



Appeal Decision

Site visit made on 2 December 2019

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2020

Appeal Ref: APP/A4710/W/19/3237366

**Land adjacent to Bevan Green, Mount Tabor Road, Wainstalls, Halifax
HX2 7TB**

- 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 A Thackray against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/00218/FUL, dated 7 February 2019, was refused by notice dated 15 May 2019.
 - The development proposed is one pair of semi-detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would represent inappropriate development in the Green Belt;
 - the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would result in the loss of protected open space; and,
 - if the development is inappropriate, 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 development.

Reasons

Whether inappropriate development

3. The Framework states at paragraph 145, that construction of new buildings in the Green Belt is inappropriate. Inappropriate development is, by definition, harmful and should not be permitted except in very exceptional circumstances. However, the paragraph proceeds to list several exceptions wherein development would not be inappropriate. One of these is where a proposal would constitute 'limited infilling in villages'. Infilling is normally associated with the completion of an otherwise substantial built up frontage of several buildings or at the very least, the consolidation of a largely built up area.

4. The appeal site is situated between two pairs of two storey semi-detached dwellings to the north and a large car park for a public house to the south. The area between these semi-detached dwellings and the public house (including the appeal site) are devoid of buildings and as a consequence the proposed development would not result in the completion of an otherwise substantial built-up frontage of several buildings.
5. I note the point made by the appellant that the car park and public house in combination should be considered as built development and that this means that the proposal would accord with the exception set out in Paragraph 145. However, a car park (which would not always be full) cannot be reasonably defined as being part of a built-up frontage in the same way that a two-storey building would be and consequently the proposal cannot fulfil the requirements of criterion (e).
6. In addition, while the appeal site does abut a row of four semi-detached dwellings, there is a substantial gap between these buildings (including the nearby public house) and the nearest dwelling to the north. Furthermore, there are no buildings to the south of the public house with there being nothing substantial in built form but open fields between it and the village of Mount Tabor. There is also a considerable distance between this small cluster of dwellings on the eastern edge of Mount Tabor Road and the nearest village of Wainstalls. Consequently, I do not consider that the proposal would constitute the completion of an otherwise built-up frontage of several buildings. Furthermore, given its location I also do not consider the appeal site to be part of a village but rather to be a site adjacent to a small cluster of dwellings in the countryside between the villages of Wainstalls to the north and Mount Tabor to the south.
7. For these reasons the appeal scheme does not have the characteristics normally associated with limited infill development in a village and therefore cannot be treated as being within the exceptions identified in paragraph 145 of the Framework. Consequently, I conclude that the proposal would not meet criterion (e) of paragraph 145 of the Framework and would therefore be inappropriate development.

Openness and Green Belt purposes

8. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open as set out in Paragraph 133. The construction of a pair of two storey semi-detached dwellings on the appeal site would result in built development where there is presently none. The footprint of the proposed dwellings, their scale and massing in addition to the two proposed double garages, would lead to a loss of openness on the appeal site which would be particularly noticeable in relation to the view of the open land to the rear of the appeal site from the public highway.
9. Given the clear linkage between the undeveloped appeal site and the more open land to the rear, and the fact that it has the characteristics of open countryside rather than as part of a village, I consider that the proposal would lead to encroachment of development into the countryside and fail to serve the related Green Belt purpose.

10. I note the appellant's point that the appeal site is used as a paddock and that this in combination with the fact that there is existing development on either side of the site means that there would be no encroachment into the countryside. However, while on my site visit, I observed the site to be somewhat overgrown with an absence of built form beyond the traditional stone wall enclosure.
11. I therefore conclude that the proposed development would lead to a loss of openness. Furthermore, it would adversely impact on the Green Belt purpose of assisting in safeguarding the countryside from encroachment. The proposal would therefore also conflict with Policy GNE1 of the Replacement Calderdale Unitary Development Plan 2009 (RCUDP) which aims to maintain the Green Belt around the main built-up areas.
12. I note the appellant's point that Policy GNE1 is inconsistent with the Framework. However, I consider the overall aim of Policy GNE1 to be broadly consistent with the overall aims of the Framework in relation to the Green Belt. Moreover, it is clear from consideration of this main issue and that previously, the proposal would represent inappropriate development within the Green Belt, be at odds with one of the purposes it serves and result in harm through the erosion of its openness. Paragraph 144 of the Framework sets out that any harm to the Green Belt should be afforded substantial weight.

Character and Appearance

13. The adjacent pairs of two-storey semi-detached dwellings to the north of the appeal site are of a standard design with one pair having a brown-brick façade and the other a red-brick façade with a rendered frontage. The proposed development would be of a similar scale and material finish to the neighbouring dwellings and its layout would also be similar to others in the area.
14. However, their proposed design would be quite different in that there would be Juliet balconies at first floor level on their front elevations and large dormer roof windows on their rear elevations. As a result, the design of the proposed dwellings would be at odds with that of the existing dwellings thereby representing a discordant addition to the street scene. Accordingly, I conclude that the proposed development would harm the character and appearance of the area in conflict with Policy BE1 of the RCUDP which amongst other aims seeks to ensure that development proposals make a positive contribution to the quality of the existing environment or, at the very least, maintain that quality by means of high standards of design.

Whether a loss of protected open space

15. In addition to being within the Green Belt a portion of the appeal site is also designated as protected open space by the RCUDP. As such the criteria set out within Policy OS1 are relevant. As the proposal is not for the replacement or extension of an existing building or necessary for the continuation or enhancement of established recreation use, it would not meet criterion i) or ii). Moreover, as the proposal would not provide an appropriate equivalent or improved replacement of the protected open space that would be lost, I consider that it would also not meet criterion iii). Accordingly, I conclude that the proposal would lead to a loss of protected open space in conflict with Policy OS1 of the RCUDP.

16. I note the appellant's point that the appeal site is not part of any existing recreational or sports facility and therefore Policy OS1 is not relevant. However, the fact that a portion of the appeal site is allocated as protected open space by the RCUDP means that in effect it must be treated as such and as a result I consider that the criteria set by Policy OS1 are relevant and applicable in this case.

Other Considerations

17. I note the appellant's point that the appeal site is within a settlement with good linkages to services and facilities. However, no substantive evidence has been submitted to support this assertion. I therefore afford this factor little weight.
18. The appellant argues that the Council cannot demonstrate a 5-year supply of deliverable housing land and therefore that the presumption in favour of sustainable development (paragraph 11 of the Framework) is engaged. I understand that the current level of housing supply is around 2 years. However, the harm to the Green Belt that I have identified above, including that the proposal would result in inappropriate development, provides a clear reason for refusing the proposed development¹. Put another way, the 'tilted balance' set out at Paragraph 11 of the Framework is not engaged in this instance. Nevertheless, the proposal would make a contribution towards the supply of housing, albeit limited to two, 3-bedroom dwellings, in an area which the appellant identifies as having a shortfall. I therefore afford this factor modest weight.
19. The appellant also cited a recent appeal decision in Sowerby Bridge (Appeal Ref APP/A4710/W/18/3214566) where a proposal for residential development was permitted due to the Council's lack of a 5-year housing land supply. However, the circumstances of the Sowerby Bridge appeal scheme² are not exactly the same as the appeal scheme before me which I have considered on its own merits (importantly the site was not in the Green Belt). This decision does not therefore weigh in favour of the appeal.
20. In further support of the appeal scheme the appellant has argued that the proposal would provide economic, social and environmental benefits. I acknowledge that the proposal would potentially provide limited benefits that weigh in favour of it.

Conclusion

21. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there would be adverse impacts on openness, the Green Belt purpose of safeguarding the countryside from encroachment and to the character and appearance of the area. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
22. Other considerations weighing in favour of the development must clearly outweigh this harm. Principal amongst these are the fact that the Council cannot demonstrate a 5-year supply of deliverable housing land, with the

¹ See paragraph 11 d) (i) – footnote 6 of the Framework

² See appendix 4 of appellant's appeal statement

proposal delivering two dwellings, and economic, social and environmental benefits that the proposal would likely provide. Whilst I acknowledge these, and other considerations put forward by the appellant, the Framework makes clear that all development in the Green Belt is subject to stringent national planning policy tests, which I have applied.

23. In light of this, I conclude that those considerations put forward which weigh in favour of the proposal fail to clearly outweigh the substantial harm by reason of inappropriateness and other harm I have identified. Consequently, in the overall balance, I conclude that the substantial weight to be given to Green Belt harm has not been clearly outweighed by the other considerations sufficient to demonstrate very special circumstances in this case. Moreover, the proposal would clearly conflict with the adopted development plan and there are no material considerations which indicate a decision otherwise than in accordance with it.
24. Accordingly, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR