis, with submitted plans as indicative of the development which could be undertaken.

Main Issues

3. The main issues are:
 - whether the proposed development would amount to inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect on the openness of the Green Belt and the purposes of including land within it;
 - whether the proposed development would preserve or enhance the character or appearance of the Longwood Edge Conservation Area; and,
 - if the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

4. The appeal site comprises a sloping area of undeveloped land between existing dwellings and curtilage to the south-west and north-east of Nos. 18 & 36
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Dodlee Lane respectively. The land currently forms part of a large field which extends behind the existing development on the north-west side of Dodlee Lane, with further open land beyond. The boundary with Dodlee lane is defined by a stone wall. Dodlee Lane also defines the Green Belt boundary, with properties and dwellings on the western side being located within, but those on the eastern side being without.

Whether inappropriate development

5. Paragraphs 87-89 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. The listed exceptions in paragraph 89 of the Framework include *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan*. In this instance, both the Council and appellant have directed me to the first element of this exception as a basis for assessment.
7. The appellant contends that the existing dwellings on the western side of Dodlee Lane form part of Huddersfield in the absence of any policy or physical terms which dictate otherwise. This conclusion is opposed by the Council on the basis that the Green Belt boundary is positioned along Dodlee Lane, with the properties on the eastern side considered to be set within the settlement, whilst those within the Green Belt on the western side should not be considered in the same manner, but as ribbon development not part of a settlement.
8. I have carefully considered this point but note that neither party has placed any definitive evidence before me regarding current or previous established settlement limits or boundaries. I would agree that settlements can quite clearly be established within the Green Belt itself, and whilst in this instance the physical characteristics of the western side of Dodlee Lane would reasonably support the Council's contention of ribbon development, I have no compelling reason to exclude the existing development on the western side of Dodlee Lane from the settlement given it is contiguous with development on the eastern side of the same road.
9. I have carefully considered the proposal against the wording of paragraph 89 of the Framework. Whilst I have concluded that the western side of Dodlee Lane would be regarded as within the settlement, I am mindful that the exception refers to *limited infilling in villages*. In this respect, I have been referred to the general absence of definition of the terms 'limited infilling' and 'village' within the evidence placed before me, as well as by the appellant to a recent dismissed appeal decision at Hall Bower Lane in Huddersfield for outline residential development, where the Inspector considered broadly the same points.
10. I have had regard to the previous appeal decision, and accept that in the absence of agreed definitions, that it is the judgement of the decision-maker which should be relied upon, and that it would be appropriate for the

Development Plan to guide how development should be assessed. In this respect, I would conclude that the indicative proposal for two dwellings would fit within a reasonable definition of limited, and also that the site could be argued to be largely surrounded by development as required by saved Policy D13(ii) of the Kirklees Unitary Development Plan 2007 (the UDP). However, whilst I am mindful that there is another proposal for outline residential development also being considered at appeal on land adjacent to No. 38 Dodlee Lane, the western side of Dodlee Lane cannot as a consequence be considered to be an otherwise continuously built-up frontage as required by saved Policy D13(i) of the UDP.

11. In this respect, the proposal would be contrary to saved Policy D13 of the UDP as it would not meet the requirement for infill development to be situated within an otherwise continuously built-up frontage. As a consequence, I am satisfied that the proposed development would not accord with any of the exceptions for new buildings in the Green Belt set out at paragraph 89 of the Framework, and I therefore attach substantial weight to the harm arising due to the inappropriate nature of the development.

The effect on the Green Belt and the purposes of including land within it

12. Paragraph 79 of the Framework identifies that openness and permanence are the two essential characteristics of Green Belts, whilst paragraph 80 highlights that the Green Belt serves five purposes, including checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns from merging into one another; safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration by encouraging the recycling of derelict and other urban land.
13. Whilst it would be my judgement that the addition of a two dwellings in this circumstance would not in itself result in any significant contribution towards the unrestricted urban sprawl of built-up areas, the proposal would in my view represent a limited encroachment of development into the countryside on this otherwise open and undeveloped site. Whilst I acknowledge that the indicative form of development would not be dissimilar to that which flanks the appeal site, I find the appeal site makes a positive contribution towards the openness of the Green Belt at this point. As a consequence, the proposal would result in a permanent loss of openness to the land within the Green Belt, and would represent an encroachment into the countryside. This would be contrary to the third purpose of including land within the Green Belt set out at paragraph 80 of the Framework.

