
Appeal Decision

Site visit made on 27 June 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 6 July 2017

Appeal Ref: APP/Z4718/W/17/3172214

Law Head Farm, Law Slack Road, Hade Edge, Holmfirth HD9 2RY

- 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 Robert Deakin against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/91842/W, dated 2 June 2016, was refused by notice dated 30 January 2017.
 - The development proposed is for a single storey dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues to be: (i) whether the proposal would be inappropriate development in the Green Belt and its effect on the openness and purposes of the Green Belt having regard to the National Planning Policy Framework (the Framework); (ii) the effect of the proposed access arrangement on highway safety in Law Slack Road, with regards to refuse and emergency service vehicles; and (iii) 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 required to justify the proposal.

Reasons

Whether inappropriate development and its effect on openness and purposes

3. The Framework establishes that new buildings in the Green Belt are inappropriate unless they are one of the exceptions listed in paragraph 89. The Framework also sets out the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
4. I share the parties' view that the site is previously developed¹ given that the site is used as a HGV operating centre for a number of years. The site is generally well contained by embankments on three sides, with a good landscape screen facing Law Slack Road. The proposal would see the HGV use stop. As a result, large vehicles would no longer populate or travel to or from the site. Thus, the scheme would not result in further encroachment into the countryside. As such, no conflict would arise with the purposes set out in paragraph 80 of the Framework.

¹ Annex 2, the National Planning Policy Framework

5. The existing ground levels would be altered and raised once the hard-core surface is removed. Much of this would be well screened by an existing bank of trees and by the site's varying ground levels. However, the proposal would introduce a permanent building of a substantial size into the landscape. Even though the existing hard standing would be reduced, the dwelling is a new building, despite its external appearance. While its bulk would blend into the site's existing topography, the dwelling's volume would fill the lower part of the site and peer above adjacent ground levels. This would be a permanent feature in the landscape, rather than the HGV's which would come and go. So, even though the garden would not be enclosed and the dwelling has been designed to restore the site to create a better environment, the proposal would result in a loss of openness compared to the hard-core.
6. Given that the appeal scheme would have a greater impact on the openness of the Green belt, the proposed development would not meet the exceptions of paragraph 89 of the Framework. As such, the proposal would be inappropriate development, which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would be contrary to paragraph 89 of the Framework; which seeks to prevent inappropriate development which does not maintain the openness of the land.

Highway Safety

7. The Council accept that there is a fallback position and that traffic generated from the proposal would not detrimentally affect the safe operation or capacity on the highway. Law Slack Road is a narrow road which serves a handful of residential properties and provides access to the adjoining fields. It is not busy and despite the visibility splays at the site's egress onto Law Slack Road, the site appears to have been run safely as a HGV operating centre. Thus, I agree with the Council's findings in this regard. I also consider that adequate off-street car parking provision would be provided.
8. The Council's Highway Development Management section outlined their stance on the need to enable access for emergency service vehicles and for waste collection vehicles. However, no such amendments were received by the Council before they reached their decision. Yet, the appellant has provided a plan which would address the Council's concerns by providing a refuse collection point and a wider access, allowing vehicles to manoeuvre off the highway. A fresh planning application should normally be made when proposals are amended, but I am aware of the suggested planning conditions. Having regard to paragraph 206 of the Framework, I conclude, subject to the imposition of these conditions that the proposal would accord with saved Policy T10 of the Kirklees Unitary Development Plan (UDP). This seeks development not to create or materially add to highway safety or environmental problems.

Other considerations

9. The Council accept that they are currently unable to demonstrate a five year supply of deliverable housing sites². In such situations, bullet point 4 of paragraph 14 sets out *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.*

² Paragraph 47, the National Planning Policy Framework

10. While the Council consider UDP policies relating to the supply of housing not to be up-to-date, footnote 9 of the second indent of bullet point 4 in paragraph 14, identifies that Green Belt can be such a policy. Thus, even if the UDP is out-of-date, it would not alter my approach in the event of a conclusion that Green Belt policies indicate that the development should be restricted. Nevertheless, I concur with the Council that the provision of an extra dwelling attracts positive weight, albeit one which I give very limited weight, even with the associated benefits that would stem from its construction.
11. I understand the design of the proposal has been reviewed and revised prior to my consideration of this appeal. As a result, I consider the dwelling would respond to its setting, especially through the use of the local topography and the sustainable local materials. These would help integrate the dwelling into the largely open landscape. A wildflower meadow would also provide a modest net biodiversity gain. Also, the dwelling would include sustainable technologies which would help meet the challenge of climate change. However, technologies and approaches, such as a ground source heat pump, underfloor heating, triple glazing and mechanical ventilation with heat recovery along with earth sheltering and shading, are not, despite their contribution in redressing climate change and improving the environmental impact of new buildings, new or innovative. These benefits do, together with the overall design approach, nonetheless traverse the social and environmental roles and attract a moderate positive weight in favour of the appeal scheme.

Conclusion

12. The proposal would be inappropriate development in the Green Belt and by definition this is harmful. I attach this harm substantial weight as required by paragraph 88 of the Framework and as such there is a clear conflict with the environmental role of sustainable development. Harm would also arise to the openness of the Green Belt. On the other hand, I have concluded that the appeal scheme would, subject to conditions, not adversely affect highway safety. This attracts a neutral weight in the planning balance.
13. I have considered matters put before me in favour of the scheme by the appellant, including the parties' comments on the suggested planning conditions. However, I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal does not represent sustainable development.
14. For the reasons given above I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR