
Appeal Decision

Site visit made on 14 August 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 4 September 2017

Appeal Ref: APP/A4710/W/17/3174327

Land adjacent to 155 Rochdale Road, Greetland, Elland HX4 8HR

- 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 Paul Hamer against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 16/00976/OUT, dated 20 July 2016, was refused by notice dated 7 December 2016.
 - The development proposed is the construction of 12 dwellings (Outline) (Revised Scheme to 15/01112) (Amended description).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration. In determining the application, the Council considered an illustrative site plan. The site edged red on this plan is not consistent with plan Ref: P-01. As all matters are reserved, and there are no substantive changes, my findings relate to the concept plan provided with the appeal.
3. During the Council's consideration of the planning application, the development proposed was amended. This resulted in a reduction in the number of dwellings being proposed. Given this, I have used the amended description of development found in section E of the appellant's appeal form and not the description of development found on the application form.
4. Reference is made to the emerging Local Plan, a draft Proposals Map and the Council's Green Belt review. The Council was due to start consultation on the emerging Local Plan on 4 August 2017. The emerging documents may well change, and I do not know the extent of any unresolved objections. None have been examined in public, so their adoption is some time away. Accordingly, I attach them little weight.

Main Issue

5. The main issue is the effect of the proposal on the character and visual amenity of the area, having regard to residents living conditions and well-being.

Approach to the decision

6. The Council accepts that it is currently unable to demonstrate a five-year supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (the Framework). The most recent figures before

me suggest that this stands at roughly 2 years. This is considerably below the five-year threshold. In these circumstances paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date. But, I note, the appellant shares the Council's view that saved Policy OS1 of the Replacement Calderdale Unitary Development Plan (RCUDP) is not a relevant policy for the supply of housing, having regard to the Supreme Court¹ judgement. I agree with this view.

7. The RCUDP was adopted in 2006 and later amended in 2009. However this was sometime before the Framework. On this basis the appellant suggests that the policy is out-of-date and that there is little logic protecting open space when it is inaccessible, privately owned and there is a need for housing and useable public open space. It is nevertheless a matter of judgement for the decision maker as to the amount of weight to be attached to policies, rather than for them to simply carry no weight or be disregarded.
8. With regard to paragraph 215 of the Framework, saved RCUDP Policy OS1 is broadly consistent with paragraphs 17 and 74 of the Framework, insofar as the function of the open space and the need for equivalent or improved provision. Also, even though the Calderdale Open Space, Sport and Recreation Strategy - 2015 Update (Open Space Strategy), is based on an earlier version of the document and now revoked national policy; it is a recent and robust assessment as sought by paragraph 73 of the Framework. I therefore attach it and saved RCUDP Policy OS1 substantial weight, notwithstanding the appellant's point around Green Belt policy.

Reasons

9. Saved RCUDP Policy OS1 explains that development proposals located within open spaces will only be permitted where one of circumstances listed apply. Open space is identified as areas which make a significant contribution to public amenity by virtue of their open space character, appearance and/or function. Open space is also defined in the Framework as *all open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.*
10. In designating the open spaces in the RCUDP, the Council recognised that certain areas in the District are deficient in open space, and this detrimentally affects residents' quality of life in these areas. Even though the appeal site is landlocked and privately owned, it is identified in the Proposals Map for the RCUDP as being protected open space. This designation also includes land to the north, east and south of the appeal site.
11. The appellant accepts that the appeal scheme conflicts with RCUDP Policy OS1 and doesn't meet any of the circumstances listed. Based on the evidence, I agree with this view. Accordingly, I find that the scheme conflicts with saved RCUDP Policy OS1.
12. Notwithstanding this, paragraph 74 of the Framework explains that *existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements;*

¹ Supreme Court Judgment: Suffolk Coastal District Council V Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council

or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

13. The appeal site, in the Open Space Strategy, is part of an area of land referred to as a "*natural and semi-natural green space*". This typology provides '*wildlife conservation, biodiversity and environmental education and awareness*'. The Open Space Strategy confirms that *natural and semi-natural green spaces* are well catered for in the Elland area. These spaces are found around urban populations. Cross Hill scores a 'Quality score' of 48% and a 'Value score' of 26%. The latter is above the most other sites assessed in this area. Overall, Cross Hill is 1.6784ha in size. The proposal would result in the loss of roughly 0.6ha, albeit 0.17ha of which is proposed to be retained as open space.
14. The appeal site is on a ridgeline above Rochdale Road and is largely grassland. It is close to a host of residential properties which have views into, across and over the appeal site and to the undulating landscape which surrounds. A low stone wall extends around much of the site, separating it from other parts of Cross Hill. Trees line the embankment between Rochdale Road and the site.
15. The rest of the Cross Hill site slopes downwards to a public footpath which extends around the south and east boundaries. This, did not seem to be a well-trodden route or well signposted from Rochdale Road. The lower slopes contain a mixture of vegetation, which together with the site's topography restrict views. The lower slopes do, however, seem to support botanical interest. But, there is no substantive evidence to disprove the appeal site's grassland ecological value or the site's inclusion in the Wildlife Habitat Network. Despite this, and the accessibility provided by the public footpath, open spaces do fulfil a range of functions.
16. The appeal site, due to its undeveloped elevated position and proximity, acts mainly as a visual amenity for adjacent residential occupiers on Rochdale Road and Crosshills Mount in particular. The land, as shown from several viewpoints and from my own observations during my site visit, provides a break from development. This is re-enforced by similar breaks from development on nearby elevated pieces of land. While, I recognise points on anti-social behaviour and the land's maintenance, the appeal site makes a significant contribution to the public due to the far reaching views it affords, even if the Green Belt is not far away. Although the appellant suggests the lower slopes make a greater contribution to the overall Cross Hill site, both components make valuable contributions in my view, albeit for different reasons, to the visual amenity and character of the area.
17. While only 0.4% of the overall amount of natural and semi-natural green space in Elland would be lost and the scheme would not occupy the entire site, it would result in significant harm to resident's visual amenity and the character of the area. So, even if the area is well catered for in quantitative terms with *natural and semi-natural green space*, open space provision is important.
18. Still, the proposed 0.17ha of open space would be accessible to the public and to occupants of the proposed dwellings. Although landscaping details are not matters that are before me, I have no reason to disagree with the appellant that they will be high quality, manageable and user friendly. Furthermore existing natural features would be preserved and there would be a public footway link. I am not convinced that vistas would, however, remain between

the dwellings, due to size and shape of the deliverable area shown. The dwellings would also occupy the highest parts of the land, thereby reducing any benefit afforded by the proposed open space.

19. There is also no evidence to confirm the retained open space would result in higher quality and value scores, even if the space is opened up to the public, well located and finished to encourage biodiversity and education. Thus, the proposal would not replace the overall loss with an equivalent or better provision in terms of quantity or quality. In any event, the proposal would reduce the overall quantum of this type of open space provision in the area.
20. Although the appellant suggests that the character and ecological value of the land may be drastically changed at any time², there is very little evidence before me, by way of a comparison, to show the extent of any change or the likelihood of it being carried out.
21. I therefore conclude that the proposal would have a significant adverse effect on the character and visual amenity of the area, having regard to residents living conditions and well-being. The proposal would conflict with saved RCUDP Policy OS1 and the Open Space Strategy, which jointly seek to protect areas of open space which make a significant contribution to public amenity by virtue of their open space character, appearance and/or function. The scheme would also conflict with paragraphs 17, 57, 73 and 74 of the Framework; which together, recognise the function and character of open land and that access to high quality open space and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

Planning Balance

22. Despite my findings, the current circumstances mean that the proposal should be assessed against the approach set out in the fourth bullet point in paragraph 14 of the Framework. Paragraph 7 of the Framework explains there are three dimensions to sustainable development: economic, social and environmental.
23. In economic and social terms, the proposal would make a limited contribution, towards the borough's mix and supply of deliverable homes, as directed by paragraphs 17, 47 and 50 of the Framework. The site is within a primary residential area and within reasonable proximity of a variety of facilities and services nearby and in Greetland. There is also no reason to doubt safe access would not be available to all, given the approved scheme for six dwellings on land to the north. However, there is no substantive evidence to support the appellant's view that the proposal would help attract inward investment. Even so, the proposal would contribute modestly in economic and social terms through the provision of new dwellings, the supply chain, construction jobs, spending in the local area and community vitality. I attach moderate positive weight to these.
24. The site is near to the Rose and Crown Inn which is a grade II listed building used as a public house. The building is rendered with a stone slate roof with segmental bay windows. It has retained the position of the original doorway and a fireplace with a segmental arch. Still, there is no reason the dwellings, could not, even with all matters reserved for future consideration, not be dissimilar to the form, design and style of nearby residential development. As such this leads me to consider that the scheme would have a neutral effect on

² The Town and Country Planning Act 1990 (as amended), Paragraph 55(2)(e)

the character and appearance of the listed building, thereby preserving its significance. This matter traverses the social and environmental roles. It attracts a neutral weight in the planning balance.

25. With regards to the environmental role, the proposal's location would encourage the use of public transport. Furthermore, the dwellings would be built with a view to moving to a low carbon economy. However I attach, both factors limited positive weight, given the objectives in the Framework and through other legislative controls. I have however identified that significant harm would arise in terms of the main issue, notwithstanding the proposals for the retained open space. This harm would also extend into the social role.

Other Matters

26. While the site may have been assessed in the Council's Strategic Housing Land Availability Assessment, this does not necessarily mean that the site would be allocated in the Local Plan, which is still at an early stage. Points about the development's relationship with 26 Crosshills and access would be addressed at reserved matters stage. Although the dwellings would be designed to comply with Building Regulations, this legislation is separate to my consideration of this appeal which must be determined in accordance with the development plan, unless material considerations indicate otherwise, notwithstanding the amount of representations from interested parties.

Conclusion

27. Although the scheme is in outline, with all matters reserved for future consideration, in conclusion, the proposal would lead to tension between the different roles. I found that limited and moderate benefits would stem from the economic, social and environmental roles. However, significant harm would arise from the scheme's conflict with adopted development plan policy, in terms of the loss of protected open land, even with the proposed open space provision. This harm affects the social and environmental roles.
28. I consider this significant harm would significantly and demonstrably outweigh the benefits, assessed against the policies in the Framework taken as a whole. The proposal would not therefore be sustainable development. Furthermore, this otherwise unacceptable development could not be made acceptable through the use of conditions.
29. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR