



# Appeal Decision

Site Visit made on 12 October 2021

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 October 2021**

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**Appeal Ref: APP/A4710/W/21/3276107**

**Land at Rawtenstall Bank, Hebden Bridge HX7 6DB**

- 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 Donna Goodman against the decision of Calderdale Metropolitan Borough Council.
  - The application Ref 20/00117/FUL, dated 2 February 2020, was refused by notice dated 11 March 2021.
  - The development proposed is a small straw bale off-grid house.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description appearing in the banner heading above is an abbreviated version of a long description appearing on the planning application form. It limits reference to the development for which planning permission is sought. A reference to a proposed wind turbine which appears in the original description is removed as this element of the proposals was withdrawn prior to the Council's decision.
3. Since the Council's determination of the planning application, a revised version of the National Planning Policy Framework (the Framework) was issued on 20 July 2021. I have sought the further comments of the main parties in this respect and have had due regard to representations and the changes to the Framework in my determination of this appeal.

## Main Issues

4. The main issues are:
  - whether the proposal would be inappropriate development within the Green Belt for the purposes of the Framework and the relevant development plan policy
  - whether or not the proposal would provide a suitable location for housing
  - the effect of the proposed building on the character and appearance of the locality
  - whether or not the development would preserve biodiversity interests
  - the effect of the development on highway safety
  - if the development is inappropriate, 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**

### *Green Belt*

5. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework makes it clear that new buildings are inappropriate in the Green Belt. However, some exceptions are made including limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development.
6. Saved Policy GNE1 of the Replacement Calderdale Unitary Development Plan (amended) [2009] (the UDP) confirms that the extent of the Green Belt around the main built-up areas will be maintained. It will seek to restrain development outside the urban areas through the general extent of the Green Belt. In the absence of a detailed policy as to how development will be restrained, the provisions in the more recent Framework prevail.
7. Although the site is partly bordered by garden areas associated with some nearby residential properties, the proposed building would not amount to 'infill' on account that it would be located beyond the existing extent of built development associated with the settlement area to the east. Although the settlement boundary is not definitive in itself, the introduction of the building would protrude into a distinct and contrasting area of countryside and be some distance from the nearest residential buildings. Although close to the settlement, the building would neither appear to fall within or round-off the existing settlement pattern. Accordingly, from my observations on the ground, I find it would neither lie within the village nor constitute infill for the purposes of Paragraph 149 e) of the Framework.
8. The appellant directs me to historical mapping showing a garage building on the site indicating a former use. However, that building is no longer present and according to the appellant, that use has long since ceased. The appellant's submissions indicate that the land has most recently been used for growing plants and raising livestock and is regarded by her as agricultural land. On the basis of the evidence before me, the land would fall outside the Annex 2 definition of 'previously developed land' within the Framework and therefore outside the provision at Paragraph 149 g).
9. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The site is currently devoid of substantial buildings. The introduction of a new dwelling and engineering operations to form the foundations and footways would result in a loss of spatial openness of the Green Belt. Furthermore, notwithstanding the surrounding predominantly seasonal tree cover, the building would be visible from the adjacent roadway and a public footpath immediately next to the site. The removal of a significant tree to facilitate the building would further open existing views of the site such that a considerable loss of visual openness would also arise.

10. I acknowledge that the building materials could be removed from the site or go back to ground on cessation of their incorporated use as a dwelling. However, the intended degree of permanence of a dwelling would directly conflict with the Green Belt's aims.
11. I also note the appellant's comparison between the proposal and large houses built elsewhere in the Green Belt, including in association with the keeping of horses. However, there is little detail provided in relation to the specific circumstances of other proposals to enable me to draw comparisons, or otherwise. It is not therefore a strong reason in support of a development in conflict with Green Belt policy, a development that I have considered on its own merits.
12. For the reasons set out above, I conclude that the development would constitute inappropriate development within the Green Belt that would erode its spatial and visual openness. It would be contrary to Policy GNE1 of the UDP as it seeks to constrain Green Belt development. Moreover, the development does not fall within the exceptions outlined in the Framework.

#### *Locations for Housing*

13. The plot lies beyond the upper extent of existing fragmented development on a steep country lane. Although some local services including a primary school, church and post box exist within theoretical walking distance, there are few services to support day-to-day living needs in the nearest settlement area. The nearest shops and services lie within the main developed area at Hebden Bridge.
14. The route to regular serviced bus stops sited on the A646 corridor in the lower valley to the southeast is along a winding and often narrow highway. The route is often devoid of footways and where these exist, they are generally of limited width.
15. At the time of my site inspection, albeit only a snapshot in time, the road was moderately trafficked. Although the extent of roadside parking, series of bends and constrained road corridor width ensures most traffic speeds were observed to be limited, the use of the route by pedestrians is not without risk due to the necessity to walk within the carriageway in locations often suffering poor forward visibility for drivers. Furthermore, opposing traffic was observed to find it difficult to pass due to the nature of the road and rely on avoidance manoeuvres. This could elevate the threat to non-vehicle users.
16. In practice, it would be hazardous for pedestrians, particularly those with young children, to utilise the route. Furthermore, the significant gradient would make the location inaccessible to a large element of the population by means other than motorised transport. In this regard it could not be described as an 'easy' pedestrian route. Cycling between the site and nearest services supporting day-to-day living needs would be impractical for most and unsafe, particularly if carrying loads. Despite associated health benefits of the exercise required to reach the local shops and facilities, I find the location would not promote the use of sustainable means of transport over other travel modes.
17. I note the appellant's suggestion that a previous proposal for a retail store was approved by the Council (12/01003/FUL) on a site much closer than the existing shops. However, it is unclear from the evidence before me as to

whether that permission remains valid and, if so, whether it has or is likely to be implemented. It is not therefore a matter to which I attribute significant weight at this time.

18. Given the distances to services and frequent public transport, the local topography and poor pedestrian facilities, there would be significant pressure to rely on the use of private motor vehicles. Accordingly, I find the proposed location for housing would conflict with saved Policies GP2 and BE5 of the UDP and the Framework as they seek to promote development in sustainable locations, reduce travel demand and to achieve safe and convenient pedestrian routes and connectivity.

#### *Character and appearance*

19. The site is located in a Special Landscape Area. In such areas it is desirable to protect the quality of the environment by ensuring new development respects and is sympathetic to the visual quality of the landscape.
20. At my site visit I observed that the land has, in part, been terraced. The lower area consists of hardstanding and there are some stone retaining walls and small-scale lightweight structures to facilitate growing of produce and the keeping of fowl. In addition, some small-scale ancillary structures were present such that, together, the site has the informal character of an allotment or limited smallholding.
21. The land appears transitional between the traditional dwellings and garden areas of the nearby settlement and the largely afforested undeveloped countryside area beyond. Notwithstanding the proposal to retain existing growing and fowl areas, such that the creation of formal or heavily manicured gardens is unlikely, the introduction of a permanent new dwelling with supporting infrastructure of pathways, decking and bin stores would introduce a substantial domestic element to the land that is not currently present.
22. The dwelling would be finished in materials which are not uncommon to buildings located within rural areas. However, together with the elevated stilted position they would serve to highlight the presence of the building in a prominent location. The contrast of the scale and domestic design of the building on a site which currently has a significantly greater propensity to the countryside character than to the traditional houses and formally enclosed gardens of the village, would be significant.
23. The effect of the dwelling in this part of the rural landscape would present as a form of incremental urbanising encroachment into a countryside character area. It would thereby fail to protect or enhance the valued landscape. It would conflict with Policies NE12 and BE1 of the UDP and the Framework as they seek the conservation or enhancement of the visual qualities of locations and the Special Landscape Area.

#### *Ecology*

24. The site is within an area of local special ecological and geological interest. It forms part of an identified ecological network and wildlife corridor and lies adjacent to ancient woodland. The appellant's preliminary ecological appraisal of the site identifies that the site is distinct from neighbouring ancient woodland and has limited ecological value.

25. However, Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on me to have regard to the likelihood of European Protected Species being present and affected by the proposed development. The ecological assessment identifies that the site is used by several bat species. However, the report by Batworker Ecological Consultancy, dated the 13 October 2020, is considered on the basis that no trees were to be removed from the site. This is inconsistent with the Arboricultural Survey Report of 18 February 2020 and the submitted plans.
26. I note that an assessment of the potential of the trees to be removed for accommodating bats was undertaken by the appellant in person. However, this is not corroborated in the report of the appellant's ecological advisor. I cannot therefore be sure that the proposed works would not have an adverse impact on bats in an area where their presence is confirmed. Applying the precautionary principle, I find the evidence provided is incomplete and insufficient survey effort by a qualified ecologist has taken place in respect of a European Protected Species.
27. Elsewhere, I note that the uses on the majority of the site would be similar to the existing situation. The construction of the building would substantially be on a part of the site which is actively used in conjunction with growing produce within a small growing frame. Any displacement of other ecological interests is therefore highly likely to be limited and offset by a proposal to provide mixed species hedges to the site's boundaries. Notwithstanding that additional improvements including replacement tree planting could provide benefits, or that precautionary measures for nesting birds and controlled external lighting could be secured, this does not displace the duty under Regulation 9.
28. In support of the development, the appellant asserts that a number of other sites which lie in protected areas were appraised by the Council without a detailed ecology assessment. Even if that were the case, it does not justify a reduced burden in relation to development proposals elsewhere or in relation to a protected species.
29. For the above reasons, I find that the proposal would conflict with Policies NE14, NE15, NE16, NE17 and NE19 of the UDP and the Framework as they seek to protect existing contributory biodiversity interests, including those in areas identified as having specific ecological value.

#### *Highway safety*

30. The site benefits from an established access with a dropped kerb which allows vehicles to pull clear of the highway and park on the lower area of hardstanding. Although this space is not currently marked out, it is of sufficient area to accommodate two vehicles and allow turning such that vehicles can enter and leave the site in a forward gear.
31. The entrance point is located close to a hazardous inclined bend where, due to the carriageway width, vehicles were observed to approach at low speeds but were occasionally subject to abrupt manoeuvres when oncoming traffic arrived simultaneously at the bend.
32. The existing access point provides limited visibility to the north but clear visibility to the south. Forward visibility to vehicles turning right into the site approaching from the north is also limited on account of the entrance position

just beyond the bend. A proposal to widen the access would provide a benefit to the achievable visibility to the north on exit and allow vehicles to wait at the corner in view of following drivers from the north before turning right into the site. However, whilst demonstrating this potential improvement, the appellant has not pursued this as part of the proposals due to other considerations.

33. I acknowledge that the site has had previous uses and has relied on the existing access to serve them. However, there is little qualification of the traffic generation associated with the former uses or comparison to the prevailing traffic conditions at those times. As a more intensive use of the site compared to recent incidental parking, I find there would be an undue risk to users of the highway.
34. Furthermore, as I have previously found, the provisions for pedestrian and cycle traffic to and from the site are poor. The proposed use of the land would give rise to a small increase in activity on and about a site where the pedestrian routes would not provide safe or convenient connectivity.
35. Taking the above together, whilst I have found in favour of the appellant with regard to on-site parking and manoeuvrability, this does not outweigh the significant harm associated with the poor visibility and proximity to a sharp inclined bend nor the absence of convenient and safe access by other means. I therefore find there would be a conflict with the requirements of Policy BE5 as it seeks development to achieve those aims.

### **Other Considerations**

36. The scheme would contribute a single unit to the supply of housing in an area with a record of poor housing delivery. It would provide a low build-cost option and enable the intended occupiers to live close to a community they contribute to. These are matters to which I attach moderate weight.
37. The building would be constructed in materials that are either recycled or naturally produced. This would avoid the use of materials with high embodied energy and that result in high CO<sub>2</sub> or other greenhouse gas emissions in their production. It would limit waste and reduce resources going to landfill. Furthermore, it would enable the materials to be re-used or naturally 'return to the land' should the building be no longer needed. The proposed construction would achieve high levels of insulation, be toxic-free and they would provide a breathable building which would deliver healthy living conditions for its occupiers.
38. The use of the building would be independent of existing utility service networks and provide water collection and recycling, composting facilities, and the generation of energy from renewable resources. This would limit any burden on utility providers, deliver sustainable support for living and minimise emissions associated with fossil fuels.
39. Those aspects of the development would be consistent with the aims of providing sustainable forms of development as reflected in the policies within the UDP and the Framework. They would align with requirements for development to contribute to the mitigation and adaption to climate change and a move to a low carbon economy whilst making best use of resources and providing healthy places to live. Although the proposal would provide a commendable example of a scheme meeting those aims, as aspects of

development required by local and national policies, they constitute only moderate benefits of the scheme.

40. The construction of the development could take place in conjunction with a nearby learning centre, the local community and a business specialising in straw-bale builds. This could offer opportunities for community and trainee participation and learning. However, as a limited phase of a development which is intended for long-term use, those benefits would be short-lived. I acknowledge that this could act as an example and inspiration to others to encourage more extensive use of environmentally friendly building practices, however, this is not dependent on a Green Belt location. It is therefore a matter of limited weight in favour of the development.
41. The appellant asserts that the site could be described as a windfall site and could meet a self-build need. As I have previously found, the site's location does not fall within easy accessibility to services other than through the use of motorised transport. Furthermore, as a site described as being 'agricultural' by the appellant, it is not considered as brownfield land. It would therefore fall outside the scope of the provisions highlighted in Policy H9 of the UDP relating to non-allocated (windfall) sites.
42. The Council is required to monitor and manage registered self-build interests. However, there is no substantive information submitted to demonstrate that the appellant, as the intended occupier, is on the Council's register of individuals and associations seeking to acquire serviced plots under the terms of the Self-build and Custom Housebuilding Act 2015 (as amended) (the Act). Whilst the Act seeks to encourage contribution to housing supply from those sectors, such provision is not without due regard to the local development plan. For those reasons, and in the substantial absence of evidence to demonstrate that the Council is not meeting the registered demand for such plots, this is a matter of negligible weight.
43. Although the proposal would constitute a low-cost form of housing, it would not fall within the Framework's definition of affordable housing. This is because the unit is intended for the appellant's own use rather than for rent or sale. As a proposal that would conflict with the Framework's definition of affordable housing, it is not a benefit of the scheme.
44. I acknowledge the appellant's criticism of Green Belt policy including the fact that, in itself, it fails to incorporate 'green' building requirements and affords little weight to buildings specifically designed for Green Belt locations. As a strategic policy for controlling the spatial patterns of development and, amongst other things, encourage the recycling of land in the interests of economic and environmental sustainability, there is no requirement in Green Belt policy relating to the nature of a building's construction or appearance. These aspects of development are not necessarily spatially dependent.
45. The appellant contends that the proposal is designed for the Green Belt. As a building of typical form and with a mix of traditional finishes, I find its appearance would be equally appropriate to settlement areas as elsewhere. Although the 'light-touch' foundation and nature of the materials could be readily removed from the site, this would not constitute an outstanding or innovative design and, as I have previously found, their intended degree of permanence would directly conflict with the aim of keeping the Green Belt

permanently open. It is not therefore a strong argument in favour of the development.

46. I note appellant's emphasis on the urgency of the climate change agenda and the declaration of a climate change emergency by a local Parish Council. I also acknowledge the appellant's view that consequentially, the framework for the location or nature of new 'green' development should be revisited. However, as I am required to do, I have considered the proposal on its own merits and with regard to the Development Plan and all other material considerations.

### **Planning balance and conclusion**

47. The erection of the dwelling on the site would be inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it.
48. The proposal would cause harm to the spatial and visual openness of the Green Belt. It would significantly harm the character and appearance of the rural landscape and potentially cause harm to protected biodiversity interests on the site. The site is in a location poorly accessible to the services required for day-to-day living and where highway safety would be compromised by the proposed use of the site.
49. The considerations presented by the appellant or my findings in favour of the appellant with regard to parking and vehicle manoeuvring provision and appearance of the building (taken in isolation), do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission for development in the Green Belt do not exist.
50. In those circumstances, and having regard to the poor delivery of housing and lack of 5-year housing land supply in the borough such that the Council's policies for housing delivery are out of date, the conflict with Paragraph 11d)i of the Framework in relation to the Green Belt (footnote 7) and Paragraph 11d)ii relating to adverse harm when measured against policies in the Framework taken as a whole, disengage the presumption in favour of sustainable development. Furthermore, the proposal would also be contrary to the adopted development plan taken as a whole and there are no other material considerations to indicate a decision otherwise than in accordance with it.
51. For the reasons set out above, I conclude that the appeal should be dismissed.

*R Hitchcock*

INSPECTOR