



Appeal Decision

Site visit made on 8 March 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/N4205/W/21/3281896

Land to the rear of 744 Wigan Road, Westhoughton, Bolton BL5 2DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mrs Joan Gregory against the decision of Bolton Metropolitan Borough Council.
- The application Ref 10558/21, dated 24 February 2021, was refused by notice dated 6 May 2021.
- The development proposed is a 3 bed bungalow together with a single detached garage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all matters to be considered other than landscaping which is reserved. I have determined the appeal on this basis.
3. The description of development on the application form is long and goes beyond describing the proposal itself. I have, therefore, utilised part of the description of development from the decision notice in my above heading as this more succinctly describes the proposal. I have, however, had regard to the description on the form in assessing the appeal. Only a partial address is provided on the application form and I have therefore used the one from the appeal form.

Main Issues

4. I consider the main issues are:
 - whether the proposal is inappropriate development in the Green Belt;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development with specific regard to the risk of coal mining and land contamination;
 - the effect of the proposed development on trees; and,
 - if the proposal 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

Inappropriateness

5. The appeal site is situated in the Green Belt. The Government attaches great importance to Green Belts. 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.
6. The National Planning Policy Framework (the Framework) at paragraph 149 states that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. The appellant has set out that the development can be considered against different exceptions, including limited infilling in villages which is set out at paragraph 149 e) of the Framework.
7. The Framework does not define a 'village' or 'limited infilling' and nor have I been provided with any such definitions from the development plan. I was able to see that the appeal site is positioned close to a number of terraced properties. I also note that this nearby area of Wigan Road exhibits features typical of a built-up area such as streetlights. Whilst the appeal site may have been referred to by the Council as being in the Hart Common area of Westhoughton, there is no robust evidence before me that defines the limits of Hart Common village. I was able to see that the appeal site and other nearby properties, including the 50 newly built units, are visually separated by the countryside from built-up areas around it. I note in this regard the appellant references a distance of a few hundred metres between the site and the centre of Hart Common. Reference has also been made to online websites¹ categorising the area as being part of the village of Hart Common, but I am not aware of the purposes of these websites nor their relevance to Green Belt policy. Given the evidence before me of physical separation, I find that the appeal site is not within a village and therefore this exception does not apply to the proposal.
8. The appellant has also set out that the development could be considered under the exception at paragraph 149 g) relating to the partial or complete redevelopment of previously developed land. The Council has stated that the site was previously developed land but where the remains of the permanent structure or fixed surface structure have now blended into the landscape. The site was overgrown, but I was able to access it at the time of my visit and saw a number of garage type buildings and areas of hardstanding that were clearly present amongst the vegetation. The appellant also argues that the site is within the curtilage of her house, but irrespective of the position on this, I consider for the aforementioned reason that the site does constitute previously developed land.
9. In order to meet the exception at paragraph 149 g), it is necessary for the development to not have a greater impact on the openness of the Green Belt than the existing development. In this respect, I have been provided with limited comparative information between the proposed dwelling and the current buildings. I acknowledge that the proposal would be less spread out than the existing buildings on the site, but the proposed dwelling's single mass and taller height would make it more visible from surrounding views and

¹ Streetlist.co.uk, Wikipedia

consequently result in the loss of visual openness. This is despite any screening provided by mature trees. In addition, the proposal would result in a detached garage and driveway which would cover a significant area of the site and result in the spatial loss of openness.

10. Given the above, and whilst acknowledging the site's status as previously developed land, the proposal would have a greater impact on openness of the Green Belt than the existing site. Therefore, it would not meet the exception set out at paragraph 149 g) of the Framework.
11. Consequently, in not complying with any of the listed exceptions, the scheme would be inappropriate development in the Green Belt, which the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt. I also find that the proposal would not comply with Policy CG7AP of Bolton's Allocation Plan which states that inappropriate development in the Green Belt will not be permitted.

Character and Appearance

12. The area around the appeal site mostly contains modest two storey residential properties within a terrace arrangement. The terraces are set a short distance back from the edge of the road and are formed of a limited palette of materials comprising mainly of red brick and facing render in a variety of colours. This siting, scale and appearance provide for a strong street frontage and give the area a cohesive character.
13. The proposal would be a single storey dwelling sited broadly centrally within the site, with garden and driveway areas around it. I appreciate the appellant has sought to place the house in this position to minimise any impact on neighbouring properties and for it to be less visible from Wigan Road. It would also have a linear form and be orientated the same as a detached property at No. 14 Peter Street as well as being ideal for solar panels. Nevertheless, its single storey form and positioning away from the highway would sharply contrast with the prevailing built form.
14. The Council have also raised concerns on the bland appearance of the proposed dwelling. I note that some of the terraced properties have distinctive architectural features, but many others have unadorned plain rendered elevations. With the use of appropriate materials, I do not consider the elevational treatment of the dwelling would be unsympathetic. Nevertheless, and although it has been suggested that the design of the roof could be changed, and there would be some benefits from clearing the site, this would not overcome the fundamental design concerns relating to the layout that I have identified.
15. I therefore conclude that the proposed development would have a detrimental impact on the character and appearance of the area. As such, it would be contrary to Policies CG3 and OA3 of Bolton's Core Strategy Development Plan Document (Core Strategy), which seek, amongst other matters, good urban design and development that is compatible with the surrounding area. It would also be contrary to the General Design Principles Supplementary Planning Document and the Framework, which in the case of the latter, seeks at paragraph 130 c) for development to be sympathetic to local character.

Coal Mining and Land Contamination

16. The Coal Authority has objected to the proposal as the site is located in a defined Development High Risk Area and a Coal Mining Risk Assessment Report, or equivalent, has not been submitted as part of the application.
17. The appellant contends the site is surrounded by residential properties which have not had any problems with subsidence. Whilst this may be the case, the Coal Authority have stated that their records indicate that there is likely historic unrecorded coal workings at shallow depth. Reference has also been made to mining surveys carried out upon the change of ownership of properties, but I have not been provided with any details and I am not able to conclude that they adequately addressed the impact of coal mining legacy on the proposed development.
18. Taking a precautionary approach, it is necessary for this information to be provided to ensure shallow mine workings are not a risk to ground stability. It is not a matter which can be addressed by condition as it is necessary to demonstrate that subsidence will not unacceptably adversely affect the proposal or that it can be satisfactorily mitigated in the design of the development. There is no substantive evidence that such matters can be satisfactorily addressed. I therefore conclude that insufficient information has been provided in relation to the risk from coal mining which may affect the site. It would be contrary to Policy CG4 of the Core Strategy, which seeks, amongst other matters, for development proposals to be acceptable in relation to any potential risks from ground instability. It would also be contrary to Paragraph 174 of the Framework which seeks, amongst other matters, that development is not put at unacceptable risk from land instability.
19. No information has been provided in relation to the effects of land contamination, but I note reference to comments by the Council that Pollution Control consider a preliminary risk assessment can be conditioned. Whilst the proposal would result in a sensitive end use, other than reference to asbestos within the existing buildings, there is no indication that the site is subject to any contamination. To my mind, a suitably worded condition to address land contamination would have been possible, had the development been otherwise acceptable.
20. As such, I conclude that the proposal would not be unacceptable in relation to land contamination, and it would not be contrary to Policy CG4 of the Core Strategy. It would also not be contrary to Paragraph 183 of the Framework.

Trees

21. The Council consider insufficient information was submitted to establish whether any harm would be caused by the proposal to the trees which are present on the appeal site. I note the appellant has stated that the trees are not proposed to be removed and several are subject of a TPO. Given the proximity of the trees to the proposed dwelling, without detailed evidence, I cannot be satisfied that the loss of trees can be avoided. This would give rise to harm visually and to biodiversity interests and it is necessary to establish the potential harm ahead of a decision. I do not therefore consider this matter can be dealt with by a planning condition.

22. In the absence of robust evidence to the contrary, I therefore conclude that the development would potentially result in the loss of trees. As such, it would be contrary to Policy CG1 of the Core Strategy, which seeks, amongst other matters, to safeguard and enhance biodiversity by protecting trees. It would also conflict with Paragraph 131 of the Framework which seeks to ensure that existing trees are retained wherever possible.

Other Considerations

23. The appellant has set out the reasons for seeking the planning permission, including the provision of a suitable bungalow dwelling that would enable them to remain in the area and be suitable for a family. The appeal site is in an untidy condition and is a previously developed (brownfield) site, which the Government seeks to prioritise for redevelopment. The site is also well located for transport connections and access to work, shops and other services. I recognise the benefits of the scheme, including the provision of this type of bungalow property but as it consists of a single dwelling, it would make a small contribution to the Council's housing supply, despite the referenced shortfall in housing delivery, so it is of limited weight.
24. I note the various references to the 2010 planning permission² granted by the Council, but from the information provided, this development was for the erection of 6 garages and therefore has limited relevance to the proposal which is for a bungalow dwelling.
25. The appeal proposal would not give rise to adverse harm to surrounding neighbour's living conditions, including from construction noise and would be acceptable in relation to parking, access and servicing. The development would also not give rise to harm in relation to the railway line or result in urban sprawl with regards to the purposes of the Green Belt. These are however neutral matters.
26. I have taken into account all other matters raised, including the lack of contact from the Council during the consideration of the appeal application, the cost of procuring reports and that the proposal was not opposed by the Parish Council. However, these matters have little to do with the planning merits of the case.

Planning Balance and Conclusion

27. I have found that the appeal development would be inappropriate development, which the Framework clearly sets out is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework says that substantial weight should be given to any harm to the Green Belt. The development would also be unacceptable in relation to character and appearance, coal mining and tree matters. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
28. In light of the weight I have ascribed to them, the totality of other considerations do not outweigh the harm that I have identified. Accordingly, the very special circumstances required to allow the appeal do not exist.

² LPA Reference: 83840/10

29. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR