
Appeal Decision

Site visit made on 18 May 2021

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2021

Appeal Ref: APP/A4710/W/21/3268441

Land adjacent to burial ground, Smithwell Lane, Mid Slack, Hebden Bridge

- 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 & Mrs Stansfield and Mr & Mrs Horn against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/01211/FUL, dated 5 October 2019, was refused by notice dated 1 October 2020.
 - The development proposed is the erection of two dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision was based on revised drawings which were received during the course of the application. I have based my decision on the revised drawings which, for the avoidance of doubt, are those listed on the Council's decision notice.
3. There are several listed buildings in the vicinity of the appeal site. I am mindful of my statutory duties under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and have considered the appeal accordingly.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the appeal site, its surroundings and the wider landscape, including with regard to the settings of nearby listed buildings and the adjacent burial ground, which the Council considers to be a non-designated heritage asset (NDHA);
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal

Reasons

Whether the proposal would be inappropriate development in the Green Belt

5. Paragraph 145 of the Framework regards the construction of new buildings as inappropriate development in the Green Belt, with exceptions which include limited infilling in villages (paragraph 145e).
6. Policy GNE1 of the Replacement Calderdale Unitary Development Plan as Amended (the RUDP) states that the Plan will seek to restrain development outside the urban areas through the general extent of the Green Belt. Its aim is consistent with the Framework, which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I therefore afford Policy GNE1 substantial weight.
7. Policy NE7 of the RUDP states that within the defined settlement limits of villages in the Green Belt identified on the Proposals Map, proposals for infill development will be permitted provided that certain specified criteria are met. However, paragraph 145e) of the Framework does not restrict infilling solely to recognised settlements. The more restrictive approach in Policy NE7 is thus inconsistent with the Framework. Accordingly, I afford Policy NE7 limited weight and I have considered the appeal on the basis of the exception as defined in paragraph 145e) of the Framework.
8. Whilst its designation as such is not determinative in itself, Slack is identified in the RUDP as one of the named villages that Policy NE7 applies to. It has groups of buildings alongside Smithwell Lane, Slack Top, Slack Bottom, High Court and Widdop Road, including houses and community buildings. I am therefore satisfied that Slack is a village for the purposes of Paragraph 145e) of the Framework.
9. The southern boundary wall of the appeal site is within the village envelope boundary defined in the RUDP. The remainder of the site, beyond that wall is outside the village envelope boundary. However, in the light of the *Wood* judgment¹, in determining whether the appeal site is in the village of Slack for the purposes of paragraph 145e) I have not considered the village envelope boundary to be determinative. I have based my decision on the situation as it exists 'on the ground'.
10. Slack is a small rural village with historic and ongoing agricultural connections. There are thus close relationships between the village and the fields within the countryside around it, and those surrounding fields form part of the village's context and character. However, it does not follow that those surrounding fields, in agricultural use, are within the village.
11. The site's southern boundary wall is part of an extended length of stone boundary walls located at the back of the verge alongside Smithwell Lane. As such, it has a physical presence as part of the village of Slack and provides a demarcation between the verge alongside the road through the village and the land within the site. I therefore find that the boundary wall is within the village.
12. The site beyond that front boundary wall is part of a large field which is currently used for grazing. The field extends downhill away from Smithwell Lane for some distance and is clearly separated and distinguished, visually and

¹ Julian Wood v SSCLG & Gravesham BC [2015] EWCA Civ 195

- physically, from the gardens of surrounding houses and from the adjacent burial ground by stone boundary walls. The field, including the appeal site, is therefore agricultural in its function and appearance. As such, it is associated with and part of the surrounding countryside, not the village.
13. The appellants consider the site and parts of the field closest to the road frontage to be part of the village. They have not suggested that the whole field is part of the village but that 'there is no defining line which constitutes the village on the ground but a gradient whereby the connection between the land and the village is lessened as the distance between them is increased.' There is no definition of 'village' within the Framework. It is therefore a matter of judgement as to whether the site is within a village for the purposes of 145e). In my view, in deciding whether or not the site is within a village for the purposes of paragraph 145e) it is necessary to consider the built and natural physical features which make up the site's appearance, the use of the land, and its relationship to other nearby features.
 14. Part of the appeal site is between existing houses and adjacent to the boundary wall within the village. There is no physical boundary or other feature on the ground to demarcate the appeal site from the remainder of the wider field that it forms part of. The only physical boundaries are the stone walls around the edges of the wider field. Those stone boundary walls separate the site from the road and from other features including the houses and their plots to either side of the site and the burial ground which, whilst outside the village envelope boundary, has a function associated with the habitation of the village and a clearly defined boundary distinguishing it from the agricultural land within the surrounding countryside around it.
 15. Consequently, from public vantage points on Smithwell Lane and the public right of way to the east, as well as from the gardens of neighbouring properties and from within the site itself, there is nothing physical or functional which differentiates the site from the wider field that it forms part of. The large field, including the site, appears as a single entity. Because of its extent away from Smithwell Lane and its stone boundary walls which physically and visually separate and distinguish it from other features in the village, the field as a whole is viewed and read as part of the surrounding countryside, not part of the village. Given its agricultural use and the boundaries which separate it from surrounding land within the village, and in the absence of any physical or visual boundary separating it from the wider field, the site is used and viewed as part of that wider field. As such, I find that it is part of the countryside and is not within the village.
 16. Although historic maps indicate that structures have been present on parts of the site from time to time in the past, I cannot be certain as to the function of those structures or whether they were associated with the village or with its wider agricultural surroundings. In any event, the form and boundaries of villages can change over time. Although there may have been structures on the site historically, those structures are no longer present, and I must base my decision on the circumstances as they currently exist.
 17. I have been referred to other appeal decisions relating to limited infilling in villages. However, from the limited information before me I cannot be certain that the circumstances in those cases were directly comparable in all respects to those in the appeal before me. In any event, I have determined whether the

current appeal site is within a village based on the particular circumstances of the site in this case.

18. Based on the existing situation on the ground, for the reasons given I conclude that the site is not within the village of Slack. As the site is not within a village, it does not benefit from the exception set out in paragraph 145e) of the Framework. Therefore, notwithstanding submissions before me on the matter, including previous appeal decisions and court judgments, it is not necessary for me to go on to consider whether the proposed development would comprise limited infill for the purposes of paragraph 145e).
19. The proposed development would not fall within any of the exceptions set out in paragraph 145 of the Framework. It would therefore represent inappropriate development which is, by definition, harmful to the Green Belt and which should not be approved except in very special circumstances. The scheme would also result in the encroachment of an urban form of built development into the countryside, in conflict with one of the purposes of the Green Belt as set out in the Framework.

The effect on openness

20. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and permanence.
21. I have had regard to the *Lee Valley* judgment², including its finding that where development is found not to be inappropriate it should not be regarded as harmful to the openness of the Green Belt. However, as I have found the development inappropriate in this case, it is necessary for me to consider the effect of the proposal on the openness of the Green Belt. In doing so, I have taken account of the development's spatial and visual impacts on openness.
22. The dwellings would introduce built form onto an area of open agricultural land that is currently absent of development. The volume and massing of the houses would erode the spatial openness of the Green Belt. Furthermore, even if permitted development rights for extensions or residential outbuildings were removed for the proposed dwellings, the use of external areas within the site as residential garden would result in the proliferation of domestic paraphernalia across those areas, such as washing lines, outdoor seating and play equipment, which would not be subject to planning control. Such items may have relatively limited volumes in themselves. However, together with the parking of residential vehicles within the site, they would further erode the spatial openness of the Green Belt.
23. The ground floors of the houses would be screened in views from Smithwell Lane to some degree by the front boundary wall. However, the volume and massing of the upper floors would be visible from the road. The ground floors and the residential garden areas and associated paraphernalia would also be evident from adjacent land including neighbouring gardens, from the public right of way to the east of the wider field and in more distant views from across the valley to the north, even if new landscaping was provided. The development would therefore also erode the visual openness of the Green Belt.

² R. (on the application of Lee Valley Regional Park Authority) v Epping Forest DC [2016] EWCA Civ 404.

24. The harm to openness arising from the relatively small scale development proposed would be moderate. Nonetheless, the Framework requires that substantial weight is given to that harm to the Green Belt.

Character and appearance, including the settings of nearby listed buildings and the setting of the burial ground

25. It is evident from the submissions before me, and from the variety in the age and appearance of the buildings in Slack, that its growth as a settlement has taken place gradually in a piecemeal, linear manner along Smithwell Lane, Slack Top and Slack Bottom over time. Its current layout and the gap the site forms between buildings appear to have come about organically rather than as part of a strategic plan or conscious decision to keep two settlements, Slack Top and Slack Bottom, separate. Those groups of buildings are separated by the site but they are not read visually as two distinct settlements at present. Therefore, although I have found that the site is not within the village, the development would not result in the coalescence of two distinct settlements or harm the individual character of either of those groups of buildings to either side of it.
26. The site is within the designated Special Landscape Area, and views are currently possible over the site towards Hardcastle Craggs and beyond. The ground floors of the proposed houses would extend some distance back into the site. However, the gap between them would still be quite wide, increasing further between their upper floors. That gap, and the gaps between the houses and existing buildings to either side, would be similar in width to the gaps between other buildings on the northern side of Smithwell Lane. Those existing gaps, and the glimpses through them to the wider landscape to the north beyond, are characteristic of the northern side of Smithwell Lane to either side of the site. As a similar gap and similar glimpsed views would remain between the proposed buildings and the houses on either side of them, the development would preserve views of the wider landscape to the north, and thus maintain the sense of the village's visual connection to its wider landscape and rural surroundings.
27. As the land within the field beyond the site drops away quite steeply from Smithwell Lane, views across the valley to the south of Smithwell Lane from the site and the wider field beyond are limited at present and the development would not obstruct views to the south from those points. Nor would the buildings be so large or tall that they would obstruct views of the valley to the south of the site from more distant vantage points above Hardcastle Craggs on the other side of the valley to the north.
28. Although the proposed houses would also have large footprints compared with some of the cottages immediately around them, their upper floors would be smaller in size. There is also greater variety in the size of buildings further afield within the village beyond the site's immediate neighbours. Similarly, although the proposed houses and their gardens would extend back further from the road frontage than those immediately on either side of them, buildings and rear gardens elsewhere on Smithwell Lane vary in their depth. The proposed houses would not be significantly larger, or extend significantly further back away from the road, than some of those other buildings and gardens within the wider street scene. Consequently, they would not appear unduly large or incongruous within that broader context.

29. Most of the existing buildings in Slack have their front eaves and roof slopes facing the road frontages, with gables to the side. However, a handful of the buildings in the village are laid out with their gables facing the road. Some newer buildings in the village also have front gable features. In that context, the layout of the proposed development with one of the houses having a gable facing the road and the other having gables to the side, would not appear discordant or detract from the prevailing character of the street scene or the wider village.
30. The ground floors of the houses would have stone faced sections to their external walls, which would connect to and reflect the materials of the existing front boundary wall. However, they would be finished in cedar cladding to their upper floors, with zinc roofs. The submissions indicate that, in using those materials, the dwellings have been designed to reflect the appearance of modern agricultural buildings.
31. However, despite differences in the age and detailing of existing houses and other buildings in Slack, there is a strong degree of consistency in their materials and, specifically, in the use of stone for their external walls. Even where there are large agricultural buildings alongside Smithwell Lane, such as the barn to the west of The Slack, those are also constructed in stone. As the village has developed in a piecemeal way over time, there is some variety in the colour and degree of weathering in the stonework of those buildings, which is part of the village's character and appearance. Where there are agricultural buildings in other materials nearby, they are smaller in scale than the proposed houses or they are set further away from the road or to the rear of the stone frontage buildings. As such, those agricultural buildings are low key and do not detract from the predominant character and appearance of the village, which is one of traditional forms and materials.
32. Although designed to reflect the materials of agricultural buildings, with their large windows and extensive sections of glazing to their ground floors, the proposed buildings would be unquestionably domestic in their appearance and would be read as dwellings, not as agricultural buildings. Furthermore, within a built up frontage that is otherwise so strongly characterised by stone-built residential and other buildings, the large timber clad upper floors of the proposed houses would appear discordant and would fail to respect the character or appearance of their surroundings.
33. Reference has been made to timber and zinc being more sustainable materials than stone. However, I have not been presented with detailed evidence to allow me to compare the relative merits of the proposed materials to stone or assess the extent of any benefits which may arise in that respect. Therefore, the evidence before me does not alter my conclusions regarding the harm to character and appearance that would arise from the proposed materials.
34. Immediately to the west of the site is Ivy Cottage, a grade II listed building. Historically a corn merchant's house, it subsequently became a house for the grave digger for the village's burial ground, beyond it to the rear. As such, it does not have a direct historic connection with the appeal site or its use for agriculture. Therefore, and as Ivy Cottage is already seen in the context of other housing within the village, the development of houses on the appeal site would not harm the setting of Ivy Cottage.

35. Springdale and Mid Slack are grade II listed cottages to the east of the site, separated from it by an existing bungalow. When viewed from Smithwell Lane, these listed buildings do not have a direct visual connection with the site, but are viewed in the context of other buildings on the road frontage within the village. As the development would not affect the part of the wider field immediately to the rear of the listed cottages it would not interrupt any direct link between those houses and their wider countryside setting. For the reasons given, the development would also maintain views across the site to the wider countryside setting to the north of those listed buildings. Consequently, the development would not harm the setting of Springdale and Mid Slack.
36. The Slack and the adjacent building, identified in the listing as 'Barn 2 Metres to West of The Slack' are grade II listed buildings within a wider farmyard complex which extends to the rear of them. As such, they have physical and functional associations with the agricultural land in the countryside which surrounds the village. However, they are already separated from the site by other housing on the road frontage and, although the farmyard to the rear of them is adjacent to part of the wider field which contains the site, that part of the field is not part of the development site and would remain in its current open form and agricultural use. Therefore, and as the development would preserve views through the site towards the wider countryside to the north beyond, it would not sever or erode the connection between those two listed buildings and their wider rural surroundings and would not harm their setting.
37. There is a further grade II listed building at Waterloo House to the west. However, that listed building is further from the site and is part of a group of existing residential buildings. Therefore, and as there is no evident physical or functional connection between the site and that nearby residential property, the development would not harm the setting of Waterloo House.
38. The site adjoins part of the adjacent burial ground, which the Council considers to be a NDHA. As a burial ground serving the settlement of Slack, its existence is inherently linked to the residential occupation of housing in the village, not to the agricultural land around it. As part of a small rural settlement, the burial ground's open countryside surroundings contribute to its setting. However, the development would only adjoin a small part of its boundary and would not be so extensive as to erode or remove its sense of connection to those wider rural surroundings. Therefore, even were I to agree that the burial ground is a NDHA, the development would not harm its setting.
39. Accordingly, the development would not cause harm to the setting of any nearby listed buildings. Nor would it harm the setting of the burial ground, even were I to agree that it should be considered as an NDHA. It would thus not conflict with Policy BE15 of the RUDP which states that development will not be permitted where it would harm the setting of a listed building. Nor would it conflict with the Framework which requires heritage assets to be conserved in a manner appropriate to their significance.
40. However, for the reasons given I conclude that the proposed development would have an adverse effect on the character and appearance of the site and its surroundings with regard to the proposed use of materials. It would conflict with Policies BE1 and NE12 of the RUDP which require development to respect established character and appearance and that in the Special Landscape Area special attention should be paid to conserving and enhancing visual quality

through detailed consideration of the materials and design of new development. It would also conflict with the Framework which states that decisions should ensure that developments are sympathetic to local character including the surrounding built environment.

Other considerations

41. The development would provide 2 new dwellings which would contribute to local housing supply. Although there are limited facilities in Slack, the site is on a bus route and future occupants would provide some support for services in nearby settlements. I note the shortfall in the Council's housing land supply. However, even in that context the two dwellings proposed would make only a modest contribution to housing supply and, whilst it would be a benefit weighing in favour of the proposal, the weight I afford to it is limited.
42. The submissions indicate that the houses would be occupied by the appellants, who are local families who wish to stay in the area. However, as I have not been presented with any mechanism by which the dwellings would be secured as housing for local people, I give little weight to that matter as a further benefit.
43. The submissions indicate that the houses would incorporate energy saving technologies and renewable energy sources, and parts of their roofs would be green roofs. Reference is also made to proposals for new tree planting and the creation of swales beyond the appeal site within land owned by the appellants. I recognise the potential benefits of such measures, including in relation to thermal and energy efficiency, biodiversity, sustainable drainage and flood mitigation. However, I have little substantive detail before me regarding the exact specification of the dwellings or those other measures proposed. Therefore, I cannot be certain as to the precise nature or extent of those benefits which may arise or whether they could be secured for the lifetime of the development, thus limiting the weight I afford to such benefits.
44. Reference has been made to the benefits of having families living on the site to keep an eye on the animals grazing in the wider field beyond. However, in the absence of substantive evidence to demonstrate the link between the occupation of the dwelling and any benefits for animal welfare, I afford this matter little weight.
45. Comments have been made regarding the location of new housing in the district, including with reference to flooding experienced in parts of the valley bottoms. However, the appropriate mechanism for the allocation of land for new housing is through the Local Plan process. I have considered the appeal proposal on its own planning merits and based on the current development plan, which designates the site as Green Belt. The comments made regarding the location of new housing in the district do not alter my conclusions above and do not weigh in favour of the proposal.
46. The appellants undertook local consultation before submitting the application and made amendments to the scheme. However, I have found the proposals to be unacceptable despite those amendments made and such matters do not alter my conclusions above, which are based on the planning merits of the scheme.

Green Belt Balance and Conclusion

47. The Framework requires that substantial weight is given to any harm to the Green Belt and states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
48. I have found harm to the Green Belt by reason of the proposed development's inappropriateness, harm to the openness of the Green Belt and harm to character and appearance. Weighed against that are the other considerations set out above. However, for the reasons given those would not, in their totality, clearly outweigh the harm to the Green Belt that I have identified. The very special circumstances necessary to justify the development therefore do not exist and the development would conflict with the Green Belt protection aims of the Framework and those of Policy GNE1 of the RUDP.
49. The Council is currently unable to demonstrate a 5 year supply of deliverable housing land. However, I have found harm to the Green Belt. Therefore, having regard to paragraph 11d) i. and footnote 6 of the Framework, the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development and the 'tilted balance' in paragraph 11d) ii. of the Framework is not engaged in this case.
50. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Jillian Rann
INSPECTOR