Conservation area

14. In exercise of planning functions, I am mindful that I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with respect to any buildings or other land in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
15. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this

harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.

16. I have carefully considered the Council's contention that the development of the appeal site would result in a failure to preserve or enhance the character of the Longwood Edge Conservation Area, having particular regard to value of the gap in the developed frontage in providing views to open countryside beyond.
17. In this respect, I am mindful that the proposed scheme is in outline only at this stage, with all matters reserved. Nevertheless, I am satisfied that even allowing for the indicative nature of the proposed layout of development as submitted, the development of two dwellings on the appeal site would undoubtedly result in at least the partial loss of views towards the countryside. However, whilst the development would result in a change to the existing character and appearance of the site, I have no detailed evidence before me to support the Council's contention regarding the importance of the views in defining the significance of the heritage asset. I have noted the reference made in the submitted evidence to Appendix 1 of the UDP as the latest character assessment of the conservation area, but this does not highlight the importance of the views to the conservation area, but concentrates on the function and importance of the link provided by the stone setted street to cottages on the hillside. I am satisfied that the proposed development would, in this respect, accord with existing opportunities on Dodlee Lane to view the countryside beyond, and as such would preserve the character of the conservation area.
18. I have also noted the reference to the loss of the dry stone wall, but would agree with the Council's assessment that the impact from the removal of the wall would be reduced given that it would not be lost in its entirety. I do not regard this to be a departure from elsewhere within the vicinity where breaks in dry stone and stone walling have been achieved in order to facilitate access.
19. I conclude that the proposal would preserve the character and appearance of the Longwood Edge Conservation Area and would therefore accord with the requirements of s72(1) of the Act. The proposal would not conflict with saved Policy BE5 of the UDP as identified by the Council, which seeks to ensure that development preserves or enhances the character or appearance of the conservation area. In addition, given the great importance of the heritage asset, the proposal would not be contrary to paragraph 132 or the core planning principles of the Framework, that require, amongst other things, the conservation of heritage assets in a manner appropriate to their significance.

Other considerations

20. It is indicated that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. The Council has indicated as a consequence of its housing policies being out-of-date that proposals should be considered against paragraph 14 of the Framework and the presumption in favour of sustainable development. However, in this respect, footnote 9 to paragraph 14 applies, and identifies that land designated as Green Belt to be one of the exceptional criteria where the '*tilted balance*' under the first limb of the second bullet-point of the decision-taking section of paragraph 14 does not apply. Furthermore, I am mindful that paragraph 34 of the chapter on Housing and Economic Land Availability Assessment within national Planning Practice Guidance (the Guidance) states that *in decision-taking, unmet housing need (including for*

traveller sites) is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the green belt.

21. In this instance, the provision of two dwellings to the local housing stock would have only a very limited impact in meeting any shortfall of supply of deliverable housing sites, and would therefore not weigh significantly in support of the proposals. Nevertheless, the provision of two additional dwellings would have the potential to bring economic benefits in terms of the provision of jobs for local builders, and it is also likely that the addition of families or other occupants would result in support for locally accessible businesses and services. Whilst I acknowledge that these are factors which are likely to weigh in support of the proposals, I am not persuaded that these would attract anything more than limited weight in this respect.
22. I have also carefully considered the appellant's contention that the proposed dwellings would have the potential to improve upon the existing architectural quality of the street, and as a consequence enhance the area. Whilst I accept that any design or architecture of the dwellings would at reserved matters stage be read in the context of the conservation area, this does not necessarily guarantee an enhancement and therefore a benefit from the proposals, as preservation would also be acceptable. I have not therefore attached any significant weight to this point.
23. I have noted the Council's conclusions in respect of impact on the living conditions of existing occupiers, highway safety, biodiversity, and air quality. However, these would be neutral factors and would not weigh in support of the proposal.

Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations

24. I have identified that the scheme would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also have an adverse effect on the openness of the Green Belt and would result in some limited harm by way of encroachment into the countryside. The development would therefore be contrary to the purposes of the Green Belt as set out in the Framework.
25. Notwithstanding the harm identified above, I have had careful regard to the benefits of the development as advocated by the appellant, and accept that these must carry some limited weight in favour of the proposals. Nevertheless, these would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

26. For the reasons above, and having regard to all matters before me, the appeal must be dismissed.

M Seaton

INSPECTOR