
Appeal Decision

Site visit made on 4 May 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2021

Appeal Ref: APP/X1355/W/20/3264212

**Tiana Lane, Pittington Road, Rainton Gate, Houghton-le-Spring, Durham
DH5 9RG**

- 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 Chantelle Morrison against the decision of Durham County Council.
 - The application Ref: DM/20/02163/FPA, dated 6 August 2020, was refused by notice dated 12 November 2020.
 - The development proposed is the erection of a single storey dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are a) whether the proposal would constitute inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (Framework) and the development plan policy, b) the effect on the openness and the purposes of the Green Belt, c) the effect on the character and appearance of the area, d) whether it would be in a suitable location with regard to the accessibility to services, and e) if it 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

3. The appeal site comprises a parcel of land that lies to the rear of a residential property known as 'The Rowans'. It consists of areas of loose stone and cleared land. At the time of my site visit, there was a static caravan with associated decking, two touring caravans and related domestic paraphernalia. The site also contains a dedicated access off Pittington Road that runs to the side of the property to the front. Overall, the site has a tidy and maintained appearance.
4. The boundaries of the site are defined by close boarded fencing, apart from along the west boundary where there is a line of trees. The rear garden of a further residential property known as 'Melrose' is found to the north, with a field to the west and then the A690 dual carriageway. A further field is located to the south and then a farm shop. There are dwellings on either side of

Pittington Road up to the site access, beyond which development becomes more occasional. The site lies in the Green Belt.

Inappropriate Development

5. Paragraph 145 of the Framework states that the construction of new buildings is inappropriate in the Green Belt unless, amongst other exceptions, it involves, limited infilling in villages. Policy 20 of the Council's County Durham Plan (2020) (CDP) states that development proposals within the Green Belt will be determined in accordance with national planning policy.
6. The Framework does not define limited infilling and accordingly it is essentially a question of fact and planning judgement for the decision maker. This needs to have regard to the nature and size of the proposal, the location of the site and its relationship to existing development adjoining and adjacent to it.
7. In this regard, the proposal would be located adjacent to one dwelling, 'The Rowans'. It would not adjoin another dwelling, only the rear garden of 'Melrose', as the house on that plot of land is positioned forward towards the road. With the other boundaries of the site abutting fields, the site does not reasonably constitute a gap between existing built development. Nor is the level of self-containment of the site a factor that can be attributed significant weight because this exception is concerned with how a proposal would relate to its surroundings. With the lack of juxtaposition to other built development apart from on one side, the proposal would not constitute 'infilling.'
8. The proposal would be 'limited' in the sense that it would constitute one dwelling. I would also accept that with the number of dwellings alongside Pittington Road and as the lack of a settlement boundary is not determinative in this regard, that it would be in a 'village'. However, as it would not constitute infilling, this exception does not apply.
9. Based on what I observed on the site and the historical usage for coal and rail purposes that I have been referred to, I am also mindful of the exception under paragraph 145 which concerns limited infilling or the partial or complete redevelopment of previously developed land. This was also referred to in the submissions related to the planning application. The structures on the site are of a temporary nature and so therefore are excluded under this exception and the cleared land also does not have the appearance of previously developed land. There is no sign remaining of the historical usage. Hence, this exception also does not apply.
10. When judged against the Framework, the proposal would be inappropriate development in the Green Belt. Paragraph 143 of the Framework establishes that inappropriate development is by definition harmful to the Green Belt. For similar reasons, it would also not comply with Policy 20.

Openness and Purposes

11. Openness is an essential characteristic of the Green Belt. The proposal would alter the area of land on which it would be sited so that it would contain the built form of a bungalow type property with an elongated footprint. It would introduce a permanent building to a site where there is currently none. The cleared area of the site would not be subject to development, albeit a new fence would be formed to separate off this part of the site. The remaining

areas of the site would be grassed, or used for the parking of vehicles. The access arrangement would largely remain the same.

12. In terms of the visual aspect of openness, the effect would be more modest due to the physically contained nature of the site with the fencing and the trees on the boundaries, and its proximity to other development along Pittington Road. It would be seen in this context with the restricted views there would be from the road, as well as from other vantage points. The single storey form of the proposed dwelling would also contribute to the limited visibility beyond the site boundaries.
13. In taking these factors together, there would be a limited adverse impact on the openness of the Green Belt. It would not therefore preserve the openness of the Green Belt. Openness cannot be preserved if there is a finding that there would be an adverse impact on it.
14. Of the five purposes that paragraph 134 of the Framework identifies that the Green Belt serves, it is the purpose to assist in safeguarding the countryside from encroachment that is in dispute between the main parties. The site performs a transitional role between the built development on Pittington Road and the largely countryside surroundings. By introducing the built form of a permanent dwelling onto the site, it would result in the incursion of built development beyond that found on the neighbouring properties, and onto more open land. The enclosed nature of the boundaries do not in themselves have a bearing in relation to encroachment as this would be caused by the proposal itself.
15. Such an effect would be modest as it would result from a single dwelling on a fairly small sized parcel of land. Nevertheless, it would conflict with the Green Belt purpose to assist in safeguarding the countryside from encroachment.

Character and Appearance

16. In relation to the effect on the countryside, the appellant has pointed to a lack of defined settlement boundaries within the CDP, whereas the Council takes a more character based approach in its deliberations. I favour the Council's overall method because the effects on the character and appearance are reliant on appraising the particular qualities of the location. However, this does not in itself lead to an automatic detrimental effect if a site is deemed to be in the countryside because this is dependent on assessing what the character impacts would likely be.
17. Such effects would be limited because the site is well screened from its countryside surroundings and as the proposed dwelling would be single storey. It is beyond the site that dwellings become more sporadic along Pittington Road and where the countryside qualities are more evident. Hence, the rural character and appearance of the immediate area would not be unacceptably harmed in this regard. There would also be limited visibility because of its discrete location and form. That the design would be unassuming would mean that it would not draw attention to itself.
18. As the site already forms a separate parcel of land, that it would be located to the rear of 'The Rowans' is also not decisive. The contrast with the ribbon development along Pittington Road needs to be considered in these terms, in particular as it would be contained within the boundary between these

properties and the field to the west. The ribbon development in any event dissipates into more sporadic development past the site entrance.

19. I have been referred to the Fieldhouse Farm appeal decision¹ and have been informed that it was refused on character and appearance grounds. This site lies further down Pittington Road and into open countryside where development is of a more occasional nature, based on the evidence before me. The site circumstances are sufficiently different so as to not alter my view.
20. This issue is also a separate matter from the safeguarding the countryside from encroachment purpose because that relates to the protection of the Green Belt, not the effect on the character and appearance of the countryside.
21. I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. As such, it would comply with Policy 10 of the CDP in relation to the general design principles that it sets out, including where new development must not give rise to unacceptable harm to intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for, amongst other considerations.
22. The proposal would also comply with Policy 31 of the CDP as far as it is concerned with character and appearance matters, as regards avoiding unacceptable impacts on the natural environment. Policy 21 is also included in the Council's related reason for refusal. As this concerns delivering sustainable transport, it has a limited bearing on character and appearance matters.

Accessibility to Services

23. The nearest services to the site comprise the farm shop and a small row of local shops which are found in Rainton Gate that lie a short distance beyond the A690. There are also more distant and dispersed services in West Rainton, including a primary school and a post office. There is footway access to these services. There are also bus stops with services to Durham and, in the opposite direction, towards South Shields and through West Rainton. These are also found a fairly short distance from the site.
24. Apart from accessing the farm shop and the bus stop with services towards Durham, pedestrians would have to cross the A690. Whilst this is a well-trafficked route, there is a widened central reservation with its own footway that allows each carriageway to be crossed in turn. As a result, this route for pedestrians to the services and the bus stop on the opposite side of the A690 affords safe passage.
25. In taking these considerations together, the services are within reasonably convenient walking distances from the site. The bus stops also offer services to destinations with a wider range of facilities, and so the proposal would not have poor access. It would be in a location that encourages the use of modes of transport other than the car and so would not be heavily reliant upon trips by such vehicles.
26. The Settlement Study (2018) that formed part of the evidence base for the CDP considered that Rainton Gate had a low amount of services and facilities, whilst West Rainton had a modest number. However, for the reasons that I

¹ Appeal ref: APP/X1355/W/18/3215186

have set out above, the services and facilities would not be inadequate for the proposal that is for my consideration, also when the accessibility to other larger settlements is considered by utilising public transport.

27. I reach a similar view with regard to the other appeal decisions that I have been referred to. As the Fieldhouse Farm decision concerns a site that lies further down Pitlington Road, the proposal that is for my consideration is located where there would be greater accessibility. The Council has stated that Rainton Gate was described in that decision as a 'village with access to more facilities' and that would seem to be a fair description with the bus services that are available. As I have set out, it does also have some local services of its own. The Land off School Lane decision² is in a different part of the country and so it does not meaningfully inform a view on the accessibility of the proposal.
28. I conclude that the proposal would be in a suitable location with regard to the accessibility to services. As a result, it would comply with Policy 21 of the CDP which concerns the delivery of sustainable transport, including its order of priority for modes of transport and where it states that development is to clearly link to existing services and facilities together with existing routes for the convenience of users. It would also comply with Policy 29 of the CDP as far as this policy is relevant to accessibility to services as an aspect of sustainable design.
29. The proposal would also accord with Part 9 of the Framework where it concerns similar matters in relation to promoting sustainable transport modes and giving priority to walking, cycling and public transport.

Other Considerations

30. The appellant and the associated family descend from gypsy and traveller origins. They seek to become permanently settled in a bricks and mortar dwelling, hence the proposal. The submissions state that they currently reside with a number of other members of the family where living conditions are said to be far from satisfactory.
31. I have been made aware that the appellant and the family have lived in the area for their entire lives, the employment and the occupations of the appellant and her husband, as well as local charity work that has been undertaken. A settled base would also allow the children to continue attending the same schools and nurseries. A number of letters of support have been provided, including from the local school and other local organisations. In addition, the proposed dwelling would be adapted for a family member who has care needs and this would also allow the appellant to carry out daily care and family responsibilities.
32. I am not unsympathetic to these needs, both from personal and economic perspectives. Having a settled base would clearly be advantageous to the needs of the appellant and the family. The appellant has pointed to where the Framework is concerned with the specific housing requirements of different groups. This includes travellers that do not fall under the definition set out in Annex 1 of the Planning Policy for Traveller Sites (2015). However, the weight that can be attached to such a benefit is tempered by limited evidence that the

² Appeal ref: APP/Z1510/W/20/3247020

family's needs could not be met by the existing housing stock in the area. This is because the proposal is for a bricks and mortar permanent dwelling.

33. Similarly, with regard to those who wish to build their own homes under the Framework, there is not substantive evidence that such a dwelling could not be accommodated on land that is not protected by a Green Belt designation. Concerning the Government's objective under the Framework to significantly boost the supply of housing, such a benefit would be limited in this case as one additional dwelling would result.
34. The appellant has also referred me to Policy 6 of the CDP. This permits development on sites that are outside of the built up area but well related to the settlement, subject to a number of criteria, including with regard to matters where I have found the proposal to be not unacceptable related to character and appearance, and accessibility to services. However, this policy does not concern itself with the Green Belt, other than where it relies on a proposal according with all relevant development plan policies. As a consequence, this does not overcome the conflict with Policy 20, as well as with the Framework.

Balancing Exercise and Conclusion

35. The proposal would constitute inappropriate development in the Green Belt. It would also not preserve the openness of the Green Belt and it would conflict with the purpose to assist in safeguarding the countryside from encroachment.
36. Paragraph 144 of the Framework states that substantial weight is to be given to any harm to the Green Belt. '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. Against the Green Belt harm that I have identified, it is therefore necessary to balance the other considerations. In this case, these centre on the personal and economic circumstances, and the related need for a settled base. With regard to character and appearance and accessibility to services matters, they attract neutral weight.
37. In exercising my function on behalf of a public authority, I am also consciously aware of my duties under the Public Sector Equality Duty (PSED) contained within the Equality Act 2010 which sets out to eliminate discrimination, harassment and victimisation, advance equality and foster good relations, and the protected characteristics under the PSED, including for gypsy and traveller groups. I am also aware of my duties under Article 8 of the Human Rights Act 1998 (Article 8) that bestows the right to private and family life and for the home, and that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Nations Convention on the Rights of the Child.
38. As I have set out above and on the basis of the evidence before me, I am not persuaded that the need for a settled base could not be met by either an existing dwelling or on land that is not in the Green Belt. In addition, the protection of the Green Belt is a matter of legitimate wider public interest. This is reflected by Policy 20, as well as the Framework. Taking into account all of the considerations, I am satisfied that this objective can only be adequately safeguarded if the proposal does not proceed. Not granting planning permission would therefore be a proportionate response that would not violate

the appellant's human rights. In reaching this view, I have also had due regard to my duty under the PSED, as well as under Article 8.

39. Nor would the application of a temporary permission address this harm because it would not be reasonable to apply a related planning condition to a permanent dwelling, even though it would time restrict the harm to the Green Belt.
40. Overall, the other considerations which arise do not clearly outweigh the totality of the harm. Consequently, very special circumstances do not exist. Therefore, the presumption in favour of sustainable development, as is set out in the Framework, does not apply because the application of policies in the Framework that protect areas or assets of particular importance, related to the Green Belt, provides a clear reason for refusing the development proposed.
41. The proposal conflicts with the development plan as a whole with the protection that is afforded to the Green Belt and there are no material considerations to outweigh this conflict. Accordingly, I conclude that the appeal should be dismissed.

Darren Hendley

INSPECTOR