
Appeal Decision

Site visit made on 11 March 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2020

Appeal Ref: APP/Z4718/W/19/3240853

41 Storthes Hall Lane, Kirkburton, Huddersfield HD8 0PT

- 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 Stuart Green against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2019/60/91830/E, dated 30 April 2019, was refused by notice dated 31 July 2019.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was for outline planning permission with all matters reserved. I have determined the appeal on that basis. I have been appointed to determine a separate appeal for householder development on the appeal site¹ and I carried out a joint site visit. I have had regard to this appeal, as necessary.

Main Issues

3. The appellant's statement confirms the proposal would not benefit from any exceptions within paragraph 145 of the National Planning Policy Framework ('the Framework') and would be inappropriate development². On the evidence before me I agree and consequently, the main issues are:
 - The effect of the proposal on the openness and purposes of the Green Belt.
 - The effects of the proposal on the natural environment, with particular regard to protected trees and ecology and biodiversity.
 - If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify the proposal.

¹ APP/Z4718/D/19/3238125.

² Paragraph 2.1 of appellant's statement.

Reasons

Openness and purposes

4. Notwithstanding the appellant's view that the appeal site is residential curtilage, the proposal would introduce built form onto a site which is open and free from significant development. In spatial terms this would undoubtedly reduce openness. In this case there is also a visual aspect to the consideration of openness given the contribution the undeveloped nature of the site makes to the openness of this part of the Green Belt, including allowing for views of part of Little North Spring Wood ('LNSW').
5. Properties along this part of the lane consist of small groups of uniform terraced and semi-detached 2 storey, red brick dwellings set out on its eastern side and stepping up the lane. I accept that all reserved matters would fall to be assessed in greater detail at a later stage but in trying to achieve an appropriate scheme there are a limited number of ways in which the appeal site could be developed for a 2 storey dwelling. Such a building is highly likely to end up being uncharacteristically close to the side boundary with No. 41, given the proximity of protected trees and of a detached form and appearance.
6. From the highway and the adjoining public right of way this would result in a visually piecemeal intrusion of built form that would be notably at odds and harmfully out of keeping with the prevailing pattern and layout of development and spaces in this part of the Green Belt. The proposal would diminish views of the LNSW to the rear on approaches past the site and result in a more intensive use of the site, including a large area of vehicular hardstanding and a new vehicular access. Overall, having regard to both spatial and visual aspects it would cause a significant degree of harm to openness.
7. Although it may well be domestic curtilage, nevertheless, it is still capable of being part of the countryside. The effect of development as encroachment on the countryside may be in the form of loss of openness or intrusion and through the loss of openness, there can be an intrusion or encroachment into the countryside. The proposal would result in an encroachment into the countryside and therefore it would be contrary to the one of the purposes of including land within it.

Natural environment

8. This is a small and constrained site and mature trees in the adjacent LNSW are located close to the side and rear boundaries. These are of significant amenity value and are protected. Excavation and groundworks would need to take place and as a minimum such a proposal should be accompanied by an Arboricultural Impact Assessment in accordance with the relevant British Standard. The information contained in the assessment should then be used to demonstrate that a residential dwelling can be designed for this site whilst safeguarding the health and integrity of the protected trees.
9. No such information has been provided and, in its absence, I give significant weight to the advice from the Council's specialist Tree Officer. This indicates to me that further engineering and construction works within this area could well cause damage to the root systems of the trees and it has not been demonstrated that this proposal would not seriously affect their health and result in their loss.

10. The proposal would therefore conflict with Policies LP24, LP30 and LP33 of the Kirklees Local Plan ('LP') insofar as they require good design and state that planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity value should not be granted and that proposals should promote good design by ensuring, amongst other things the retention of valuable or important trees.
11. The appeal site also abuts part of the Kirklees Wildlife Habitat Network ('KWHN') and is located within the Council's bat alert layer. The appellant contends that it is 'probable' that the wildlife corridor will follow the line of the woodland margin and as such it will not be disrupted by the presence of the proposed dwelling. Nonetheless, no substantive evidence or details of its likely effects have been provided in support.
12. Whilst the Council have also provided little additional information, the onus should be on the appellant to demonstrate that the proposal would safeguard and enhance the function and connectivity of the KWHN and that it would result in no significant loss or harm to biodiversity. In the absence of such evidence the proposal should be regarded as also being contrary to Policy LP30 of the LP insofar as it seeks to protect and enhance the biodiversity and geodiversity of Kirklees.

Other considerations

13. The proposal would result in small social and economic benefits, including the support future occupiers would give to local services and during its construction. It would provide a more affordable type of accommodation for a local family wishing to remain in the area and so support the social dimension of the local community. I ascribe negligible additional benefit in respect of accessibility to local services however, as I consider this to be an absence of harm.
14. My attention has been drawn to significant built form opposite the site which I understand is the former Storthes Hall Campus. This is an extensive site which has been redeveloped for student housing and is the subject of a separate allocation under Policy LP59 of the LP. Each case must be determined in its own merits but I do not consider the sites are directly comparable and it adds little in favour.

Planning balance and conclusion

15. The Framework states 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.
16. The other considerations do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness, harm to openness and 5 purposes and other harm in terms of the natural environment. Consequently, the very special circumstances necessary to justify the development do not exist.

17. For the reasons set out above, the proposal would not accord with an up to date development plan, when read as a whole. As such it would not be the sustainable development for which paragraph 11 of the Framework indicates a presumption in favour. Material considerations, including the Framework do not indicate a decision should be made other than in accordance with that plan.
18. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR