



Appeal Decision

Site Visit made on 28 September 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal Ref: APP/W4223/W/21/3275398

1 Pingle Lane, Delph OL3 5EX

- 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 Miss C Wharton against the decision of Oldham Council.
 - The application Ref FUL/346461/21, dated 6 January 2021, was refused by notice dated 4 May 2021.
 - The development proposed is the construction of a single dwelling on a vacant site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have afforded the main parties an opportunity to comment on the publication of the new Framework¹. I have taken it and any comments made thereon into account.

Main Issues

3. The main issues are as follows:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to relevant development plan policies and the Framework, including the effect on the openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area, including on protected trees;
 - the effect of the proposed development on the living conditions of nearby occupiers with regard to privacy;
 - the effect of the proposed development on highway safety with regard to access; and
 - if the proposed development is inappropriate development, whether 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 proposal.

¹ The National Planning Policy Framework 2021

Reasons

Inappropriate Development and Openness

4. Paragraph 147 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. A number of exceptions to this are listed. Exceptions include limited infilling in villages and limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.
5. Insofar as is relevant to this appeal, Policy 22 of the DPD² similarly supports development in the Green Belt that is in accordance with national policy.
6. There is no definition of 'village' or 'limited infilling' within the Framework and my attention has not been drawn to any definition within the DPD. The appeal site is set close to the junction of Pingle Lane and Clifton Holmes around which a number of other properties are located. It fronts onto Pingle Lane. It lies to the south of a number of properties on Denshaw Road. To the east is Clifton Holmes which serves a number of dwellings. To the south and west is open land. Further to the west there are a small number of domestic scale garages and at the end of the lane are a number of buildings including what appears to be a retail unit.
7. Built development along Pingle Lane is sporadic and intermittent, such that it would not be classed as a built-up frontage. The gaps in between what built development is present are varied, some extensive and irregular. Development at the appeal site would not in my view logically complete the pattern of development here. Given its particular location, surrounding built development would not be read as being directly adjacent to the appeal site. Consequently, the proposed development would not constitute limited infilling within a village.
8. There is no dispute between the main parties that the appeal site is previously developed land. There are currently three single storey garages on the site of varying sizes. These can be seen from Pingle Lane and in views when travelling along stretches of Denshaw Road. However, they are unobtrusive given their limited scale and height and allow for open views across the appeal site to the surrounding countryside.
9. The proposed development would, by contrast, be a substantial three storey dwelling that would occupy much of the appeal site, together with a parking area and a small garden. It would result in a built form that would be considerably larger than the development currently on the site in terms of its footprint, scale and massing. Visually the scale of the proposal would appear to encroach into the countryside rather than providing a comfortable transition to it as is the case of the site at present. The proposed dwelling would be a prominent feature and would obscure views of the countryside when viewed from certain stretches of Denshaw Road in particular. It would significantly diminish the openness of the Green Belt, in both visual and spatial terms, due to its scale and massing.

² Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies, 2011

10. For the above reasons, the proposed development would have a greater impact on the openness of the Green Belt than the existing development. It would be inappropriate development. In line with paragraph 147 of the Framework, the proposed development is therefore harmful to the Green Belt. I give this harm substantial weight.

Character and Appearance

11. The appeal site lies on the edge of the village. There are open views across the site to the surrounding area from certain vantage points along Denshaw Road in particular which provide a visual link to the wider countryside. The open nature of the site, albeit that there are trees and vegetation present, makes a positive contribution to the character and appearance of the area.
12. The properties to the north at 51 and 53 Denshaw Road are a pair of stone built semi-detached dwellings that are two storey to Denshaw Road and three storey to the rear. Also to the north are 55 and 57 Denshaw Road which are semi-detached dwellings that are single storey to the front and two storey to the rear. The properties to the east on Clifton Holmes are two storey red brick terraced dwellings.
13. Overall, the nearby dwellings are relatively modest. Although nos. 51 and 53 are three storey at the rear, this is due to the sloping nature of the land. They present as two storey to Denshaw Road, which minimises their scale. The proposed development would result in a broad frontage over three storeys which would significantly depart from the character and appearance of the nearby built form and would emphasise the visual prominence of the proposed dwelling. In addition, the proposed development would add a considerable built form which would significantly erode the open character of the area.
14. Given its scale and massing, the proposed development would appear visually incongruous within the street scene and would cause significant harm to the character and appearance of the area.
15. The appellant has submitted an Arboricultural Impact Assessment Overview (the Overview) dated March 2021 which considers the condition of the seven closest trees. The appellant's appeal statement suggests that T3 on the tree constraints plan within the Overview is covered by a tree preservation order (TPO). However, based on the TPO plan submitted by the Council this tree is not covered by a TPO and this is confirmed in the tree survey schedule within the Overview. For consistency I have referred to the tree numbers used on the tree constraints plan within the Overview.
16. A number of trees, including trees covered by the TPO would be removed to facilitate the development. I note the appellant's information about the quality and longevity of T3 which would be removed. I also note that a number of the trees have not been classed as the same quality or value as others. However, they form part of the amenity value of the group of trees. The trees are visible from Pingle Lane and the wider area. From these vantage points the trees contribute positively to the character and appearance of the area. The loss of tree cover would significantly harm the positive contribution that the group of trees as a whole make to the character and appearance of the area, in particular by reducing the linear spread of the tree canopy that is visible.

17. I note the appellant's willingness to retain T1 and T6. However, the trees would be close to the proposed small garden areas to the west and east and first floor balcony and there is the potential for their canopy spread to overhang these areas. I am not satisfied that there would be sufficient separation from these areas so as not to overshadow them. It is therefore likely that there would be future pressure from the occupiers of the proposed dwelling for the trees to be lopped, topped or felled. This may further reduce their amenity value.
18. The appellant identifies that additional landscaping as mitigation for the lost trees could be undertaken and has referred to a section 106 agreement, although no agreement is before me. Furthermore, any landscaping for the proposed development would take many years to reach the same size as the trees currently on site. It would therefore take a significant period of time for any proposed landscaping to make a similar contribution to the character and appearance of the area. This would not adequately mitigate the harm that I have found.
19. The proposed development would cause significant harm to the character and appearance of the area and to the amenity value of the group of trees at the appeal site, including protected trees. It would therefore conflict with Policy 20 of the DPD which states, amongst other matters, that the Council will promote high quality design that reflects the character and distinctiveness of local areas and requires development proposals to meet a number of design principles including local character. It would also conflict with Policy 9 of the DPD which seeks to ensure that development does not cause significant harm to the visual appearance or visual amenity of the surrounding area. It would also conflict with Policy D1.5 of the UDP³ which only supports development on sites containing existing trees or adjoining a site containing trees where it is designed, insofar as is reasonably practicable, to maximise the retention and continued health of trees. The proposed development would also conflict with the design objectives set out in part 12 of the Framework.

Living Conditions

20. The proposed dwelling would be relatively close to the rear habitable room windows of 51, 53, 55 and 57 Denshaw Road and closer to their rear gardens. Plan 2710 01 02 Revision A shows, at its shortest, that the separation distance between facing elevations of the proposed development and the nearest properties to the north would be some 14 or so metres. That is a very close inter-relationship. The front windows of the proposed dwelling would be almost directly opposite a number of the rear windows of these properties and would lead to unobstructed two-way views. At three storeys high and given the lack of separation distance and almost direct aspect of several of the windows, the resulting degree of overlooking would lead to an unacceptable loss of privacy for occupiers of these neighbouring dwellings.
21. The orientation of the proposed first floor balcony would allow future occupiers to overlook directly and from a relatively close distance the side garden area and side habitable room windows of 26 Clifton Holmes. Occupiers of no. 26 would therefore be overlooked when in the garden in particular, given the proximity, height and orientation of the proposed balcony. This would be significantly detrimental to the enjoyment of this area by occupiers of this property.

³ Oldham Metropolitan Borough Unitary Development Plan, 2006

22. Consequently, the proposed development would significantly harm the living conditions of occupiers of neighbouring properties with regard to privacy. As such, it would be contrary to Policy 9 of the DPD, which seeks to ensure that development does not cause significant harm to the amenity of neighbouring occupants or users through impacts on privacy amongst other matters.

Highway safety

23. The proposal includes a short driveway off Pingle Lane, close to where Clifton Holmes also meets Pingle Lane. Details of access arrangements and landscaping are limited, albeit that such matters could be adequately addressed via a suitably worded condition (were the development otherwise acceptable).
24. Nevertheless, I accept that visibility in this location is quite limited, given the prevalence of vegetation and changing landform. However, Pingle Lane is one of two routes to get to and from Clifton Holmes. The other off Denshaw Road is wider and less circuitous, and as a consequence is likely to be used by many out of preference. I also note that the appeal site contains three garages, which could theoretically entail a number of vehicular movements if in use.
25. Pingle Lane is also narrow and, consistent with my reasoning above, essentially rural in character. Drivers are therefore likely to take a precautionary approach to driving here, and there is no indication before me of accidents which have occurred here previously in that context. Any uplift in vehicular movements associated with one new dwelling would be highly limited set against the baseline context here.
26. I therefore conclude that the proposed development would not result in an increased risk of conflict between vehicles or unacceptable impacts on highway safety. Consequently, the proposed development would accord with Policy 9 of the DPD which seeks to ensure that development does not harm the safety of road users.

Whether Very Special Circumstances Exist

27. The Council's officer report confirms that the Council cannot demonstrate a five year supply of deliverable housing land. Therefore, the Framework paragraph 11. d) is relevant, albeit that Green Belt is a particular policy of protection referred to in associated footnote 7. Nevertheless, the benefits of the scheme in terms of housing provision in that context are relevant in terms of the fifth main issue in this appeal, to which I now turn.
28. In that context the scheme would have certain benefits, notably in terms of housing provision in an area with an acknowledged lack of forward supply, creating employment during construction and additional residents that would support local shops, businesses and community facilities. However, given that the proposed development is for one dwelling, these benefits would be limited and as such have limited weight.
29. The appellant states that the foundation required would serve to reinforce the steep banking beyond the site boundary to the south and would protect the integrity of the site against land slippage and imminent damage. No evidence has been presented that the appeal site is at risk from slippage and as such I give this matter very limited weight.

30. The appellant states that the proposed development would not impact human health, would not result in unacceptable levels of pollutants and would not be located in an area likely to cause potential hazard. Whilst this may be the case, a lack of harm is a neutral factor in any balance. Accordingly, it would be incapable of weighing against harm.
31. The proposed development would be inappropriate development in the Green Belt by virtue of its effect on openness, which is by definition harmful. Additionally, I have found harm to the character and appearance of the area, including protected trees, and the living conditions of nearby occupiers. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
32. I have had regard to the other considerations raised, including the small contribution that the proposed development would make to boosting the supply of housing where a five year housing land supply cannot be demonstrated. However, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposed development do not exist, and thus there is a clear reason to refuse the proposed development in line with Framework paragraph 11. d) i.

Conclusion

33. The proposed development would be inappropriate development in the Green Belt in conflict with DPD Policy 22 and relevant provisions of the Framework and there are no very special circumstances to justify it.
34. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations that indicate the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR