
Appeal Decision

Site visit made on 28 October 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Appeal Ref: APP/X4725/W/20/3255360

Land at Carr Lane, South Kirkby, Pontefract WF9 3DF

- 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 J Dwyer against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 19/02813/OUT, dated 20 November 2019, was refused by notice dated 11 February 2020.
 - The development proposed is the erection of 9 low cost dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the appeal development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and the Local Plan;
 - The effect on the openness of the Green Belt;
 - The effect of the proposed development on highway safety;
 - The effect of the proposed development on ecology;
 - If the appeal development 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 it.

Reasons

Site and proposal

3. The appeal site is a rectangular area of undeveloped land at Carr Lane. It is situated towards the north of South Kirkby that is a small town that is amalgamated with the adjacent settlement of Moorthorpe. It sits in a corner location between the junction of Carr Lane and an access road which leads to a cemetery and allotments. There is a terrace of residential properties and a former chapel, now funeral directors, on each side of the appeal site, with open land to the front and rear. The appeal site is located within the Green Belt.

4. The application was in outline with all matters reserved save for layout and access. The layout shows 9 dwellings are proposed, three pairs of semi-detached dwellings and a terrace of three dwellings, following the same building line as the existing terrace adjacent to the site.

Whether or not inappropriate development

5. The National Planning Policy Framework (2019) (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145. Two of the exceptions cited are e) the limited infilling in villages and g) the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. For the latter exception, the development must not have a greater impact on the openness of the Green Belt than the existing development; or 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 within the area of the local planning authority. Policies CS1 and CS3 of the Wakefield Local Development Framework Core Strategy (2009) and Policy D1 of the Wakefield Local Development Framework Development Policies Document (2009) accord with the aims of national Green Belt policy in these respects.
6. Firstly, considering the proposal against exception e) the appellant has referred to a court of appeal judgement¹, although I am not provided with a copy of the transcript, the appellants citation only adds to that outlined in the Framework in relation to sites which are not located within designated infill boundaries. The Framework does not provide a definition of infilling. The appellant refers to the glossary of planning terms on the Planning Portal where infilling is defined as 'the development of a relatively small gap between existing buildings'. Although the glossary outlines that it is neither a statement of law nor an interpretation of the law and its status is only an introductory guide to planning issues, I can accept that it provides a useful reference on the subject.
7. The appeal proposal would serve to fill a gap in an otherwise developed road frontage between existing buildings. In this sense, the development may be considered to be infill. However, this is but one criteria of the exception, the others being that it must also be 'limited' and in a village.
8. The Framework does not provide a definition of what constitutes 'limited'. The reference to 'limited' in exception e) of the Framework requires a consideration of both the scale and form of the development and has to be interpreted in the context of the overall aim of Green Belt policy, which is to preserve the openness of the Green Belt. This implies minimising the loss of significant open gaps between buildings. The proposed development, comprising 9 dwellings spread across almost the full width of the site, that has a notable open aspect in the area, would not for these reasons constitute 'limited' infilling.
9. The Framework does not provide a definition of what constitutes a village. The Oxford English Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. Taking this definition, it is clear to me that South Kirkby, due to the

¹ Wood v Secretary of State for Communities and Local Government [2015] EWCA Civ 195

amount of buildings and services, including a large business park, is not a village. Were I to consider the site on a more micro level, in its immediate context of the residential properties on Carr Lane, sitting separate from South Kirkby, in this context, the immediate area would not contain any basic services or amenities and as a result it would be too small to constitute a village. Either way, it is clear to me that the site is not within a village for the purposes of 145 e).

10. Exception g) refers to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. The site is mostly open and overgrown by vegetation. Although both parties agree that the site did at some point contain built development, I did not observe any evidence on my site visit of the previous development. In reference to the definition of previously developed land in the Framework, any remains have blended into the landscape. In such instances, the land may not be considered as previously developed and as a result the proposal would not constitute the form of development outlined in 145 g). Even if I were to accept that the appeal site constitutes previously developed land, I do not have sufficient comparison between the previous development or the proposed development to conclude that there would be no greater impact on the openness of the Green Belt.
11. For these reasons, the proposal would not constitute one of the exceptions outlined in the Framework and would therefore be inappropriate development in the Green Belt.

Openness

12. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual aspect. The proposal would result in the construction of 9 dwellings where there are currently no buildings. It cannot fail but to have a greater impact on the openness of the Green Belt in spatial terms, and thus cause harm. I find that considering the overall size and scale of the development and the absence of any existing buildings on the proposed site, such harm would be significant.
13. The development would be in a prominent corner location. It would significantly detract from the existing open views across the site, most notably from the road and from the rear. Consequently, due to its prominence by reason of its size and scale, the proposal would have a significant impact on the openness of the Green Belt in visual terms. The harm to the openness of the Green Belt from a visual aspect, would be significant.
14. I therefore consider that in both spatial and visual terms the proposal would cause significant harm to the openness of the Green Belt. Furthermore, in doing so the scheme also fails to assist in safeguarding the countryside from encroachment, one of the 5 purposes of the Green Belt, and would therefore not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. Collectively, I give this harm substantial weight.

Highway Safety

15. In relation to the highway considerations of the development, the Council's third reason for refusal cites insufficient parking and access for plots 1 and 8

- and direct accesses being within 20m of the junction with the road leading to the cemetery and allotments.
16. The section of Carr Lane on which the appeal site is located provides access to a group of around 17 dwellings. It is not a through road, with a dead end shortly after the last property. I observed that the corner junction with the access road to the cemetery and allotments is not heavily used, although I accept that its use would increase during funerals.
 17. The Council comment that the driveways for plots 1 and 8 are substandard in both length and width, with no further details as to what the standard is, or by how much they are deficient. From the details before me they would appear capable of accommodating a vehicle, and in any event if their size results in parking on-street, given the width of the road and low level of traffic movements, I do not consider that this would result in harm to highway safety.
 18. On the matter of accesses being close to the junction, the Council comment that it is considered good practice to restrict vehicular access within 20m of a junction. I do not doubt that for well-used junctions such good practice is necessary, however in this instance, given the low level use of the junction combined with the number of accesses that would be within 20m, it does not lead me to conclude that the proposed arrangements would result in harm to highway safety.
 19. In conclusion, the proposed development would therefore not have an unacceptable impact on highway safety. It would comply with Policy D14 of the Wakefield Local Development Framework Development Policies Document (2009), which requires, amongst other things, that development proposals can be accessed conveniently and safely.
 20. It would also comply with paragraph 109 of the Framework which outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe

Ecology

21. The appeal site lies within a bat alert zone and is adjacent to South Kirkby Marsh, a nature conservation site. The Council consider that there is no evidence to show that the proposal would not result in harm to protected species and would fail to provide measurable biodiversity net gain.
22. Although any necessary mitigation and enhancements, where relevant, could be secured by an appropriately worded condition or agreement, I am not presented with any form of appraisal to outline what, if any, mitigation is required or what form any enhancements that would provide measurable biodiversity gain could take.
23. I therefore conclude that insufficient information has been provided to undertake an assessment of the ecological impacts of the development, and as such it would be contrary to Policy CS10 of the Wakefield Local Development Framework Core Strategy (2009) and Policy D9 of the Wakefield Local Development Framework Development Policies Document (2009) which require, amongst other things, that new development protects and enhances biodiversity.

24. It would also be contrary to paragraph 170 of the Framework, which requires, amongst other things, that planning decisions should minimise impacts on and provide net gains for biodiversity.

Other considerations

25. The proposed development is for the provision of affordable housing in the form of starter homes, in what would appear to be a sustainable location. Such a provision is a benefit of moderate weight.

Planning Balance

26. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 continues by stating that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
27. The proposal would constitute inappropriate development in the Green Belt. Therefore, it is by definition harmful to the Green Belt, which the Framework indicates should be given substantial weight. In addition, significant harm would be caused to the openness of the Green Belt and the purposes of including land within it, and there is insufficient information in relation to the ecological impacts of the development. Having considered all matters raised in support of the proposal, I conclude that they do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
28. Therefore, the proposal would be contrary to Policies CS1, CS3 and CS10 of the Wakefield Local Development Framework Core Strategy (2009) and Policies D1 and D9 of the Wakefield Local Development Framework Development Policies Document (2009), which require, amongst other things, that developments in the Green Belt conform to national policy relating to the Green Belt and that new development protects and enhances biodiversity. The proposal would also be contrary to the Framework.

Conclusion

29. For the reasons given above, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR