
Appeal Decision

Site visit made on 28 July 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2020

Appeal Ref: APP/N4205/W/20/3251456

Land off Dunscar Fold, Bromley Cross, Bolton

- 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 Nigel Ainscow against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 06889/19, dated 10 September 2019, was refused by notice dated 5 November 2019.
 - The development proposed is erection of up to 5 residential dwellings (all matters reserved).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline with all matters reserved for future consideration. I have determined the appeal on this basis treating the supporting concept and configuration plans as illustrative.
3. The Council have confirmed that they do not dispute the evidence presented by the Appellant following the submission of additional information regarding the suitability of the site for mineral extraction and no longer wish to defend the third reason for refusal. I therefore do not address this matter in the reasoning below.
4. In the Council's officer report the appeal site is said to be within the Dunscar Fold Conservation Area, however both the Council Conservation and Design Officer in the consultation response and the Appellant, describe the appeal site as being adjacent to the conservation area, and I have considered the appeal on this basis.

Main Issues

5. The main issues in this case are:
 - Whether the development would be limited infilling in a village, and as such;
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness and purposes of the Green Belt;

- The effect of the proposal on the character and appearance of the surrounding area and in particular the setting of the Dunscar Fold Conservation Area; and
- If the proposal is inappropriate development 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

Limited Infilling

6. There are two key questions that need to be assessed in respect of the arguments presented. Is the site part of and subsequently within a village, and if so, does the development represent limited infilling? Dunscar Fold is a small cluster of buildings centred around the former Dunscar Fold Farm and Dunscar House and a series of converted outbuildings. These dwellings form an attractive cluster of stone properties. Set back off the main roads, this cluster forms a group which extends into the countryside which comprises an area of attractive undulating fields interspersed with woodland.
7. The appeal site is located to the south east of this cluster. It rises markedly from the road which serves the site and connects Blackburn Road to Darwen Road. It is set behind a low stone wall which creates a strong linear edge to this pleasant grassed bank. Opposite is the steeply sloping hillside of the Eagley valley, which drops away to the water course running along the valley bottom. This is an area of mixed grass and woodland forming an attractive rural backdrop.
8. The appeal site and the cluster of buildings of Dunscar Fold have quite a different character and appearance from the properties that front onto Darwen Road, and despite the close proximity have a feeling of countryside as opposed to urban edge. This is further emphasised by the physical separation from Darwen Road and the approach to the site from this direction, with the fields and trees creating a strong visual break. I do not consider that either the appeal site or the cluster of buildings that form Dunscar Fold form part of a village.
9. Even had I considered this element differently, the scale of the site with a frontage in the region of 85m, would not be limited infilling. The site creates a significant visual gap between the properties of Dunscar Fold and the small number of detached properties to the south west. When approaching the site from the south west along the access road, the raised grass bank of the appeal site creates a significant visual break, providing a pleasant rural scene, that if developed, I do not consider would result in limited infilling.

Whether inappropriate development in the Green Belt

10. The appeal site is situated in the Green Belt. The National Planning Policy Framework (the Framework) indicates (para 145) that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
11. In light of my conclusions above that the proposal could not be reasonably considered to be limited infilling within the village the proposal would represent

inappropriate development in the Green Belt and consequently, by definition the proposal would be harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt.

Effect on the Openness of the Green Belt

12. The development of the site as proposed would add up to 5 dwellings on a site where there are currently no buildings. Openness is an essential characteristic of the Green Belt and there is no doubt that the construction of up to 5 houses would result in a significant adverse effect on the openness of the Green Belt in this location.
13. While the site is screened to a significant extent from both of the main roads by the extensive woodland planting and changes in ground levels, its openness is apparent when passing by the site from the private road which runs along the frontage which also serves as the route of a public right of way. Green Belt policy is to prevent urban sprawl by keeping land permanently open and the absence of any buildings on this site currently assists in achieving these aims.
14. On the basis that I have characterised the site as open countryside rather than as part of a village, the development would lead to encroachment of development into the countryside and would impact on the related Green Belt purpose. I conclude that the development would lead to a significant loss of Green Belt openness and would impact on the Green Belt purpose of assisting in safeguarding the countryside from encroachment.

Character and Appearance

15. The site creates an important visual break from the cluster of dwellings at Dunscar Fold to the large detached buildings to the south west. It is an open area set behind a stone wall and the addition of up to 5 new homes would materially change the appearance of the site extending the built form into this area of countryside. Additionally, the Conservation Area Appraisal states; *"There are open fields to the south of Dunscar and to the north and west, wild areas slope steeply down to a brook and grazing land. The trees and open spaces make a vital contribution to the character of Dunscar Fold as they provide a setting for the buildings and emphasise the settlement's rural origins."*
16. The development would erode the contribution that the field makes to the open countryside in this location. Although the design of the dwellings, and enclosures could respect local vernacular and suitable landscaping could be incorporated, the very presence of development would have a negative impact on the experience for those walking, cycling and riding along the road or using the public footpath which fronts the appeal site.
17. For these reasons the development would have an adverse impact on the character and appearance of the area and the setting of the Dunscar Fold Conservation Area. The proposal would therefore be in conflict with policies CG3 and OA5 of the Bolton Core Strategy (CS) (2011) which amongst other things aim to achieve development that respects the landscape character of the countryside.

Other Matters

18. I have been referred to another appeal decision at Kelsall relating to a scheme for 2 dwellings. However, in that case, Kelsall was regarded as a village, and the Council accepted it formed part of the urban area as such while the frontage of that site was indicated to be around 100m, the Inspector also made clear that this in many cases would not be regarded as a small gap, but each case needs to be assessed on the specific context of the site in question. This is the process I have undertaken here and as indicated earlier I do not consider this scheme would represent limited infilling, as such I do not consider this appeal proposal is similar.
19. Policy CG7AP of the Bolton Allocations Plan (AP) (2014) is not entirely consistent with the policy in the Framework as it seeks to allow limited infilling within two villages, this is inconsistent with the Framework and the policy cannot therefore be afforded full weight as has been previously recognised by the Inspector who dealt with the case referred to in Westhoughton for a single dwelling. Nevertheless, I have assessed the proposal against the tests in the Framework and do not find it can be regarded as limited infilling.
20. It is not disputed that the Council do not have a 5 year supply of deliverable housing, but I am not given further information on how great a shortfall there might be. The Appellant also accepts, however that the tilted balance does not apply. Clearly if the appeal were to be allowed it would add to the supply of houses in the borough, and this must be regarded as a positive element of the proposal, but being limited to no more than 5, I consider the benefit can be given only moderate weight in my decision.
21. The design and innovation statement prepared on behalf of the Appellant presents an argument that in the event I consider the proposal inappropriate development, then very special circumstances are present that would warrant support for the scheme in any event. This argument is made up of several elements. That the houses would be of exceptional design; it would add positively to the knowledge of sustainable developments and construction methods through the use of enhanced ecology, a zero-carbon design, sustainable construction and the use of local and reclaimed materials.
22. I understand that these are all laudable aims, but this scheme is in outline with all matters reserved. It is therefore not possible to assess whether each of these individual elements would achieve what the Appellant hopes to achieve. The design and all the elements that go into it are reserved for future consideration, and no evidence has been presented that suggests this could be resolved through the provision of a suitable condition on an outline application such as this.
23. It is also not possible to assess the claims that the construction methods, environmental credentials such as zero-carbon standards, sustainable construction or use of local and reclaimed materials might contribute to improving understanding as suggested. It is not currently known what methods would be used and therefore what new information might be gleaned from them. Under the current proposal none of these elements are before me to be considered and therefore can only be given limited weight in my decision.

24. The Appellant has also referred me to a series of legal cases covering matters on the concept of openness, and the courts understanding of what might constitute very special circumstances. I have borne these in mind and applied the relevant legal principles in my consideration of the appeal on its own particular facts.

Conclusions

25. As I have concluded the development proposed amounts to inappropriate development in the Green Belt, very special circumstances need to exist for the appeal to be allowed. Very special circumstances can arise from a combination of circumstances. In assessing the proposal before me it is necessary to balance all the elements that weigh in favour of the proposal against the harm to the Green Belt by way of inappropriateness and any other harm. The harm to the Green Belt by reason of inappropriateness is an element which must be afforded substantial weight. Additionally, I have found harm to openness, affecting the purposes of the Green Belt and to the character and appearance of the countryside.
26. The Appellant submits the appeal would allow the provision of 5 new homes in an area with a recognised shortfall in housing delivery, this would also bring about economic benefits during construction and subsequent occupation which I afford moderate weight.
27. I have considered all the various elements in support of the appeal, however I conclude on the particular facts of this case, that the material considerations in support of the appeal, either on their own or in combination, do not outweigh the harm to the Green Belt by reason of the inappropriateness and the other harm which I have identified. They do not amount to very special circumstances in the context of this case.
28. For the reasons indicated, the scheme conflicts with AP policy CG7AP and the Framework which seek to avoid inappropriate development in the Green Belt and CS policy CG3, and OA5, which protect the landscape character of the countryside.
29. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

Edwin Maund

INSPECTOR