



Appeal Decision

Site Visit made on 28 January 2021

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal Ref: APP/X4725/W/20/3260181

Builders Yard (land adjacent to former Pineapple PH), Wakefield Road, Warmfield, Wakefield WF1 5TP

- 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 M Bennett against the decision of Wakefield Metropolitan District Council.
 - The application Ref 20/00412/FUL, dated 18 February 2020, was refused by notice dated 18 September 2020.
 - The development proposed is construction of single storey dwelling including removal of existing buildings and cessation of use of land as builders yard including associated landscaping, surfacing and works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of single storey dwelling including removal of existing buildings and cessation of use of land as builders yard including associated landscaping, surfacing and works at Builders Yard (land adjacent to former Pineapple PH), Wakefield Road, Warmfield, Wakefield, WF1 5TP in accordance with the terms of the application, Ref 20/00412/FUL, dated 18 February 2020, subject to the conditions contained in the schedule at the end of this decision.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as this is more accurate.

Main Issues

3. The appeal site is within the Green Belt and so the main issues are:
 - Whether the appeal development is inappropriate development in the Green Belt, having regard to the effect on the openness and purposes of the Green Belt, for the purposes of the National Planning Policy Framework (the Framework);
 - 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

4. The appeal site comprises an existing builder's yard. It contains a cluster of small storage buildings. At the time of my visit the site also contained a caravan, building materials, stacked pallets and other related paraphernalia randomly spread across the site. The site was bounded by steel mesh fencing.
5. The site is located adjacent to an existing residential property that was previously a public house. It is bounded to the north by Wakefield Road, from which vehicular access is taken. There are existing terraced properties opposite the site on Wakefield Road. The remaining boundaries are shared with open agricultural fields. The site occupies an elevated position whereby it is visible from a wide area when travelling in an eastward direction on Wakefield Road.
6. The existing builder's yard, which along with the buildings on the site, benefit from a certificate of lawfulness. The proposal would include cessation of the builder's yard use and the clearance of the site of the existing buildings and associated paraphernalia.
7. The proposed dwelling would be single storey and would be partially submerged within the slope of the site.

Whether or not inappropriate development

8. 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. One of the exceptions cited is g) the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. For this 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.
9. The appellant considers that as the proposed development would be located on previously developed land it would comply with exception g). Although the proposal would satisfy this element of the exception, it is also required not to have a greater impact on the openness of the Green Belt.
10. 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.
11. Taking into account the existing buildings and the use of the land against the well-considered submerged design of the development, I do not consider that the proposal would have a greater impact on the openness of the Green Belt than the existing lawful development from a spatial aspect. Similarly, in visual terms the proposed development, due to its design, scale and siting would be less conspicuous than the existing lawful operation and would certainly have no greater impact on openness than the existing lawful development from a visual point of view.

12. I therefore consider that in both spatial and visual terms the proposal would not have a greater impact on the openness of the Green Belt than the existing situation. Furthermore, in doing so the scheme would not be contrary to the requirement of the Green Belt in assisting in safeguarding the countryside from encroachment, one of the 5 purposes of the Green Belt, and would therefore comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.
13. For these reasons, the proposal would constitute one of the exceptions outlined in the Framework and would therefore not be inappropriate development in the Green Belt. It would comply with 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), which require, amongst other things, that developments in the Green Belt conform to national policy relating to the Green Belt. The proposal would also comply with the Framework.

Other Matters

14. I have considered the issues raised by the Planning Committee and the representations that were received to the original planning application and to the appeal.
15. Reference is made that the existing builder's yard is not significant by comparison to other builder's yards and has operated without consent for over 30 years. On these points, I am not in receipt of evidence comparing with other builder's yards and have considered the proposal on the basis of the submitted evidence and my findings on site. That the builder's yard has operated without consent for 30 years has little weight given the lawful development status of the site, for which the purposes of achieving are not relevant factors.
16. Comment is made that the site could return to open land which is a use more in keeping with the open character of the Green Belt. Any such proposal is not before me and I have determined the appeal on the basis of the proposed development against national and local planning policy and other material considerations, most pertinently the existing lawful use of the site.
17. I have not been presented with any substantive evidence relating to the structural integrity of the existing buildings to give this matter significant weight.
18. Comments relating to the access arrangements and their impact on highway safety are not pertinent to the main issues and I do not have any substantive evidence that the proposed development would cause harm to highway safety or have severe impacts.
19. The impact of a development on a view as it is experienced from a residential property is seldom a material consideration of such weight to withhold planning permission. Either way, considering the appeal proposal and its design, scale and siting against the existing configuration and use, I do not find harm in this regard.
20. I have considered the suggestion that the grant of planning permission would set a precedent for other similar developments. However, no directly similar or comparable sites to which this might apply have been put forward. Each application and appeal must be determined on its individual merits, and a

generalised concern of this nature does not justify withholding permission in this case.

21. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.
22. I have considered the comments made by the Police Architectural Liaison Officer. A number of domestic security measures are recommended, however there is no substantive evidence that the development would be susceptible to crime that would lead to the requirement to impose these measures by planning condition.

Conditions

23. I have considered the conditions the Council have put forward in the event the appeal is allowed.
24. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty. The Council recommends a further 15 conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.
25. A condition removing permitted development rights should only be imposed in exceptional circumstances. I consider that given the Green Belt location of the appeal site, such a condition is necessary in this instance.
26. Conditions requiring the demolition and removal of the existing buildings and the cessation of the use of the site as a builder's yard are necessary in the interests of the openness of the Green Belt.
27. A condition stipulating the finished floor levels and roof levels is necessary in the interests of the openness of the Green Belt.
28. Conditions requiring the submission of details of materials, implementation of the landscaping scheme, and details of boundary treatments are necessary in the interests of the character and appearance of the area.
29. A condition relating to details of external lighting is necessary in the interests of highway safety and the living conditions of occupants of nearby residential properties.
30. A condition requiring that in the event that contamination is found, a remediation report and validation statement, and that all remediation shall be carried out prior to development commencing, is necessary to ensure the site is free from contamination in the interests of public health and safety.
31. Conditions requiring the implementation of areas for vehicles and pedestrians, a scheme for the stopping up of the existing access, details of highway retaining walls, details of the proposed access and visibility splays are required in the interests of highway safety. Given the imposition of these conditions, a condition requiring the submission of a Road Safety Audit is not necessary for the development of one dwelling in this location, and the traffic movements associated with that dwelling, particularly in view of the existing use on the site.

Conclusion

32. Given my finding that the proposal does not represent inappropriate development in the Green Belt, and there is no other harm, it is not necessary for very special circumstances to exist to justify the development.
33. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans, but only in respect of those matters not reserved for later approval, as listed below unless required otherwise by this decision or its attached conditions: Plans – 2132-1, received 19th February, 2132-2 received 19th February, 2132-3revC received 20th May 2020, 2132-4revB received 20th May 2020, 2132-5revC received 20th May 2020, 2132-1F-OS received 20th May 2020 and PWP.407.001rev02 received 20th May 2020.
- 3) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order) no development included within part 1 and/or part 2 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.
- 4) Construction of the dwelling hereby approved shall not commence until all existing buildings at the site have been demolished or otherwise removed from the site.
- 5) Construction of the dwelling hereby approved shall not commence until the use of the site as a builder's yard has ceased. Upon the commencement of the construction of the dwelling the use of the site shall only be for a residential purpose falling within use class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 6) The finished floor level of the development shall be 63.25m above ordinance datum (AOD) and the roof shall be at no greater level than 66.41m above ordinance datum (AOD). The development shall be carried out in accordance with the finished floor and slab levels approved by this condition. The approved finished floor and slab levels shall be so retained for the lifetime of the development.
- 7) Notwithstanding the submitted drawings, construction of the building and access hereby approved shall not commence until details of all external materials and surfacing to be used have been submitted to and approved in writing by the Local Planning Authority. No materials and surfacing other than

- those approved in accordance with this condition shall be used which shall thereafter be retained and maintained for the lifetime of the development.
- 8) The development hereby approved shall not be brought into use until the submitted landscaping scheme detailed upon submitted drawing PWP.407.001rev02 has been completed. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation. All areas of soft landscaping approved by the scheme which is approved by this condition shall be thereafter retained and maintained as soft landscaped areas.
 - 9) Notwithstanding the approved plans, the development shall not be brought into use until a scheme detailing the boundary treatment of the site has been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the works comprising the approved scheme have been completed. The scheme shall thereafter be retained and maintained for the lifetime of the development.
 - 10) No external artificial lighting shall be erected within the site, unless and until details of size, location, orientation, lighting level and any associated fixing apparatus have first been submitted to and agreed in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved details and maintained whilst ever it remains in situ.
 - 11) In the event that contamination is found at any time when carrying out the approved development, works must cease, and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with best current guidance and practice, and where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following the completion of the measures identified within the approved remediation scheme, a verification report must be prepared, submitted to, and approved in writing by the Local Planning Authority in accordance with the timescales set out within the approved remediation scheme.
 - 12) The development shall not be brought into use until all areas indicated to be used for vehicles and pedestrians on the approved plans have been laid out with a hardened, sealed and drained surface. Provision shall be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the property. Should permeable or porous surfacing be intended to be used the development shall not be brought into use until a scheme has been submitted to, and approved in writing by the Local Planning Authority, which details the intended surfacing to areas for vehicles and pedestrians. The scheme shall be implemented in accordance with the surfacing approved by this condition and thereafter retained and maintained.
 - 13) The development hereby approved shall not be brought into use until a scheme relating to the stopping up of the existing access has been submitted to, and approved in writing by, the Local Planning Authority. The submitted scheme shall detail measures to ensure use of the access by pedestrians and vehicles ceases and what landscaping shall be implemented as part of the scheme to stop up the access. The development shall not be brought into use until the

approved scheme has been implemented. The approved scheme shall be thereafter retained and maintained for the lifetime of the development.

- 14) Construction of the dwelling hereby approved shall not commence until a scheme relating to the construction of retaining walls has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall present details of any works to be implemented to ensure stability of the walls and adjacent land, including details of surface land drainage associated with any works, and shall detail the intended materials of construction of the walls. The development shall not be brought into use until the approved scheme has been implemented. The approved scheme shall be thereafter retained and maintained for the lifetime of the development.
- 15) Construction of the dwelling hereby approved shall not commence until such time as detailed plans of the proposed access junction from the site onto Wakefield Road have been submitted to and approved in writing by the Local Planning Authority. All construction works shall be carried out in accordance with the details shown on the approved plans and retained thereafter.
- 16) The development shall not be brought into use until a plan presenting sightlines from the new access visibility splays have been provided, the sightlines shall be thereafter retained and maintained such that there is no obstruction to visibility exceeding 1.0m in height above the adjacent carriageway channel line.