

Appeal Decision

Site visit made on 2 May 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 13th June 2017

Appeal Ref: APP/W4325/W/17/3167893

Land on the corner of Townshend Avenue & Irby Road, Irby, Wirral CH61 2XW

- 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 David Birkitt against the decision of Wirral Metropolitan Borough Council.
 - The application Ref OUT/15/01635, dated 11 December 2015, was refused by notice dated 13 September 2016.
 - The development proposed is an Irby Road Development Scheme – to develop up to 35 new affordable homes on land at the corner of Townsend Avenue and Irby Road, Irby Wirral.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline, with all matters reserved. I have dealt with the appeal on that basis and I have taken the illustrative plan that has been submitted into account only insofar as it is relevant to my consideration of the principle of the development on the appeal site.
3. The Supreme Court judgement in relation to two cases (Suffolk Coastal DC v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East BC [2017] UKSC 37) was issued on 10 May 2017. The parties were invited to comment on the bearing this judgement has on the appeal and the comments received have been taken into account in this decision.

Main Issues

4. The main issues are;
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework ('the Framework') and development plan policy;
 - the effect of the proposal on the openness of the Green Belt and the character and appearance of the area; and,
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.
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Reasons

Inappropriate development

5. The appeal site is a large plot of land located on the corner of Irby Road and Townsend Avenue. It is located within the Green Belt in the open countryside where paragraph 89 of the Framework advises that the construction of new buildings is inappropriate. One of the exceptions though to this policy is where the redevelopment of previously developed land is proposed.
6. The Council states that the last use of the site appears to be as an agricultural smallholding, as evidenced by the few small buildings towards the southern edge of the site for which planning permission was granted in the 1990s. The appellant agrees that the agricultural buildings on the site were used in relation to farming activities, but states that motor vehicle storage has also taken place. In the absence of a planning permission or substantive evidence to the contrary, I am not persuaded that the lawful use of the appeal site is for anything other than agriculture. Agricultural buildings and land previously used for agriculture do not fall within the definition of previously developed land. I therefore find that the site does not constitute such land and so the proposed development does not benefit from this exception.
7. Policies GB2 and URN1 of the Wirral Unitary Development Plan 2000 (UDP) are consistent with the approach of paragraph 89 of the Framework. I therefore conclude that the proposed construction of new dwellings on the site would be contrary to policies GB2 and URN1 of the UDP and paragraph 89 of the Framework. The proposal therefore represents inappropriate development and such development would, by definition, be harmful to the Green Belt as described in paragraph 87 of the Framework.

Openness & character and appearance

8. Paragraph 79 of the Framework advises that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. It also advises that the essential characteristic of Green Belts is their openness and their permanence. The site is open and undeveloped with the few modest agricultural buildings occupying a very small part of the site. The quantum of development represented by the proposed construction of up to 35 houses would be considerable and would have the effect of greatly reducing openness.
9. In terms of character and appearance, there is a clear difference between the north side of Townsend Avenue and the southern side where the appeal site is located. On the northern side is suburban residential development, whilst to the south is open countryside characterised beyond the appeal site by large arable fields. The appeal site has a number of mature trees and is overgrown. Nevertheless, as land almost entirely free of built development it has a natural appearance and makes a positive contribution to the character and appearance of the countryside of which it forms a part.
10. The development of the proposed houses on the site would encroach into the countryside and urbanise the site. The internal access road, which would be needed to serve the development, and the domestic paraphernalia associated with residential occupation would add to this urbanising effect.
11. The appellant submitted a plan with the application illustrating how the site could be developed for housing. The houses shown would face inwards and turn their back on Townsend Avenue and Irby Road, failing to contribute to the streetscene or provide natural surveillance. However, as the application is in

outline, the appellant is not tied to the detail shown on this plan and with the control that exists at reserved matters stage these failings could be addressed. Nevertheless, this positive finding in relation to the design of any future housing scheme does not negate the harm that would be caused to the character and appearance of the countryside by the urbanising effect of the proposed scheme.

12. For all of these reasons, the proposed development would cause considerable harm to openness and the character and appearance of the countryside. This would be contrary to policies GB2, LAN1 and LA7 of the UDP. Policies LAN1 and LA7 protect the character and appearance of the local landscape, including the countryside, by preventing intrusive development.

Other considerations

13. I have found that the proposal would be inappropriate development in the Green Belt and thus should not be approved except in very special circumstances. It is therefore necessary to consider the grounds put forward by the appellant, to determine whether there are any material considerations which would amount to very special circumstances that would outweigh the harm by reason of inappropriateness, harm to openness and the harm that I have identified to the character and appearance of the area.

Housing land supply

14. The Framework requires that local planning authorities annually identify a 5 year housing land supply. It is common ground between the parties that with estimates varying from 2 years to 3.5 years significantly less than a 5 year supply exists. The provision of up to 35 dwellings would make a noteworthy contribution towards helping address this shortfall. Whilst this is a notable social benefit of the scheme, I am mindful of Planning Practice Guidance which states that '*Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'very special circumstances' justifying inappropriate development on a site within the Green Belt.*¹ As a result, this is a consideration of only limited weight in favour of the appeal.

Green Belt Review

15. In order to address the shortfall in housing in the Borough, the position of the Council is that the Green Belt, along with other options to increase supply, will be reviewed. However, the review has not yet been carried out. Until it has and any revision it may recommend to the Green Belt has been adopted as part of the development plan, the appeal site, together with all other land currently within the Green Belt, remains within the Green Belt. I therefore attach little weight to this consideration in favour of the appeal.

Affordable housing

16. The scheme is described as providing up to 35 affordable homes. Nevertheless, it is clear from the application form and the appellant's statement that, in accordance with the development plan, no more than 7 houses (20% of the scheme) would meet the definition of affordable housing in planning terms. Be that as it may, given that affordable housing is typically in shorter supply than market housing, such provision is a consideration to which I attach some weight in favour of the proposal.

¹ Ref ID: 3-034-20141006 'In decision taking, can unmet need for housing outweigh Green Belt Protection?'

Accessibility and economy

17. The appeal site is on the edge of Irby and close to Pensby and Heswall. As a result, services and facilities would be readily accessible by sustainable modes of transport by future occupiers of the proposed development. In terms of the economy, the development would result in the creation of jobs during construction although, by definition, these jobs would be short lived. Once completed, future residents of the proposed dwellings would also assist the local economy through, for example, increased local spend. I attach some weight to these benefits of the scheme.

Overall conclusions: The Planning Balance

18. The proposal represents inappropriate development, which by definition, would be harmful to the Green Belt as described in paragraph 87 of the Framework. It would also cause considerable harm to openness, which paragraph 79 of the Framework advises is one of its essential characteristics of the Green Belt. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Considerable harm would also be caused to the character and appearance of the area.
19. I find that the other considerations put forward by the appellant fall well short of clearly outweighing the harms identified and the very special circumstances necessary to justify the development do not exist. As such, the proposal would be contrary to Green Belt policy contained within policies GB2 and URN1 of the UDP and the Framework.
20. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the Council, as is the case here, cannot demonstrate a 5 year supply of deliverable housing sites. Policies GB2 and URN1 presume against inappropriate development. Therefore, whilst they affect the location of where housing may be developed they are not policies for the provision of housing. Consequently, they are not out of date.
21. In circumstances where less than a 5 year housing land supply exists, 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 I have found 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 the UDP and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector