
Appeal Decision

Site visit made on 23 May 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 21st June 2017

Appeal Ref: APP/W4705/W/17/3170253

35 Brighouse and Denholme Road, Denholme, Bradford BD13 1NA

- 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 and Mrs Stedmans against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 16/05081/OUT, dated 8 June 2016, was refused by notice dated 23 August 2016.
 - The development proposed is residential development on line of former cottages and gatehouse.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is submitted in outline with all matters reserved for future consideration except access. Notwithstanding the description of development set out above, which is taken from the planning application form, both the Design and Access Statement, which is a material planning consideration, and the appeal statement, confirm that the proposal is for five dwellings. The officer's report dealt with the proposal on the same basis. However, as this is an outline application, I have treated the plans submitted with the application, which also show five dwellings, as being indicative of only one way in which the site could be developed.
3. I have had regard to the Supreme Court Judgment: Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council which was published on 11 May 2017¹. The parties have been provided with the opportunity to comment on the judgement. I have taken into account comments received together with the judgement itself in coming to my decision.

Main Issues

4. The main issues for this appeal are:
 - a. whether the proposal would be inappropriate development in the Green Belt;
 - b. the effect of the proposal on the openness of the Green Belt and the character and appearance of the area;

¹ [2017] UKSC 37 on appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)

- c. whether or not safe and suitable access would be provided; and
- d. if the development is inappropriate whether any harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

- 5. The appeal site is within the Green Belt. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise². The development plan includes the Bradford MDC Replacement Unitary Development Plan 2005 (the RUDP). Many of the Policies in the RUDP were Saved by Ministerial Direction in 2008 including Green Belt Policies. The National Planning Policy Framework (the Framework) is a material consideration and reiterates that the development plan is the starting point for decision making. The RUDP predates the Framework by some years. However, weight should still be given to its Saved Policies, and those of the emerging Bradford Core Strategy (the CS), according to their conformity with the Framework.
- 6. The Council intends preparing an Allocations Development Plan Document to identify sites for housing. Policy HO2 of the CS indicates that, if necessary, this may include the release of Green Belt land on a strategic, rather than an ad-hoc planning application by planning application, basis. That said, I have no evidence relating to such releases or whether any such anticipated release might relate to the appeal site. At such an embryonic stage, that DPD has no material bearing on my considerations as to whether the scheme proposed is inappropriate development or not.
- 7. Policy GB1 of the RUDP states that except in very special circumstances planning permission will not be granted in the Green Belt other than for certain specific types of development. The development proposed would not meet any of the categories of development that are set out in the policy and thus there would be conflict with the development plan in this regard. However, a material consideration in this case is the Framework, which post-dates the development plan.
- 8. The Framework indicates that the construction of new buildings should be regarded as inappropriate in Green Belt, but lists six exceptions in bullet points in Paragraph 89. The appellant asserts that the proposal could fall within one or more of the last four bullet points. I consider each of these in turn below.
- 9. The appeal site is in a countryside location at the end of a short row of dwellings. It is shown on the existing site plan Ref 16/1014-02 as garden with an outbuilding used as a gym ancillary to the host property. Apart from stone walls there are no other structures within the appeal site as edged red on the site identification plan Ref 16/1014-01. The only existing building within the appeal site that could be extended is the single storey gym, which is not shown as being retained on the indicative plans. Even if it were, the construction of one or more dwellings, even if physically attached to the gym would be a

² Section 38 of the Planning and Compulsory Purchase Act 2004

- different use and the subsequent built form would be likely to amount to a disproportionate addition to that existing building. Accordingly the proposed development would not be an exception under bullet point 3 for extensions.
10. Historic plans show buildings on the site that were demolished sometime between 1921 and 1938. From what I could see from the roadside, little or no trace of them remains and thus there is nothing to “replace”. It would be illogical to presume that something which does not exist can be “replaced”. Accordingly, the assessment of the extent to which the proposed dwellings would be materially larger is properly made against the situation as it exists today. Use as separate dwellings would not amount to the same use as the gym, if that was the building to be replaced. Even if it were, the building form would be materially larger. Accordingly, the proposed development would not be an exception at bullet point 4 for replacement buildings.
 11. Apart from the host property, the appeal site is adjoined by fields and the Brighouse and Denholme Road (the A644). The proposed development would not fill a gap between other buildings and would not have buildings to both sides. I conclude, therefore, that the proposal could not be classed as “limited infilling” as described in bullet point 5. I remain of this view even given the presence of Raggalds Farm, some distance away to the north east, and the large Raggalds Country Inn on the other side of the A644. As described, the proposal is not for affordable housing (Starter Homes are different in planning policy terms – see below). Accordingly the proposed development would not be an exception at bullet point 5.
 12. Even if I were to accept that the site is previously developed (brownfield) land, the proposed dwellings would add a substantial amount of built development where currently there is only an ancillary single storey outbuilding. I conclude that due to the likely size of the building(s), the development proposed would have a greater impact on the openness of the Green Belt when compared to the existing situation. I have already concluded the proposal would not amount to infilling. On that basis, it would not be an exception at bullet point 6, which provides for limited infilling on previously developed land that does not have a greater impact on the openness of the Green Belt.
 13. Based on the specific site circumstances I therefore conclude that the proposed development would not benefit from the exceptions listed in both Policy GB1 and paragraph 89 of the Framework. It would, therefore, be inappropriate development in the Green Belt.

Openness of the Green Belt and the character and appearance of the area

14. The appeal site is within the Thornton and Queensbury Landscape Character Area as defined by the Landscape Character Supplementary Planning Document. This is characterised as largely mixed upland pasture between the urban fringe of Bradford and the moorlands of the Pennine Uplands. The appeal site adjoins open fields to the side and rear. It adjoins a short row of dwellings and there are scattered houses, agricultural buildings and stables nearby as well as the Country Inn opposite. Nevertheless the prevailing character of the area is of rolling rural farmland.
15. The proposed development would introduce a significant amount of building onto land that is currently largely free from built structures, even allowing for the existing gym structure. Due to the surrounding sloping land the appeal site

is prominent as viewed from nearby roads particularly when travelling down the hill from Queensbury towards Haworth and from the junctions of Perseverance Road, Green Lane and the A644. As well as reducing the openness of the Green Belt, the proposed development would intrude into and detract from the open rural character of the area. It would expand and consolidate built development; would encroach into the open countryside; and would add to urban sprawl. Accordingly it would be contrary to two of the purposes of the Green Belt.

16. I conclude there would be significant harm to the openness of the Green Belt through the encroachment of built development into an area which is currently open. The proposal would also have a harmful effect on the character and appearance of the rural countryside and would conflict with Policies GB1, NE3 and NE3a of the RUDP and those principles of the Framework that seek to keep Green Belt land permanently open and to protect the intrinsic character and beauty of the open countryside.
17. I have taken account of the appeal decision at Sty Lane and Micklethwaite Lane, Bingley³ quoted by the appellants. However, in that case it would appear that only a very small part of the site was in the Green Belt, and the development involved in that part of the site was a realignment of the junction which was found to be not inappropriate development. Accordingly that decision leads me to no different conclusions in respect of this appeal.

Access

18. The appeal site is opposite the entrance to the Raggalds Country Inn car park and is close to the junctions of Perseverance Road, Green Lane and the A644. A hard standing with parking for ten cars within the appeal site is shown on the indicative plans. The access point would be in approximately the same position as at present.
19. Whilst the Highway Authority raises no objections to the visibility from the access, it is concerned that insufficient on-site parking would be provided. However, the number of dwellings and parking provision are reserved matters and I see no reason to suppose that satisfactory parking for an appropriate number of dwellings could not be secured if the proposal were otherwise found to be acceptable.
20. However, the Highway Authority raises objections in relation to the lack of a defined footway near the access and recommends that a pedestrian refuge is provided for safe crossing of the A644. The A644 is a busy road where vehicles travel at some speed. The proposed development would substantially increase the number of residents many of whom, in all probability, would wish to cross the road to the Country Inn and/or the bus stop. No provision has been made for the safety of pedestrians. Whilst the appellant suggests that the requirement for a pedestrian refuge could be addressed by condition, were the appeal to succeed, that does not address the concerns raised about the lack of a defined footway. In any event, any such condition would be a "Grampian" type condition preventing development until completion of specific works. The Government's Planning Practice Guidance (the PPG) makes it clear⁴ that such conditions should not be used where there is no prospect at all of the action in

³ Ref APP/W4705/V/14/2228491 paras 2.3 and 11.100 of the Inspector's report

⁴ Paragraph 21a-009-20140306

question being performed within the time-limit imposed by the permission. Moreover, where the land or specified action in question is within the control of the local authority determining the application (for example, as highway authority where supporting infrastructure is required) clear evidence should be provided that this test would be met before the condition could be imposed. No such evidence is before me in this regard in relation to the necessary works.

21. In the absence of an appropriate mechanism to deliver safe pedestrian facilities I conclude the proposed development would fail to provide safe and suitable access for all. It would therefore conflict with Policies TM2, TM12 and TM19A of the RUDP and those principles of the Framework that require safe and suitable access for all.

Other considerations/very special circumstances

22. I have found that the proposal would constitute inappropriate development in the Green Belt. Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.
23. There is a Country Inn opposite, a football ground nearby, footpaths and cycle ways in the vicinity and a bus stop on Perseverance Road. Nevertheless the location is not a particularly accessible one and, as a consequence, occupants of the proposed dwellings would be likely to depend on the private vehicle to meet most of their day to day needs for services and facilities. I have found that safe and suitable access for all would not be provided.
24. The Government's Starter Homes Initiative⁵ aims to provide discounted, high quality homes for young first time buyers on under used or unviable commercial/industrial land which has not currently been identified for housing. The site is garden land and, whether or not there were two shops on part of the site before 1938, does not lead me to conclude that the appeal site falls within that definition. Moreover, no mechanism such as a planning obligation has been provided to limit future sales to a minimum of 20% below open market price, to young first time buyers who want to own and occupy a home or to prevent the re-sale and letting of the properties at open market value for a five year period, as required by the WMS.
25. As I have found that the proposals would harm the openness of the Green Belt, even if the site were brownfield land it would not benefit from the provisions in Paragraph 4.18 of the Government White Paper "Fixing Our Broken Housing Market" February 2017. I therefore give little weight to the stated intent that the properties would be Starter Homes.

Planning Balance and Overall Conclusion

26. There would be economic benefits including employment during construction, spending in the local economy and New Homes Bonus payments. These benefits would accord with those principles of Paragraphs 47 and 55 of the Framework that seek to enhance or maintain the vitality of rural communities

⁵Written Ministerial Statement (WMS) and Paragraph: 001 Reference ID: 55-001-20150318 onwards of the Planning Practice Guidance

- and to boost significantly the supply of housing. However, the provision of up to five houses would provide relatively limited social and economic benefits, and so I can only afford these considerations modest weight.
27. The proposal represents inappropriate development, which by definition, would be harmful to the Green Belt as described in paragraph 87 of the Framework. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt. I have also found that there would be material harm to the character and appearance of the area and in terms of not providing safe and suitable access for all. Therefore the degree of harm caused would be considerable. For the reasons set out above, I find that the other considerations put forward by the appellant fall well short of clearly outweighing the harms identified so the very special circumstances necessary to justify the development do not exist. Accordingly the proposal would be contrary to Green Belt policy as contained within the Framework and Policy GB1 of the RUDP.
28. 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 suggested by the evidence of the appellant in this case, cannot demonstrate a five-year supply of deliverable housing sites. Policy GB1 presumes against new buildings within the Green Belt other than in particular circumstances which are not applicable in this case. Whilst it affects the location of where housing may be developed, it is not, having regard to the recent Supreme Court judgement, a policy for the provision of housing. As such, it is not out of date.
29. In circumstances where less than a five year housing land supply exists, the Framework indicates that permission should be granted, unless there are specific policies in the Framework which indicate that development should be restricted. Footnote 9 to Paragraph 14 of the Framework includes Green Belt as an example of the restrictive policies referred to. The proposed development would add up to five much needed dwellings to the local supply of housing. However, I am mindful that the PPG says unmet housing need 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 Belt⁶. I have found that there are no very special circumstances to outweigh the harm to the Green Belt. Overall, therefore, the proposal does not represent sustainable development. It is contrary to the Policies in the RUDP and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan.
30. For the reasons set out above, and taking into account all other relevant matters raised, I conclude the appeal should not succeed.

SHarley

INSPECTOR

⁶ Paragraph: 034 Reference ID: 3-034-20141006