
Appeal Decision

Site visit made on 27 August 2019 by C McDonagh BA (Hons), MA

by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/C2741/W/19/3228747

The Dales, Wheldrake Lane, Elvington, York, YO41 4AY

- 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 and Mrs G Handley against the decision of City of York Council.
 - The application Ref 18/02877/OUT, dated 14 December 2018, was refused by notice dated 7 March 2019.
 - The development proposed is erection of two single storey private dwellinghouses.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The application was submitted in outline with access, layout and scale to be considered at this stage. The remaining matters related to appearance and landscaping are therefore reserved for later consideration. I have dealt with the appeal on this basis and treated the submitted plans where pertinent as an indication of the proposed development.
4. It was noted during the site visit that site clearance has begun with some demolition work undertaken.
5. Saved Policies YH9(C) and Y1 of the Yorkshire and Humber Regional Spatial Strategy (RSS) relate to York's Green Belt, which extends about 6 miles from the city centre, taking in the appeal site. The reasons for refusal refer to policies within the City of York Draft Local Plan Incorporating the Fourth Set of Changes; Development Control Local Plan (LP) and the emerging Local Plan 2018 (ELP). The former was approved by the Council for development control purposes in April 2005, and the emerging plan is currently going through the examination process.
6. In its reasons for refusal, the Council refers to Policy GB1 of the LP and Policy GB1 of the emerging Local Plan. The wording of the former is not consistent with the Framework and thereby carries little weight. As the emerging Local

Plan has yet to be formally adopted it carries limited weight. Nevertheless, I have taken both documents into account as material considerations.

7. I have referred to the National Planning Policy Framework 2019 as the most up to date government policy. Those sections that relate to the Green Belt are largely unchanged from the 2012 version referred to by the appellant.
8. I acknowledge the appellants' concerns over the Council's handling of the applications. However, these are not relevant matters for the appeal process and in determining the appeals I have only had regard to the planning merits of the proposals.

Main Issues

9. The main issues for consideration in this appeal are as follows:

- whether the proposed development would amount to inappropriate development in the Green Belt for the purposes of the Framework and the Development Plan;
- the effect of the proposed development on protected species; and,
- if the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in Green Belt

10. The appeal site comprises an area of land which was formerly part of the nearby Elvington Air Base, and currently consists of a concrete slab and the remnants of a former air raid shelter alongside earth bunds.
11. Paragraph 145 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt is inappropriate unless it meets one of the seven specified exceptions. Exceptions include limited infilling in villages (145e) and the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development (145g). The appellant considers that the proposal could fall within either of these exceptions and I will consider each one in turn.
12. The main village of Elvington has historically been excluded from the Green Belt in both the 2005 and 2018 draft Local Plans. The proposals map accompanying the ELP defines the village boundary and it is clear that the site lies outside of it. In purely physical terms the site is located at a distance from the main built up part of the settlement. It is clearly separate from the built form of the houses lining the south side of the B1228.
13. However, even if the site was considered to form part of the village, I am unconvinced that the proposal constitutes limited infilling. There is no definition of 'infilling' in the Framework. Policy GB2 of the LP states that infilling relates to 'the filling of a small gap in an otherwise built up frontage' and it seems to me that this definition fits in with the ordinary meaning of the word.

14. Development around the site is sporadic and does not conform to a regular or well-defined pattern or constitute a 'built up frontage'. Whilst 'The Dales' a substantial residential property, lies to the north of the site, that property stands alone. Land to the south, albeit incorporating the access to 'Bowling House', which lies to the east, is open. The two dwellings would not therefore occupy a small gap in an otherwise built-up frontage. Consequently, whilst the scale of the development may constitute a limited form of development, the proposal does not fall within the exception set out at paragraph 145(e) limited infilling in villages.
15. Turning to 145(g), the Council accepts that the site constitutes previously developed land and there is no reason for me to disagree. Nevertheless, to meet the test of this exception, the Framework states that development should not have a greater impact on the openness of the Green Belt than the existing development; or should not cause substantial harm to the openness of the Green Belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
16. Openness is generally considered to mean the absence of built development. In this case there is some development on the site. However, the majority of the air raid shelter is underground, and the concrete slab does not rise above ground level by more than a few inches. While the application is made in outline, its form, scale and layout are considered at this stage and the appeal statement offers a description of the dwellings as single storey. I acknowledge that the buildings would cover a smaller ground area than that covered by the slab and shelter. However, the buildings would be substantially larger than the existing development on site in terms of their height, massing, volume and the spread across the site when considering the two plots, including access provisions. Accordingly, in both spatial and visual terms, the development would have a much greater impact on openness than the existing.
17. Accordingly, the proposal would not meet the exception in paragraph 145(g) and therefore constitutes inappropriate development.

Protected Species

18. A bat scoping survey has been submitted with the appeal which found no evidence of potential bat roosts in any structures on site. I have no reason to doubt these findings and there does not seem to be any dispute that there is a negligible risk of bats being present at the site. While this may fulfil the duty to protect bats as a protected species from development, there is no further survey work commissioned with the appeal with regards to other protected species. This may not have been requested by the Council during the application process, but it is my role to determine the appeal based on the evidence before me. Advice in circular 6/2005 indicates that surveys should be carried out prior to planning permission being granted where there is a reasonable likelihood of protected species being present.
19. The Council's ecologist states there are records of protected species nearby as well as suitable habitats for Great Crested Newts which have been apparent and studied through other recent applications. In the absence of further survey work on potential impacts upon protected species, such as Great Crested Newts among others, the proposal is contrary to the Framework as well as Policy GB6 of the LP, which both aim to enhance sites of biodiversity value and ensure

development would not cause demonstrable harm to animal or plant species protected by law.

Other considerations

20. The Framework states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. I have therefore had regard to considerations put forward by the appellant.
21. The proposal would add to the mix and supply of housing in the area, albeit to a limited degree, and this is a benefit of the scheme. This matter carries limited weight in favour of the proposal.
22. I understand that the houses would be occupied by family members who have a business nearby and who cannot afford a property in the settlement. However, there is no evidence before me to support these claims, including any evidence of house prices or availability, or the personal circumstances of the intended occupiers. Nor is there any mechanism before me to ensure the development would be occupied by these individuals. Consequently, this matter carries little weight in my consideration.
23. While there were no objections from the Parish Council or residents to the development, nor are any highway works required to redevelop the site, these are neutral matters rather than carrying weight in favour of the scheme. Further considerations raised include the reduction of flood risk in the area, although I have no evidence before me to substantiate this and as such, this has not been afforded weight in the decision-making process.
24. The fact that the Government aims to encourage the re-use of previously developed land is indicated in the exception at paragraph 145 (g) of the Framework. However, the openness of the Green Belt is one of the essential characteristics of the Green Belt. Given that the proposal is inappropriate development in the Green Belt, as set out above, it does not constitute sustainable development as suggested by the appellant.
25. My attention has been drawn to an application approved by the Council under reference 15/01362/OUT. I have nothing substantive to view in terms of plans or specific details, but from the evidence before me it would appear to be the redevelopment of a former employment site into 1no dwelling and amenity space which met the criteria required in the Framework. As such it is not directly comparable to the proposal before me which I have considered on its own merits.

Conclusion

26. In conclusion, I have identified that the scheme would be inappropriate development in the Green Belt as defined in the Framework. Inappropriate development is by definition harmful and substantial weight has to be given to any such harm. In addition, the appellant has failed to adequately assess the proposal in relation to protected species.
27. As explained above I give limited weight to the material considerations cited in support of the proposal and conclude that, taken together, they do not outweigh the totality of the harm the scheme would cause. Consequently, there

are not the very special circumstances necessary to justify inappropriate development in the Green Belt.

Recommendation

28. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

C McDonagh

APPEAL PLANNING OFFICER

Inspector's Decision

29. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR