



Appeal Decision

Site visit made on 2 October 2019

by Caroline Jones BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2019

Appeal Ref: APP/X4725/W/19/3222636

Vacant Land, Wentworth Terrace, Fitzwilliam, Pontefract WF9 5BZ

- 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 Sean Foster, Land SPV Ltd against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 18/00665/FUL, dated 22 March 2018, was refused by notice dated 23 November 2018.
 - The development was described on the application form as: demolition of existing structures and change of use of land for the siting of up to 67 residential park homes to create a retirement park for the over fifties, including garages, landscaping, access and a new public station car park.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant originally sought planning permission for the change of use of the land and the siting of up to 67 residential park homes. During the course of the application the plans were amended, reducing the proposed number of park homes to up to 30. This is reflected in the description of development used on the decision notice and appeal form which read, "*demolition of existing structures and change of use of land for the siting of up to 30 residential park homes to create a retirement park for the over fifties, including garages, landscaping, access and new public station car park*". I have considered the appeal on the basis of the amended plans.
3. In seeking to address the Council's second, third, fifth and sixth reasons for refusal the appellant has submitted updated noise, drainage and transport reports with the appeal. The Council has had the opportunity to comment on the additional reports in its appeal statement and I am satisfied that no parties interests would be prejudiced by my taking them into account.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies;

- Whether the proposed development would provide acceptable living conditions for future occupants with particular regard to noise and amenity space;
- The effect of the proposal on highway safety with particular regard to servicing arrangements, visibility and the internal layout;
- The effect of the proposal on foul and surface water drainage; and
- The effect of the proposal on antisocial behaviour and crime.

Reasons

5. The appeal site comprises a roughly 2.2 hectares parcel of land which was associated with the former Hemsworth Colliery. Whilst the majority of the site has grassed over, remains of the former colliery use include an area of hardstanding and some freestanding storage containers in the north eastern corner. The proposal comprises the change of use of the land for the siting of up to 30 park homes and the construction of 30 garages, boundary walls and fences. Access to the proposed park home site would be provided by two priority junctions onto Wentworth Terrace, around 100m apart. The appeal scheme also includes a public car park in the south western corner for users of the railway station.

Whether or not the proposal constitutes inappropriate development

6. The appeal site lies outside of the defined settlement boundary of Fitzwilliam and within the Green Belt. Policy CS1 of the Wakefield Local Development Framework (2009) (LDF) states that in the Green Belt, development will conform to the national, regional and LDF policies relating to the Green Belt. Policy CS3 of the LDF states that in the Green Belt, housing development will be of very limited scale and only permitted where it will conform to national Green Belt policy. Outside of infill boundaries, Policy D1 of the LDF states that housing development will only be acceptable where it involves the change of use of a rural building or the subdivision or replacement of an existing dwelling and limited to meeting identified local needs.
7. Whilst noting that Fitzwilliam is defined as a local service centre, where limited growth is permitted, as the appeal site lies outside the settlement boundary and is therefore within the 'rural area' for planning policy purposes, I agree with the Council that Policies CS1, CS3 and D1 are all relevant to the consideration of this appeal.
8. Section 13 of the revised National Planning Policy Framework (the Framework) attaches great importance to the Green Belt, the essential characteristics of which are its openness and permanence. Paragraph 145 of the Framework establishes the construction of new buildings as inappropriate in the Green Belt subject to a number of exceptions. The exceptions include, amongst other things, the limited infilling or partial or complete redevelopment of previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development or would 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 (part g).

