



Appeal Decision

Site visit made on 11 July 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2022

Appeal Ref: APP/N4205/W/22/3294455

Storage Buildings, Shepherds Drive, Bolton BL6 6PU

- 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 Tracy Miller against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 12042/21, dated 20 August 2021, was refused by notice dated 26 January 2022.
 - The development proposed was originally described as demolition of existing storage buildings with replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This is an outline application with all matters reserved. Details of access, appearance, landscaping, layout, and scale would need to be the subject of a reserved matters application. I have determined the appeal on this basis and thus have treated the submitted plans as being for indicative purposes only.

Main Issues

3. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy, including an assessment of the effect of the proposal on the openness of the Green Belt;
 - Whether or not it has been demonstrated that the site would provide a suitable site for development having regard to land contamination; and
 - If the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons- *Whether inappropriate development*

4. The appeal follows a number of refused applications and a dismissed appeal. The appeal site contains a number of buildings and structures adjacent to Shepherds Drive.

5. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One such exception is g) 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. The Framework defines previously developed land. The Council highlight that the definition excludes land that is or was last occupied by agricultural buildings. The presented information does not clearly demonstrate whether or not the site meets the definition. Nonetheless, even if the buildings constituted previously developed land, the impact of the proposed development must not have a greater impact on the openness of the Green Belt than the existing development.
7. Paragraph 137 of the Framework confirms that 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 openness of the Green Belt has a spatial and visual aspect.
8. Evidence has been submitted to demonstrate the volume of the three buildings and structures to be demolished. As stated above, the appeal relates to an outline application with all matters reserved. The appellant has submitted indicative drawings to demonstrate a dwelling with a footprint, height and volume similar to the existing buildings could be erected. Furthermore, the location of the proposed dwelling and size of the residential curtilage have been amended. The indicative drawings show that the proposed dwelling would not exceed the height of building 'A'. Having said that, building 'A' is the tallest building out of the three. Buildings 'B' and 'C' are significantly lower and it is likely that a new dwelling would exceed the height of those buildings.
9. The current buildings and structures have a low key appearance because of their scale, form and materials. Therefore, they have limited visual impact upon the openness of the Green Belt. On the opposite side of Shepherds Drive is the Ivy Model Farm development and below the appeal site are residential terraces. The appeal site has limited visual connection with those developments.
10. The proposal would be clearly visible from public vantage points, including Shepherds Drive and public footpaths. Having considered the evidence presented, a new dwelling would be more visually prominent than the existing development. This is due to the height and appearance of the existing buildings and structures, and a new dwelling would also involve the creation of a domestic curtilage which is likely to include a parking area and outdoor amenity space with associated domestic paraphernalia. As a result, the proposed development would have a greater impact on the openness of the Green Belt than the existing development, particularly visually, albeit to a moderate degree. Consequently, even if the proposal amounted to development on previously developed land, which has not been robustly demonstrated, the scheme would not meet the exception of paragraph 149 g).
11. For these reasons, based on the evidence presented, the proposal would not fall under any of the exceptions listed in the Framework and would be inappropriate development in the Green Belt, having regard to Policy CG7AP of the Bolton's Allocation Plan (2014) and section 13 of the Framework.

Land contamination

12. Policy CG4 of the Bolton's Core Strategy Development Plan Document (2011) (DPD) states that development proposals on land that is (or is suspected to be) affected by contamination or ground instability must include an assessment of the extent of the issues and any possible risks. Development will only be permitted where the land is, or is made, suitable for the proposed use. The appellant considers that this matter can be dealt with by a condition, similar to other decisions.
13. Planning Practice Guidance sets out that unless this initial assessment clearly demonstrates that the risk from contamination can be satisfactorily reduced to an acceptable level, further site investigations and risk assessment will be needed before the application can be determined¹. A preliminary risk assessment (PRA) was submitted with the application. The Council's case highlights that as a minimum, the PRA report should include 9 stated requirements. The appellant has not clearly or robustly demonstrated that the PRA included or sufficiently covered all those requirements.
14. For these reasons and based on the evidence submitted, insufficient information has been provided to allow the contaminated condition of the site to be understood, and it is unknown whether any remediation measures, if necessary, would be viable or practicable. The appellant has not satisfactorily demonstrated that the site can be made safe for the proposed residential use and I am not satisfied that a condition in this case would adequately address this matter. Consequently, the proposed development would conflict with Policy CG4 of the DPD as well as paragraphs 183 and 184 of the Framework. These paragraphs state, amongst other matters, that planning decisions should ensure that a site is suitable for its proposed use and adequate site investigation information is available to inform these assessments.

Other considerations

15. The Council is not able to demonstrate a 5-year supply of deliverable housing sites. The proposal would provide a new dwelling and also social and economic benefits. Given the scale of the scheme, I attach limited weight to these benefits.
16. The appellant states that the scheme would represent an improvement to the site and surrounding area, adequate parking could be provided on site, there are no highway objections and matters relating to drainage and amenity of neighbouring occupiers could be dealt with through planning conditions. Nonetheless, visual improvements could be achieved without constructing a new dwelling. Any avoidance of harm and compliance with planning policies are not considerations which amount to a positive consideration in support of the appeal.

Whether very special circumstances exist

17. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. In addition, I have found a moderate loss to the openness of the Green Belt, which would be harmful. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the

¹ Paragraph: 007 Reference ID: 33-007-20190722

potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

18. The considerations relating to the contribution to housing supply as well as social and economic benefits are given limited weight. The other advanced considerations highlighted are given neutral weight in that they neither weigh in favour or against.
19. When drawing this together, the other considerations advanced in support of the appeal whether taken individually or cumulatively, do not, clearly outweigh the totality of the harm that I have found. Therefore, the very special circumstances necessary to justify the development do not exist.

Planning Balance and Conclusion

20. As stated above, the Council is not able to demonstrate a 5-year supply of deliverable housing sites. Therefore, Paragraph 11 of the Framework, in the context of the presumption in favour of sustainable development, indicates that planning permission should be granted unless (d)(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
21. The harm to the Green Belt that I have identified above, including that the proposal would result in inappropriate development, provides a clear reason for refusing the development proposed². Accordingly, the presumption in favour of sustainable development does not apply in this instance.
22. As set out above, I conclude that the proposal would amount to 'inappropriate development'. There are no very special circumstances to outweigh the harm caused. Consequently, the scheme would conflict with Policy CG7AP of the Bolton's Allocation Plan (2014) and section 13 of the Framework. Furthermore, insufficient information has been provided regarding land contaminated. Any benefits associated with a single dwelling would be limited. The benefits in that respect do not outweigh the deficiencies that would arise as a result of the conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
23. For the reasons given above, the appeal does not succeed.

L M Wilson

INSPECTOR

² See paragraph 11 (d)(i) – footnote 7 of the Framework