
Appeal Decision

Site visit made on 5 June 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 27 June 2017

Appeal Ref: APP/R2330/W/17/3171336

The Old Pump House, Town Bent, Oswaldtwistle BB5 3QH

- 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 Thomas McSorley against the decision of Hyndburn Borough Council.
 - The application Ref 11/16/0287, dated 2 June 2016, was refused by notice dated 19 September 2016.
 - The development proposed is construction of 3 bed detached dwelling and double garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt and the purposes of including land within it;
 - Land stability, with particular reference to coal mining features; 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 the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

3. The site is within the Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling of villages.
4. The appeal site is located within the garden area of The Old Pump House and is accessed via an unsurfaced road which serves a number of plots and allotments. The site is located some distance from the built-up area of

Oswaldtwistle and has a distinctly separate character due to it being on the other side of a road and brook. The council describe Town Bent as being similar to a hamlet in that it is not self-supporting as it has no services and is basically a cluster of houses spread out within the Green Belt. I saw that Town Bent consists of a disparate number of plots including dwellings and allotments which is typical of dispersed development on the urban fringe. In any case, it was apparent that Town Bent does not have the characteristics of a village.

5. The area to the west of the site consists of linear development extending from the built-up area of Oswaldtwistle, which is itself a continuation of the extensive urban area around Accrington. Whilst this area includes relatively recent residential development at Tinker Brook Close, this development is clearly associated with the urban area rather than representing a visual connection with the appeal site which retains a distinct separate character. Furthermore, due to the extent and urban character of this built-up area, this clearly does not have the characteristics of a village.
6. I acknowledge that the appellant contends that the proposal would be limited infill due to its relationship with development in the area. However, even if this was the case, the proposal is not within a village and would not meet the relevant exception of paragraph 89.
7. The appellant states that the site is outside of the 'urban boundary' as shown on the Hyndburn Local Plan Proposals Map, although the appeal site is immediately adjacent to it. He goes on to refer to case law¹ which he states held that the fact that a site lay outside of a village boundary as defined in a local plan was not determinative of whether a proposal represented limited infilling within a village. However, I have considered both the physical context of the appeal site as outlined above as well as the policy context, and this has led me to conclude that the site is not located within a village.
8. For the reasons set out above, the proposal would not represent limited infilling in a village and would comprise of inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

Openness and Green Belt Purposes

9. A 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. Although the site is screened to some degree by hedges and other boundary treatment, the dwelling would be apparent from the road to the north of the site. In any event, the construction of a dwelling on the site would result in built development where there is presently none. The Council state that domestic paraphernalia would also erode openness, although as the land is already part of the residential garden of the host property I consider that any impact in this respect would be very limited.
10. On the basis that I consider the site is not within a village, the development of a dwelling would lead to the encroachment of development into the countryside and would have a moderate impact on the related Green Belt purpose.

¹ Wood v Secretary of State for Communities and Local Government and Gravesham Borough Council [2015] EWCA Civ 195

11. I conclude that the proposal would not preserve the openness of the Green Belt and would impact on the purpose of safeguarding the countryside from encroachment.

Land Stability

12. The Coal Authority (CA) has objected to the proposal as the site is located in a defined Development High Risk Area and a Coal Mining Risk Assessment Report, or equivalent, has not been submitted as part of the application.
13. The appellant has subsequently submitted a Coal Mining Risk Assessment with the appeal which makes a number of recommendations on this issue. However, I note that this Assessment was prepared subsequent to the Council's decision on the application. From the evidence provided to me it would appear that the CA has not been consulted on the Assessment and has therefore not been able to confirm if it addresses their concerns. Therefore, there is a remaining objection from the CA on the basis that coal mining features have not been considered adequately to determine if this poses a risk to the development. Taking a precautionary approach, it is therefore clearly difficult to conclude positively in relation to this issue.
14. I therefore conclude that insufficient information has been provided in relation to land stability issues which may affect the appeal site, and that the appellant is unable to demonstrate that the site is safe, stable and suitable for development. The proposal therefore conflicts with the provisions of the Framework in relation to land stability and in particular paragraphs 120-121 which state that planning decisions should ensure that a site is suitable for development taking account of ground conditions and land instability.

Other Considerations

15. At the time of determining the application, the Council did not have a 5-year housing land supply. On that basis, the appellant states that relevant policies for the supply of housing should not be considered up to date. However, the Council has subsequently published a 5-Year Housing Land Supply Statement (2017 – 2022) in February 2017 which states that it now has a five year supply of housing land. Mindful of the appellant's comments on this matter, I acknowledge that the proposal would add to the supply of self-build housing in the area, although the contribution from a single dwelling would be very limited. Therefore, even if I were to conclude that there is a shortfall in 5 year supply, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Overall Balance and Conclusion

16. I note that the appellant states that the proposal is for limited infill within a village and that there is no requirement to demonstrate any special circumstances. However, for the reasons stated previously, I consider that the proposal would not be within a village and would be inappropriate development. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight has to be attached to any harm to the Green Belt. I consider that the proposal would not preserve the openness of the Green Belt and would conflict with the purposes of including land within it and that very special circumstances to justify the proposal do not exist. The

proposal would therefore conflict with Policy BD1 of the Hyndburn Borough Council Core Strategy 2012 as it would not maintain the general extent of the Green Belt. Furthermore, insufficient information has been provided in relation to land stability. The proposal would therefore also conflict with the Framework in relation to the protection of the Green Belt and land stability.

17. For the reasons given above, and having regard to all other matters raised, it is concluded that the appeal is dismissed.

David Cross

INSPECTOR