9. PDL is defined in the glossary of the Framework and specifically excludes land that has been developed for minerals extraction, where provision for restoration has been made through development management procedures. There is no evidence before me that this is the case. The Council is satisfied that the appeal scheme largely confines the park homes areas to the parts of the site which could reasonably be considered to meet the definition of PDL as set out in the glossary of the Framework. From the evidence before me, I have no reason to take a different view.
10. The two subsequent 'strands' to paragraph 145(g) qualify this exception. In this regard, the appellant considers that, as he willing to contribute towards affordable housing by way of a commuted sum, the proposal should be considered against the second strand where the test is whether the redevelopment would cause substantial harm to the openness of the Green Belt.
11. However, it does not appear that the commuted sum has been agreed by the parties. Furthermore, there is no mechanism before me to secure such a provision. Without such a mechanism the proposal would not contribute to meeting an identified affordable housing need. The proposal would therefore not accord with the second strand of paragraph 145(g) of the Framework.
12. In light of the above, the proposal falls to be considered under the first strand of paragraph 145(g) which allows for the redevelopment of PDL where it would not have a greater impact on the openness of the Green Belt. As the park homes are not 'buildings' this exception does not apply to their siting. Whilst the Framework does not define 'building', section 336 of the Town and Country Planning Act 1990 defines the term building as including any structure or erection. Applying this definition means that the proposed garages, walls, gates and fences should be regarded as 'buildings' for the purposes of the Framework.
13. The fundamental aim of Green Belt policy, as set out in paragraph 133 of the Framework, is to prevent urban sprawl by keeping land permanently open. In assessing the impact on openness, it is necessary to assess both a spatial aspect and visual aspect.
14. The existing storage containers are confined to the north eastern corner of the appeal site. Whilst the hardstanding area is visible from outside of the site, it has little impact on the spatial openness of the Green Belt. Therefore, the existing built form is perceived primarily in one small area of the site with the remainder of the land of a generally open appearance.
15. The construction of 30 garages, roughly 1.9 metres in height, together with boundary walls and/or fencing would result in a layout which would see the site more intensively developed across its entirety than existing. The increase in volume and height of built development across the site would also contribute to the loss of space that is currently experienced. The proposed park home site would be clearly visible from Wentworth Terrace and surrounding land. As such, I consider that the proposal would spatially and visually have a greater impact on the openness of the Green Belt than the existing development thereby failing to accord with the first strand of paragraph 145(g).
16. The appellant has also suggested that the site represents an infilling opportunity between the residential area of Fitzwilliam and the commercial

development at Priory Business Park. Paragraph 145(e) lists limited infilling in villages as an exception. The Council contend that the appeal site is not within the village as it lies outside of the settlement boundary. In any event, Policy D1 of the LDF defines limited infilling for the purposes of the plan as 'closing a small gap in an otherwise built-up frontage to an existing road' which it contends is not applicable to the appeal scheme. The boundary of a village defined in a local plan is not necessarily determinative for this purpose. However, even if I were to accept that the appeal site was within a village, I consider that the scale of the proposal including the construction of a public car park, 30 garages, walls, fences, access roads and the siting of up to 30 park homes would not constitute 'limited infilling' for purposes of the exception listed at paragraph 145(e).

17. It is also argued that the siting of the park homes is to be achieved via a change of use. However, the appellant accepts that as the proposal would fail to preserve the openness of the Green Belt, it would not accord with paragraph 146(e) of the Framework which provides that material changes of use of land are not inappropriate provided that they preserve openness and do not conflict with the purposes of including land within the Green Belt. I concur and consider that as the appeal scheme would encroach into the open countryside, it would also conflict with the purposes of including land in the Green Belt. Whether or not the site is PDL or in need of restoration does not preclude the proposal from conflicting with this purpose.
18. For the aforementioned reasons, I conclude that the proposed development would constitute inappropriate development which is, by definition, harmful to the Green Belt, contrary to paragraphs 145 and 146 of the Framework and Policies CS1, CS3 and D1 of the LDF. I attach substantial weight to this harm.

Living conditions

19. The proposed park homes would be situated in close proximity to a miner's club, an electrical substation and a business park, all of which have the potential to cause noise and disturbance for future occupiers of the park homes.
20. The appellant's updated noise report (November 2018) concludes that that all external noise levels in relation to BS8233:2014 and the World Health Organisation Guidelines (2009) (WHO) would be exceeded and would require mitigation in order to achieve adequate reduction. In addition to measures such as walling, windows and doors, future occupiers would also be required to keep all windows and doors closed within bedrooms, living rooms and dining rooms to meet the WHO guidelines for night time noise. These rooms would also require acoustic ventilation. Very limited details of the proposed mitigation measures are provided including as to how effective such measures would be.
21. Even if I were to accept that these measures would provide a technical solution to the reduction of external noise levels to within acceptable parameters, I have concerns over the impact that keeping windows and doors closed would have on the living conditions of future occupiers. Given the small scale of a park home, it would not be unreasonable for future occupiers of the units to expect to be able to open windows to naturally ventilate their properties without the need for or reliance upon technical and acoustic ventilation to maintain a reasonable standard of living. Having to keep windows and doors closed or the incorporation of sealed window units would undoubtedly diminish

the quality of living conditions available to the occupiers of the park homes. In this regard I have been particularly mindful of the Planning Practice Guidance (PPG) which advises that it is undesirable for material changes in behaviours to be caused by noise, such as the need for keeping windows closed most of the time¹.

22. Furthermore, the noise survey confirms that the adjacent club holds outdoor events particularly in the warmer months which would elevate noise levels. The report recommends that further noise monitoring is carried out when such an event is taking place because of the effect on ambient noise levels at the appeal site. No such survey work is before me and therefore I cannot conclude that such events would not cause undue noise and disturbance for future occupiers.
23. The noise survey also establishes that day time noise levels are not likely to be within the recommended $LA_{eq(16 \text{ hour})}$ 50 – 55dB for outside living space. Whilst noting that BS8223:2014 states that in certain circumstances development may be acceptable even when noise level guidelines are not attainable, I am not persuaded that such circumstances exist here.
24. According to the Council, the adjacent business park has no restrictions on use or working hours. The PPG states that where there are existing businesses, the effects that may cause a nuisance and the likelihood that they could have a significant adverse effect on new residents will need to be clearly identified. In doing so, there is a need to take into account not only the current activities that may cause a nuisance, but also those activities that business or other facilities are permitted to carry out, even if they are not occurring at the time of the application being made². I cannot conclude on the basis of the evidence before me that the noise survey is based on the guidance in the PPG nor has any information been provided on the effectiveness of the acoustic fence in reducing noise to acceptable levels.
25. Overall, I am far from persuaded that the noise assessment is sufficiently robust to allow me to conclude with any degree of certainty that future occupiers would not be exposed to materially harmful levels of noise and disturbance.
26. The Council is also concerned that proposal provides insufficient private amenity space for future occupiers. The Council's Residential Design Guide (RDG) expects that proposals will provide private outdoor space to allow for sitting outside, playing and drying clothes. Whilst the RDG is primarily related to standards for two storey homes, it serves as a useful guide for general living conditions.
27. The appellant disputes that the RDG is relevant to the consideration of the appeal given that the proposed dwellings are park homes. It is argued that the Model Standards 2008 for Caravan Sites in England are more relevant as these are required to be adhered to in order to meet the Council's conditions for a licence.
28. It may be the case that the proposed park homes would meet the density and spacing requirements of the Model Standards. However, the licensing regime is considered under different legislation to that of an appeal made under section

¹ Paragraph: 005 Reference ID: 30-005-20190722

² Paragraph: 009 Reference ID: 30-009-20190722

78 of the Town and Country Planning Act 1990. Furthermore, the park homes would be dwellings providing homes to live in on a permanent basis, albeit the units would not be constructed of bricks and mortar. As such, they are a form of housing and a satisfactory standard of living conditions should be provided for future occupiers.

29. I acknowledge that future occupiers would be over 55 who would be potentially looking to downsize and might not require a large garden. Even so, there does not appear to be any private amenity space for general domestic activities such as hanging out washing or sitting outside. The lack of amenity space for domestic needs would be exacerbated by the lack of communal amenity space within the site with consequential harmful effects on the living conditions for future occupiers.
30. Taking the above into account, I conclude that the proposal would not provide adequate living conditions for future occupiers with particular regard to noise or amenity space and find conflict with Policies CS10 and D9 of the LDF, guidance within the RDG and Section 12 of the Framework. Together these seek to ensure, amongst other things, that development is of a high quality with a high standard of amenity for future users.

Highway safety

31. The initial Transport Statement (TS) indicated that park homes would be serviced from within the site by a refuse vehicle. However, the Council is concerned that the submitted site plan shows a swept path analysis of a rigid vehicle which is smaller than their refuse vehicles. In seeking to address the Council's concerns, the revised TS now states that refuse vehicles would stop in the carriageway on Wentworth Terrace to which the wheelie bins would be wheeled out by either residents or the site manager.
32. However, the Council's Street Design Guide (2012) (SDG) states that residents should not be required to carry waste more than 30 metres and that bin storage locations should be clearly identified. While the submitted plans show details of two bins adjacent to each park home, there is no communal storage area shown to accommodate the bins for the proposed collection arrangements. If they are to be stored offsite then this most likely to be on the public highway where the bins are likely to cause an obstruction to those wishing to pass and repass.
33. On the basis of the information before me, I cannot conclude that the proposal makes adequate provision for servicing without detriment to highway safety.
34. In terms of visibility, there is no dispute between the parties that the guidance on visibility splays within Manual for Streets (MfS) is appropriate for the circumstances pertaining to the appeal site. MfS states that the Y distance in visibility splays at junctions should be based on the recommended stopping sight distance (SSD) which is calculated based on the 85th percentile wet weather speed. As Wentworth Terrace has a 30mph speed limit, the appellant considers that the recommended SSD of 43m in each direction should be used and has demonstrated that this can be achieved. On the other hand, the Council argues that the proposed 43m splays are based on an assumption of 30mph and no evidence has been provided to justify this.

35. However, the Council has provided very little evidence to justify its concerns and has not suggested that the road is subject to speeds materially in excess of the posted limit. Furthermore, MfS2 states that the application of MfS advice to all 30mph limits should be used as a starting point. Section 1.3.1 and Table 1.1 of MfS2 also advises that key areas of advice, including SSDs, can be applied based on speed limits.
36. On my site visit, which I appreciate was just a snapshot in time, I observed that Wentworth Terrace was lightly trafficked, and I saw no indication that vehicles were travelling in excess of the speed limit. Whilst Table B of section 7.24 of the Council's Street design Guide (2012) (SDG) provides more onerous SSDs where the speed is unknown, this is to be used in circumstances where MfS recommended visibilities are not considered appropriate.
37. Drawing the above factors together, there is little compelling evidence before me to suggest that the proposed accesses, which conform to the SSDs suggested in MfS, would have a materially harmful effect on highway safety.
38. The internal access roads would be shared by vehicles and pedestrians. The Council is concerned that that surfacing materials could promote higher traffic speeds, particularly on the longer, straighter stretches. However, I see no reason why this matter could not be agreed by way of a suitably worded condition together with a management and maintenance plan for both the internal access roads as well as the public car park.
39. Nonetheless, I have found that the appeal scheme would have an unacceptable impact on highway safety with particular regard to servicing arrangements. The proposal therefore conflicts with Policy D14 of the LDF and the SDG which seek to ensure, amongst other things, that new development is accessed conveniently and safely and takes into account access for refuse collection vehicles.

Drainage

40. Paragraph 165 of the Framework states that major development should incorporate sustainable drainage systems (SuDs) unless there is clear evidence that this would be inappropriate. The appeal site lies within a low flood risk zone and surface water would be managed through a system which the Drainage Strategy (January 2019) (DS) states would be designed to follow the principles of SuDs taking into account the local topography, ground conditions and providing integrated facilities to control the quantity and quality of run-off.
41. The DS establishes discharge to ground by infiltration as the most suitable method for the disposal of surface water. Appendix 7 of the DS provides the results of soakaway testing which concludes that soakaways are likely to be suitable for the disposal of surface water. Whilst the Council dispute that infiltration is suitable, it has provided no compelling evidence to the contrary.
42. The scheme would incorporate permeable paving, filter strips, granular subbases and underground attenuation tanks. All features would be owned and maintained by the owners of the site as part of the long term future maintenance of the development and a maintenance plan would be designed at the detailed design phase. The DS also states that the surface water drainage scheme will be designed to drain the water generated in 1 in 2 year return rainfall event without surcharge and not to flood during a 1 in 30 year return

period rainfall event. It would also be designed to ensure that the buildings would not flood during the critical 1 in 100 year return period rainfall event plus 40% climate change allowance.

43. I note that Policy D25 requires new developments on brownfield sites to reduce run-off rates by at least 30%. However, there is nothing to suggest that the proposed system could not achieve such rates and I am satisfied that full details to ensure a practical and well managed system could be addressed through a suitably worded condition.
44. In terms of foul drainage, there is no dispute that the appeal scheme should discharge to the 225mm diameter public combined sewer to the south west of the site. The appeal scheme would be served by a gravity fed foul water system terminating at a pumping station, which would then pump flows via a new pumped rising main connecting to the combined sewer. Whilst noting concerns raised by Yorkshire Water during the course of the application relating to details on septicity and discharge rates, there is nothing before me to suggest that these matters are not capable of being technically resolved and could be addressed by the imposition of a condition requiring details to be submitted.
45. Therefore, I conclude that the drainage implications could be satisfactorily mitigated through the use of suitably worded conditions and find no harm in this regard. Accordingly, I find no conflict with Policy D24 and D25 of the UDP which seek to ensure, amongst other things, that developments mitigate and manage residual flood risk and manage surface water using sustainable drainage techniques.

Crime and antisocial behaviour

46. There is no dispute that Wentworth Terrace has been the subject of crime and antisocial behaviour, including vehicular related crime and fly tipping. The Council is concerned that the appeal scheme has been designed in such a way to allow such occurrences to perpetuate and that future occupants would be reliant on the proposed boundary treatments to protect them.
47. However, the proposal includes the installation of CCTV which is a valuable tool in the prevention and detection of crime. I note that in this regard, West Yorkshire Police are fully supportive of its use together with automatic number plate recognition. Contrary to the Council, the Police also welcome the security afforded by the perimeter wall given that the more elderly population can be more vulnerable.
48. Whilst I do not dispute that natural surveillance can be used as a design strategy for reducing crime, the proposed park homes would provide more of a human presence than as existing which would go some way in acting as a deterrent as would the use of CCTV and lighting. In light of all these factors I am unable to conclude that the appeal scheme would perpetuate the existing situation.
49. I therefore conclude that the proposal would not have a materially harmful effect on crime and antisocial behaviour on Wentworth Terrace and find no conflict in this regard with Policy CS10 of the LDF which seeks to ensure, amongst other things, that new development creates safe and secure environments that reduce the opportunities for crime.

Other considerations

50. The development of up to 30 park homes in an accessible location would contribute to boosting housing supply, widen the choice of housing and bring forward associated social, economic and environmental benefits. The above benefits weigh strongly in favour of the appeal and I give this considerable weight.
51. Whilst it has not been demonstrated that the scheme would contribute to meeting an identified affordable housing need due to the lack of a mechanism with which to secure it, the general principle of a contribution towards affordable housing would weigh in the schemes favour. However, without such a mechanism I give this limited weight.
52. Paragraph 61 of the Framework, provides that, amongst other things, the amount and tenure of housing needed for different groups should be assessed and reflected in planning policies including housing for older people and people with disabilities. According to the appellant, the Council's Strategic Housing Market Assessment notes that evidence suggests a need to continue to diversify the range of older persons housing provision and a survey included within the SHMA identified that the availability of properties for older people was an area of concern. The appellant also states that local agents have indicated a large demand for such properties in the area. As the intention of the appeal scheme is to provide housing for over 55s, thus freeing up homes for other buyers, it would make a valuable contribution to overall housing needs which should be weighed in the balance. However, as there is no mechanism before me to secure the scheme for over 55s, this limits the weight that I can attach to this consideration.
53. The principle of the public car park is welcomed by the Council and this would make a positive contribution to sustainable travel for users of Fitzwilliam station as well as reduce on street parking in the vicinity of the train station. Given the scale of the car park, this attracts limited weight in favour of the appeal.
54. The proposal would reuse brownfield land. Nevertheless, as outlined above, this would be to the detriment of the openness of the Green Belt, which is one of its essential characteristics. Whilst there is national policy support for the re-use of previously developed land, within the Green Belt, the Framework is clear that this should only take place where it does not have a greater impact on openness or cause substantial harm to openness where the scheme would contribute to meeting an identified affordable housing need. I have found that the appeal scheme would not meet either strand of this exception. The appellant has also drawn my attention to paragraph 118 of the Framework which states that, amongst other things, decisions should give substantial weight to the value of using suitable brownfield land within settlements. However, as the appeal site lies outwith the settlement boundary of Fitzwilliam, paragraph 118 is not applicable.
55. The appellant also suggests that if the park homes were permanent dwellings then the appeal scheme would not be inappropriate development in the Green Belt as it would accord with paragraph 145(g) of the Framework. However, I have considered the proposal against this exception and found harm in this regard.

56. Following the determination of the application, the Council published the Initial Draft Local Plan 2036 (the emerging plan) which went out to consultation in January and February 2019. The emerging plan proposes the removal of the appeal site, together with the allotment land to the north west and the business park to the north east from the Green Belt and to allocate the land as a Spatial Policy Area for mixed residential and employment uses. However, I am unaware of the extent of unresolved objections and given the early stage of preparation the emerging plan attracts very limited weight. In any event, I must determine the appeal on the basis of national and local policies as adopted at the time of my decision, which for the purposes of this appeal is the Wakefield LDF which designates the appeal site as Green Belt.

Other matters

57. The Council's fourth reason for refusal refers to the proposals failure to enhance the strategic leisure corridor. Whilst I have Policy LSOS 3 of the LDF before me, the Council has not provided any supporting text nor any explanation as to the aims and purpose of the landscape corridor or the contribution of the appeal site to the corridor. I am therefore unable to draw firm conclusions on the impact of the proposed development in relation to this matter. Nonetheless, for the reasons that follow, this matter is not determinative.

Conclusion

58. The Framework indicates that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
59. I have found the proposal to represent inappropriate development which would have a greater impact on the openness of the Green Belt, both in visual and spatial terms. In accordance with the Framework, I have given this harm substantial weight. I have also found that the proposal would not provide adequate living conditions for future occupiers and have an unacceptable impact on highway safety. The absence of harm with regard to drainage and crime are neutral factors which neither weigh for or against the proposal.
60. On the other hand, I have given the provision of new housing considerable weight. The potential benefit of affordable housing and housing for the over 55s also carries weight in favour of the appeal scheme, albeit limited given that there is no mechanism to secure these provisions. I have also given limited weight to the provision of the public car park.
61. However, having regard to all the other considerations, including the letters of support, the substantial weight to be given to the Green Belt is not outweighed either individually or cumulatively by other considerations sufficient to demonstrate the very special circumstances that are necessary to justify inappropriate development in the Green Belt. Consequently, the proposal conflicts with Policies CS1, CS3 and D1 of the LDF and section 13 of the Framework.

62. For the above reasons and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR