



Appeal Decision

Hearing Held on 17 July 2019

Site visit made on 17 July 2019

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/N4720/W/18/3210467

Farfield House, Wetherby Road, Bramham, Wetherby LS23 6RE

- 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 AC Developments Yorkshire Ltd against the decision of Leeds City Council.
 - The application Ref 17/06809/FU, dated 10 October 2017, was refused by notice dated 19 June 2018.
 - The development proposed is described as 'demolition of existing dwelling and ancillary/domestic outbuildings and replacement with 4 no. detached and semi detached dwellings, with layout, access and servicing on land off Wetherby Road, Bramham.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council adopted a Site Allocations Plan (SAP) on 10th July 2019. Policy N33 of the 2006 reviewed Unitary Development Plan (UDP) however remains saved. Also, on 5th March 2019, the Bramham Cum Oglethorpe Neighbourhood Plan (NP) was made. The Council's Core Strategy Selective Review (CSSR) is, according to the Council, at an advanced stage. It was submitted for examination in August 2018 and hearings held in February of 2019. The examining Inspector's modifications were issued in April of 2019. Following consultation of modifications, the Council anticipate the CSSR to be adopted towards the autumn of 2019.

Main Issues

3. There are three main issues, these are:
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the openness of the Green Belt; and
 - If the proposed development would be inappropriate development, 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 proposed development.

Reasons

Inappropriate Development and Openness

4. Saved Policy N33 of the UDP refers to the general principles of national policy on development in the Green Belt. It sets out that, except in very special circumstances, approval will only be given for what is a closed list of developments. In summary, these relate to agricultural and forestry buildings, limited extensions, alterations or replacement dwellings, limited infilling and redevelopment of identified major sites, limited infilling in villages, affordable housing, building re use, changes of use and cemeteries. N33 has a number of other policies set out in appendix 5 of volume 2 of the UDP which are development specific, leading from the aforementioned closed list.
5. N33 is part of a document of some age and was part of the development plan some time before the first iteration of the Framework¹. Whilst the detailed policies behind N33 refer to national guidance as part of what was Planning Policy Guidance 2, it nonetheless defers to the national policy situation on development in the Green Belt which forms part of the Framework. This is the most up to date position. The closed lists of exceptions in each document differs such as in the case of the Framework offering a greater number and referring to replacement buildings instead of dwellings. The Framework however contains most of what N33 covers and thus the two approaches do not go in separate directions. N33s approach is broadly consistent with the Framework insofar as what it aims to do to protect the Green Belt from harm through inappropriate development and to preserve its openness. Whilst the differing wording and less exceptions in N33 may lead one to reduce weight to it, I would be content to say such a reduction would not render it out of date for the purposes of the Framework when taking the above into account.
6. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt should be regarded as inappropriate development. There are, as I have alluded to, a number of exceptions to this which have been advanced by the appellant in support of the appeal scheme.
7. The proposed development would see the demolition of the existing dwelling along with three other outbuildings which, it was the general consensus of opinion at the hearing, are in ancillary use to the dwelling. Exception (d) of paragraph 145 suggests that the replacement of a building may not be inappropriate development provided the new building is in the same use and not materially larger than the one it replaces.
8. There was discussion at the hearing as to the application of this exception and its relevance to the proposed development. I would be inclined to say however that replacing a single dwelling and some ancillary buildings within one curtilage with four dwellings, their own curtilage and thus four new planning units would be stretching the definition for replacement buildings in the same use. In any case, the appellant was content to agree that the scale difference between the existing and proposed buildings in each case was such that the new ones would be materially larger. Consequently, even if it were to be considered that the scheme would represent the replacement of buildings in the same use, the appeal scheme would still not comply with this exception.

¹ The National Planning Policy Framework 2019

9. Exception (g) suggests that the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use (excluding temporary buildings) might not be inappropriate development so long as (given the scheme is not one for affordable housing) it would not have a greater impact on the openness of the Green Belt than the existing development.
10. There was some discussion at the hearing as to whether the appeal site is PDL, on the back of the written submissions and in reference to its definition for the purposes of the Framework. The Framework defines PDL as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. Amongst other things, land in built up areas, such as residential gardens, is excluded from the definition of PDL.
11. Both the appellant and the Council agreed that, since the appeal site was outside of the settlement limit as it is set out by the development plan (which is clearly defined on the ground) and is part of the Green Belt then it would be difficult to reconcile an argument to suggest it was part of the built up area. As partly relating to the curtilage of a dwelling not in a built-up area therefore, the appeal site could be considered PDL.
12. It is not immediately clear where the extent of the curtilage to Farfield House lies. Map base data appears to infer the garden is a much smaller part of the site but discussion suggested that it has blurred into the larger grassed areas to the north and east over time where there used to be two other buildings associated with the dwelling. There is hardstanding and not insignificantly sized buildings to the north and west. Taking the above into account and given said buildings appear to have been in ancillary residential use for some time it seems to be the case, as far as the evidence would suggest, that the whole area defined on the submitted plans containing the dwelling and the various buildings is the curtilage of Farfield House. A matter which appeared to be agreed at the hearing. In addition, and as I have said, any 'garden' spaces (since they are not in a built-up area) could be considered PDL. I am also mindful of the fact that the proposed development in this case would take place on land that is largely covered currently by existing built development and, as per the definition of PDL, associated fixed surface infrastructure.
13. On the strength of the evidence I have seen therefore, and at least in regard to where the new dwellings would be located, I would be content to agree that the appeal scheme would represent the partial or complete redevelopment of PDL. In addition, and in terms of whether any land or buildings in agricultural use may form part of the site, the Council's written evidence picks up on a notification for prior approval for the change of use of the single storey building to the north of the site from agricultural to a dwelling under permitted development allowances² that was submitted by the appellant. This was however recently refused for, amongst other things, doubts as to whether the building concerned is or was last in agricultural use on the active date.

² Schedule 2, Part 3, Class Q Town and County Planning (General Permitted Development) (England) Order 2015 (as amended)

14. The exception set out by 145 (g) is a two-stage test and whilst the proposed development may be one occurring on PDL, it is required to not have a greater impact on the openness of the Green Belt than the existing development.
15. To my mind, openness has a spatial as well as a visual dimension, the former being taken to mean the absence of built form. Openness is one of the essential characteristics of the Green Belt. In the case of the proposed buildings, the volume figures set out by the proposed plans shows the new buildings would be just less than 10% larger over the existing as a combined measurement. They would also be different in their overall scale (particularly height), bulk and mass. They would be concentrated to one side of the appeal site which is higher ground. These factors would lead to larger buildings as a matter of course and on that basis, a reduction in the Green Belt's openness, thus a greater impact.
16. Exception (g) does not define an impact on the Green Belt in terms of whether something is materially greater, simply a greater impact. Which it seems clear to me the new buildings would have by virtue of the above factors. The appeal site is relatively secluded but, due to the bulk and height of the proposed new buildings and the land level on which they would sit, they would have a greater visual effect on the openness of the Green Belt when read from the dwellings that face the site from the east and the public bridleway that runs north to south along the western boundary.
17. The appellant did make the point at the hearing that whilst representing a larger amount of built form on the site, the appeal scheme would reduce in overall terms the number of buildings. Whilst this might be the case, and largely due to the fact that the third and fourth dwelling would be part of a semi-detached pair, this would not make up for the harmful impacts that would arise out of what would be a not insignificant amount of additional built form in terms of their combined volume, height, bulk and mass.
18. With the above in mind, the proposed development would not sit squarely within any of the exceptions expressed by either the Framework or saved Policy N33 of the UDP. As the erection of new buildings in the Green Belt not doing so, they would therefore be inappropriate development. Inappropriate development is, as per paragraph 143 of the Framework, harmful to the Green Belt by definition. As I have also set out above, the appeal scheme would have a reducing effect on the openness of the Green Belt in both a spatial and visual sense. This would conflict with one of the essential characteristics of the Green Belt and thus be additional harm alongside the inappropriateness of the proposed development.

Other Considerations

19. The appellant sets out that the appeal scheme would be in a location where future occupiers would have a range of options before them to access services on which they would rely for day to day living. Surface water would be manageable, and the site is not at risk of flooding. The scheme would not detrimentally affect the living conditions of existing or future occupants and there were no concerns over highways or transport matters. The outcome of phase 1 habitat surveys yielded that there would be no adverse effect on ecology and ground contamination matters can be addressed by conditions.

20. Be these issues as they may, they represent areas in which the appeal scheme would be acceptable and thus, as a lack of harm, they cannot be used to weigh against it.
21. New housing would be provided and whilst I shall come back to the matter of supply later, such a provision would be limited in the grand scheme. New residents would be able to utilise existing facilities within the community but, again, due to the scale of the development such additional expenditure would be limited. In any case, I have not been made aware of any services that might be at risk from under use. There would be some investment in the construction industry as well as monies through the Community Infrastructure Levy and taxation but most of this would be short term and again a positive effect constrained by the overall scale of the proposed development.
22. As the redevelopment of what is currently a disused and somewhat run-down brownfield site clearly subject to vandalism, the scheme does have the potential to provide some environmental enhancements, but this would be at the expense of demonstrable planning harm. In this case to the Green Belt in the manner I have described it. In any case, there are other ways that security of the site against vandalism can be arranged and redevelopment of the site can take place by means other than the appeal proposals.
23. The appeal site is an area of land identified in the NP for residential development albeit it is not a formal allocation. The NP was made prior to the adoption of the SAP which also considered the appeal site for allocation purposes and, whilst it might have been a developable and deliverable site, it remained part of the Green Belt and sufficient other such sites to meet housing requirements were identified. The Council are committed to reviewing the SAP within the next four years. They do not anticipate that review to change the Green Belt boundary in relation to the appeal site albeit in any event the site remains part of the Green Belt at the time I consider this appeal.

Other Matters

24. The Council set out that, following the adoption of the SAP, they are able to demonstrate the supply of housing sites commensurate with the requirements of the Framework. Whilst the appellant does not advance a compelling case to the contrary, an under supply situation would not take me to the so called tilted balance of paragraph 11(d)(ii) given that, in this particular case in relation to the Green Belt, the application of policies within the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed³.
25. The appellant sets out that there are allowances in the Council's Housing Design Guide Supplementary Planning Document for extensions to dwellings within the Green Belt that suggests an increase in volume by 30% would be acceptable. There is also mention of other schemes for extensions being considered by the Council which have permitted such. The appeal scheme would represent an increase in built form on the site of just less than 10%. Whilst this might be the case, I have not been provided with any examples and even if I were, both they and the policy of the SPD in this respect consider extensions to dwellings and not replacement buildings or complete site redevelopments as per the appeal scheme.

³ Paragraph 11(d)(i) of the Framework

Conclusion

26. The appeal scheme would be inappropriate development in the Green Belt. This would be harmful by definition. There would be a net reduction in the Green Belt's openness which would give rise to additional harm. These harms would render the appeal scheme contrary to both saved Policy N33 of the UDP and section 13 of the Framework.
27. As per paragraph 144 of the Framework, substantial weight should be given to any harm to the Green Belt. Against this, and for the reasons I have given, I am of the view that the other considerations advanced are not sufficient so as to amount to the very special circumstances necessary to justify the proposed development.
28. Whilst having regard to other matters that have been raised, which include representations from local residents, it is for this reason that the appeal is dismissed.

John Morrison

INSPECTOR

APPEARANCES:

FOR THE APPELLANT

Mr Paul Leeming

Carter Jonas

FOR THE LOCAL PLANNING AUTHORITY

Mr Steven Wilkinson

Leeds City Council

DOCUMENTS SUBMITTED AT THE HEARING:

- Coloured map showing the extent of the Green Belt in relation to the appeal site reproduced at 1:1250 on A3 by the Council