
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: 28th January 2020

Appeal Ref: APP/A4710/W/19/3237334

The Cross, Johns Lane, Blackley, Elland HX5 0TQ

- 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 Richard King against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/00674/FUL, dated 7 June 2019, was refused by notice dated 24 July 2019.
 - The development proposed is single dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal is 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; 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 National Planning Policy Framework (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 within the south western portion of the substantial back garden to 'The Cross', a two-storey residential dwelling (which appears to comprise the merger of two smaller terraced dwellings of a traditional design

with a natural stone façade. To the north of this property is 'The Old Pottery' which forms the remainder of the terrace. To the south-west of the appeal site there is a row of similar two-storey terraced dwellings (nos. 34-40 South Lane) that also have natural stone façades.

5. The proposed development would see the substantial rear garden to 'The Cross' sub-divided with a new two-storey detached dwelling being constructed in the new south-western plot. The proposed dwelling would be set back from the nearby terraced dwellings on South Lane and located a considerable distance from the host property 'The Cross' and its neighbouring property 'The Old Pottery'. There would also be a relatively large gap between the proposed dwelling and no. 34 South Lane. As a result, given its location and the fact that there would be gaps between the proposed dwelling and the other neighbouring buildings, I consider that it would not constitute the completion of an otherwise built-up frontage of several buildings.
6. For these reasons, I do not consider that the appeal scheme represents a limited infill development in a village. It cannot therefore 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 within the Green Belt. It would 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.
7. The appellant has drawn my attention to two appeal decisions which were allowed; (Appeal Ref APP/K0425/W/17/3188568) and (Appeal Ref APP/A4710/W/18/3214566). The former relates to an appeal in a different part of England with a different development plan; it is therefore of de-minimis relevance in this case which I have assessed on its own merits and in the context of the relevant development plan. The second decision, whilst in the same local planning authority area, does not appear to concern Green Belt matters. Whilst I do not have the full details of either appeal scheme before me, for the aforesaid reasons they do not alter my assessment of the proposal in this case.

Openness and Green Belt purposes

8. The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open as set out in paragraph 133. Given its relatively substantial size, the rear garden to 'The Cross' makes a positive and tangible contribution to the openness of the Green Belt. Given the considerable gap between the terrace comprising it and 'The Old Pottery' and the other terrace comprising nos. 34-40 South Lane it also contributes to the openness of the area surrounding the appeal site giving it an intrinsically rural setting. The construction of a new detached dwelling on the appeal site would result in built development where there is presently none. Notwithstanding the fact that there are currently two-storey terraced dwellings adjacent to the appeal site on one side the footprint of the proposed dwelling, together with its scale, massing and two storey form, would inevitably lead to a loss of openness.
9. I therefore conclude that the proposed development would lead to a loss of Green Belt openness. Furthermore, it would 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 RCUDP which aims to maintain the Green Belt around the main built-up areas.

10. I note the appellant's point that Policy GNE1 is inconsistent with the Framework. However, I find the overall aim of Policy GNE1 to be consistent with the overall aims of the Framework in relation to the Green Belt. Moreover, Paragraph 133 of the Framework is clear in that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The proposal in this case would erode the openness of the Green Belt and therefore it would clearly conflict with the fundamental aim of national Green Belt policy.

Character and Appearance

11. I acknowledge that the proposed dwelling would be constructed using materials similar to those of the nearby properties i.e. natural stone and that it has been reduced in size when compared to a previous scheme which was refused. However, in terms of its size, scale and massing the proposal would nevertheless be significantly larger than the other dwellings nearby in particular the terraced properties closest to the appeal site on South Lane.
12. As a result, it would not be in keeping with the prevailing pattern of development in the area thereby representing a discordant addition to the street scene which would have an adverse visual impact. Accordingly, I conclude that the proposed development would harm the character and appearance of the area in conflict with Policy BE1 of the Replacement Calderdale Unitary Development Plan 2009 (RCUDP), which, amongst other aims, seeks to ensure that new development achieves a high standard of design that makes a positive contribution to the quality of the local environment.

Other Considerations

13. I note the appellant's point that the appeal site is within a settlement with good linkages to services and facilities via the bus route serving Lindley Road. However, other than the appellant's assertion no substantive evidence has been submitted to demonstrate that this is the case (e.g. how often the bus runs). This factor can only be afforded limited weight.
14. In support of the appeal scheme the appellant has also argued that the settlement of Blackley is a village rather than a hamlet as the Council have argued due to the recent redevelopment of the former brickworks for housing and that this therefore demonstrates compliance with criterion (e) of paragraph 145. However, given that the proposal would not constitute infill development, whether or not the settlement is classified as a village or a hamlet is of limited relevance to the considerations under this s78 appeal.
15. 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. However, the harm to the Green Belt that I have identified above provides a clear reason for refusing the proposed development¹ and as such the 'tilted

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

balance' is not engaged in this case. Nonetheless the contribution of one dwelling to housing land supply is afforded modest weight.

16. In 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 in favour of the proposal.

Conclusion

17. 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 are adverse impacts on openness, the Green Belt purpose of safeguarding the countryside from encroachment, and to character and appearance more generally. Paragraph 144 of the Framework sets out that any harm to the Green Belt should be afforded substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
18. Factors in favour of the proposal include that the Council cannot demonstrate a 5-year supply of deliverable housing land and also to the limited economic, social and environmental benefits that the proposal would likely provide. I have also attached limited weight to the sustainability of the appeal site's location due to the lack of evidence before me.
19. Consequently, in the overall balance, I consider 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.
20. Accordingly, for the reasons given above, the appeal is dismissed.

C Coyne

INSPECTOR