
Appeal Decision

Site visit made on 30 August 2017

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 7 September 2017

Appeal Ref: APP/Z4718/W/17/3172053

Land between 117-135 Latham Lane, Gomersal, West Yorkshire BD19 4AP

- 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 John Valente against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/60/90203/E, dated 21 December 2015, was refused by notice dated 5 December 2016.
 - The development proposed is erection of one detached dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for subsequent approval. I have treated the position of the access, as shown on the site location plan, as indicative only.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development

4. The appeal site lies within the Green Belt, and is currently in agricultural use. The Framework establishes that new buildings within the Green Belt are inappropriate development. Exceptions to this include limited infilling within villages.

5. Saved Policy D13 of the Unitary Development Plan¹ (UDP) states that within existing settlements in the Green Belt infill development will normally be permitted where: (i) the site is small, normally sufficient for not more than two dwellings, and within an otherwise continuously built-up frontage, or (ii) the site is small and is largely surrounded by development, and (iii) no detriment will be caused to adjoining occupiers of land or to the character and appearance of the surrounding area. Infill development should be in harmony with existing development in terms of design and density and capable of safe access from the highway. The appellant states that the proposal would comply with local plan policy as there is development either side and immediately opposite, and the site has a frontage width and overall size that would be comparable with other properties in the vicinity. However, the Council contends that the site is not within an existing settlement and, as such, the proposal would not constitute infill development under Policy D13.
6. Whilst the UDP pre-dates the Framework, Policy D13 is consistent with its policies in relation to protecting Green Belt land, as it permits limited infill development in existing settlements. Consequently, I attach significant weight to Policy D13. Nonetheless, the Framework is a material consideration of substantial weight and it is necessary to consider the proposal against its policies. The first matter to address is whether or not the site lies within a village, and a useful starting point is the settlement boundary.
7. The settlement boundary of Gomersal is defined in the UDP, and the site is outside the boundary for development plan purposes. However, the settlement boundary was drawn up some time ago and I have considered whether it remains logical. The centre of the village lies to the south of the site, where the majority of development is focussed. There are a number of roads extending from the village core and linear development along these roads is evident in several areas. Latham Lane extends northwards from the village centre and comprises development either side. North of the junction with Drub Lane, the development becomes less dense and there is a clear distinction between the development closer to the village core and that further north, which forms a transition between the settlement and the countryside.
8. The settlement boundary includes a row of houses on the western side of Latham Lane, which backs onto development on the northern side of Drub Lane. The boundary excludes the houses further north, including the appeal site, which have open fields to the rear. The settlement boundary on the eastern side of Latham Lane extends further north. It includes the houses that adjoin other development to the rear but excludes those that adjoin open countryside. On the south side of Drub Lane, the settlement boundary closely follows the built development, and open land is excluded. Overall, I consider that the settlement boundary in this location has been drawn up in a consistent manner and is logical.
9. There is no definition of village in the Framework. Therefore, I have considered the character of the site and its immediate surroundings, and whether it relates more to the village or the countryside. There is no doubt that Gomersal itself is a village. However, as explained above, the site is located on one of the roads leading from the village core which comprises linear development. It is a matter of judgement at what point the "village" ends.

¹ Kirklees Unitary Development Plan (Adopted 1999, revised with effect from 2007)

10. Although development extends along Latham Lane, north of its junction with Drub Lane it does not have the appearance of a continuously built-up frontage. This is because there are gaps in development formed by open fields, such as the appeal site, or by the relatively large gardens or grounds which include mature trees and shrubs. The development has a lower density than that further south and the lack of pavement contributes to the semi-rural character of the area. In front of the appeal site, the road narrows slightly and there are extensive views across the site to the open countryside beyond. Despite the residential development opposite the site, this part of Latham Lane is more akin to the countryside further north than the village core to the south.
11. Therefore, taking into account the established and logical settlement boundary, the semi-rural character and appearance of the area and the open appearance of the appeal site itself, I find that the site is not within a village for the purposes of the exception set out in the Framework. Although the development may be considered limited infill development, it would be inappropriate due its location outside the village. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on openness

12. The site forms a gap in the development along Latham Lane. The proposal would result in built development and, consequently, it would inevitably affect the openness of the Green Belt. The adverse effect would be moderate as the existing field is relatively large in terms of its frontage with Latham Lane, and it enables views to the open countryside beyond, which would be interrupted by the development.

Character and Appearance

13. Latham Lane comprises relatively large properties set within plots of varying size, some of which are substantial houses. I accept that there is development either side of the site and the plot size would be comparable with the low density development in the vicinity. However, as set out above, this part of Latham Lane has a distinctly semi-rural character and appearance, which becomes more pronounced at the appeal site. This is, in part, due to the narrowing of the road but is equally due to the appeal site itself and its contribution to the appearance of the area. The open nature of the site, combined with the hedgerow along its frontage, has a positive impact on the street scene. Therefore, the proposal would have a moderate adverse effect on the character and appearance of the area.

Other considerations

14. The parties are satisfied that a dwelling could be accommodated on the site and designed so as to protect the living conditions of adjoining occupiers. However, the lack of harm is a neutral factor that does not weigh for or against the proposal.
15. The appellant cites a case in Shepley (Ref 2011/93043) where the Council apparently considered the site to be within the settlement, despite it being outside the boundary. From the limited information before me, I am unable to assess whether the site-specific circumstances in that case were comparable to the appeal before me. In any event, I have found that the settlement boundary

in relation to the appeal proposal is logical, and therefore, I give this consideration limited weight.

16. I am referred to a High Court Judgement,² which considered, amongst other things, the meanings of “village” and “limited infilling” in the context of national policy. On reading the Judgement it is clear that whether a settlement is, or is not, a village is inevitably a matter of planning judgement. Consequently, this does not change my assessment, as set out above.
17. I appreciate that the development would make a very small contribution to the local housing supply, but this benefit would be very limited and carries limited weight.
18. I note that the Council appears to have given positive pre-application advice in relation to the proposal. Nonetheless, this was quickly retracted and, moreover, such advice is not binding to the Council.

Conclusion

19. Policy D13 of the UDP permits development within existing settlements in the Green Belt. Although the site is within the environs of Gomersal village, it is outside of the settlement boundary and the development would be detrimental to the character of the surrounding area. Consequently, the proposal would be in conflict with Policy D13.
20. Also, I have found that the site is not within a village for the purposes of the exception set out in the Framework. Therefore, it would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be a moderate loss of openness and a moderate adverse effect on the character and appearance of the area.
21. On balance, I find that the other considerations identified do not clearly outweigh the totality of harm. Consequently, the very special circumstances necessary to justify the development do not exist.
22. For these reasons given above, the appeal is dismissed.

Debbie Moore

Inspector

² [2017] EWHC 664 (Admin)