



Appeal Decision

Site visit made on 14 October 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/T0355/W/22/3299558

Land Accessed by the Fieldings, Moneyrow Green, Holyport, Maidenhead

- 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 David Holmes, Wooldridge Developments, against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref 21/02951, dated 27 August 2021, was refused by notice dated 8 February 2022.
 - The development proposed is described as 'Development of the site to provide 4no. detached dwellings with associated access, hardstanding and landscaping'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the planning application, the Council has adopted a new Local Plan, the Borough Local Plan 2013 – 2033 (adopted 2022) (the BLP). Policies of The Royal Borough of Windsor and Maidenhead Local Plan (adopted 2003), including Policies GB1, GB2, GB3, DG1 and F1 that were referenced in the Council's decision, have therefore been superseded by those contained in the BLP.
3. At the time of the Council's decision, the relevant emerging policies of the BLP were also detailed within the Officer's report and on the Council's decision notice. The appeal was submitted several months after the adoption of the BLP. As such, the cases presented by both main parties reflect the new plan policies and no party would be prejudiced by my consideration of the appeal based on the BLP policies.
4. A flood risk assessment (FRA) was submitted by the appellant at the start of the appeal to address the Council's reason for refusal in relation to flood risk. From the Council's appeal statement, it appears that it did not initially receive a copy of the document. The FRA was subsequently provided to the Council with an opportunity to provide comments. Accordingly, I do not consider either main party to have been prejudiced by my consideration of this evidence.

Main Issues

5. The main issues are:
 - Whether the development 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 of the development on the openness of the Green Belt;
- The effect of the development on the character and appearance of the area;
- Whether the development would lead to increased flood risk;
- Whether the development accords with the Council's development plan policy in respect of climate change; and
- 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 inappropriate development

6. The appeal site lies within the Metropolitan Green Belt. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy QP5 of the BLP takes a consistent approach to the Framework in seeking to guard the Green Belt from inappropriate development.
7. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. Policy QP5 is also consistent with the Framework in this regard. The appellant contends that the proposal meets the exception of limited infilling in villages established in paragraph 149e) of the Framework.
8. There is no definition of 'village' or 'limited infilling' within the Framework. However, Policy QP5 identifies that in assessing limited infilling outside of identified village boundaries¹, it will be necessary for the proposals to demonstrate that the site falls within the village envelope, having regard to the physical context of the site and its surroundings.
9. The Council identified the appeal site as falling within the village envelope of Holyport. From the evidence before me and my observations on site, I see no reason to disagree with this finding. It is therefore a question of whether the proposed development constitutes limited infilling.
10. The supporting text to Policy QP5 further states that limited infilling is considered to be the development of a small gap in an otherwise continuous frontage, or the small-scale redevelopment of existing properties within such a frontage. It also includes infilling of small gaps within built development. Furthermore, it should be appropriate to the scale of the locality and also not have an adverse impact on the character of the locality.
11. R (Tate) v Northumberland County Council [2018] EVCA Civ 1519, indicates that it is essentially a matter of planning judgement as to whether a development meets the exception of limited infilling. The Judgement identified that in determining whether development is limited infilling, the decision maker can have regard to the size and nature of the development, its location, as well

¹ Settlement boundaries for relevant villages listed within the BLP.

- as its relationship to other, existing development adjoining and adjacent to it. This is a similar approach as that outlined in the supporting text to Policy QP5.
12. Whilst supporting text should not hold the same weight as development plan policies, I nevertheless find the supporting text to Policy QP5 to be consistent with case law and provide an appropriate approach in which to consider the scope of whether the proposed development constitutes limited infilling.
 13. The appeal site comprises undeveloped land used as a paddock measuring approximately 0.2ha. It is accessed from The Fieldings, from a gap between two detached residential properties, but extends into more open land beyond. The appeal site is bound by further open land to the west and south-west, while to the north are residential properties located on Bartletts Lane.
 14. Due to the access arrangement and orientation of the proposed dwellings, the proposal would closely relate to The Fieldings from a contextual viewpoint. The Fieldings is a relatively short cul-de-sac containing a small number of residential properties. Against this context, the appeal site is rather sizeable, while the addition of four dwellings would also be represent a considerable increase in the number of dwellings in the cul-de-sac. Each of the proposed dwellings are themselves of generous proportions and would be served by sizeable plots. I therefore find that the proposal would not be of a limited scale.
 15. Several appeal decisions relating to Green Belt developments have been provided, to support the notion that the appeal scheme is of limited scale in the context of Paragraph 149e). I do not have full details of the relevant cases. However, each case appears to have significant differences in context to the current proposal. Several appear to relate to an overall smaller quantum of development than the current proposal, while the site contexts, particularly the nature of adjacent built form and how developments related to it is also seemingly different. As such, these decisions do not lead me to conclude that the current scheme constitutes limited infilling.
 16. Furthermore, based on the submitted plans and reinforced by my observations on site, the proposal would not result in infilling development. The proposed development would largely be sited past the existing gap between residential properties, encroaching into more open land beyond. The proposed dwellings, Plots 1 and 2 in particular, would be generally exposed by open land to the rear and to the south-west rather than adjacent built form. Although there is wider surrounding development nearby, this would not have the effect of suitably enclosing the site, such that the proposal would create a sense of infilling. Indeed, the proposal would create its own secondary frontage as opposed to adding to an otherwise continuous frontage.
 17. I note the appellant's comments that BLP Policy SP1 states that villages will accommodate limited new development opportunities, including limited Green Belt release. However, for the reasons outlined above, I do not consider the proposal to be limited in nature. Whilst from the evidence before me the site is not one of the locations that has been identified as suitable for Green Belt release.
 18. For the above reasons, I conclude that the proposed development does not represent limited infilling. It would therefore not accord with the exception that is established at paragraph 149e) of the Framework, or policy QP5 of the BLP. As such, it would amount to inappropriate development in the Green Belt.

Likewise, it would not comply with BLP Policy SP1, which sets out the Borough's spatial strategy for development, including protecting the Green Belt from inappropriate development.

Openness

19. Openness is an essential characteristic of the Green Belt that has a spatial as well as visual element. Notwithstanding the presence of adjacent buildings, the site has an overriding open character free from built form.
20. The new dwellings, access road, parking and domestic gardens would cover a rather considerable area. Additionally, the collective mass, height and volume of the proposed dwellings would be visible from public vantage points, most notably along The Fieldings. It would therefore lead to both a moderate spatial and visual loss of openness to the Green Belt, contrary to the aims of Paragraph 137 of the Framework.

Character and Appearance

21. The appeal site lies to the west of Moneyrow Green, off of The Fieldings. Moneyrow Green predominantly consists of residential development in ribbon form stretching southwards from the centre of Holyport, although it also has several short cul-de-sacs off it including The Fieldings.
22. The proposed dwellings would be set back significantly from the main residential frontage on the Fieldings in a backland form. There are already several existing backland developments nearby, whilst the Council's Borough Wide Design Guidance Supplementary Planning Document (SPD) (adopted 2020) does not seek to prevent backland development provided it is sensitively designed.
23. However, in this instance, the proposal would be highly visible from The Fieldings due to the relatively wide access. The proposed development's prominence, together with its linear arrangement and the position of the dwellings, significantly setback from other properties on The Fieldings, would create a secondary frontage. This would be at odds with the layout of the adjoining built form. Additionally, the proposed dwellings would be taller in height than the adjoining properties, such that they would create a rather prominent and imposing impression. The scheme would therefore be contrary to the design principles contained within the SPD, namely that backland development should be subordinate to existing buildings on the street frontage and relate positively to the existing layout and built form.
24. Aerial images of the built form of Holyport, have been provided to illustrate that similar development patterns to the proposal exist. However, from my observations on site the examples of backland developments are far more discrete than the current proposal would be. Other examples of more sprawling cul-de-sac developments were set some distance from the appeal site, in a higher density part of the settlement, and therefore do not share a close relationship or context to the appeal scheme.
25. The Council does not object to the general aesthetic appearance of the proposed dwellings and I see no reason to disagree. Nevertheless, for the reasons set out above I conclude that the proposal would harm the character and appearance of the local area. This would conflict with BLP policies QP1 and QP3. Together these policies, amongst other matters, seek for new

development to positively contribute to their local environment, including through respecting the urban grain and layout. It would also conflict with the aims of the Framework and the Council's Borough Wide Design SPD, in respect of seeking high-quality design that respects local context.

Flooding

26. The appeal site is within Flood Zone 1, which represents a low probability of flooding from river or sea flooding. Despite this, Footnote 55 of the Framework identifies instances where development within Flood Zone 1 should be accompanied by a site-specific flood risk assessment. This includes land that is subject to other sources of flooding and where development would introduce a more vulnerable use. The appeal site has been demonstrated to have a low risk of surface water flooding, whilst the proposed dwellinghouses would represent a more a 'more vulnerable use' as outlined within Annex 3 of the Framework. Therefore, in the absence of a Flood Risk Assessment (FRA) alongside the original application, the appellant did not demonstrate how the proposed development would manage surface water flood risk at the site, in line with the requirements of both the Framework and BLP Policy NR1.
27. The appellant has subsequently provided an FRA alongside the appeal, which includes an outline drainage strategy. Although some parts of the site have been identified as at a low risk of surface water flooding, the FRA demonstrates that the development can be designed so that surface water flood risk is not increased post-development. This could be achieved using various Sustainable Urban Drainage (SUDs) features. These include permeable paving, underground attenuation tanks and an attenuation pond. It is indicated that these SUDs features, either individually or in combination, can ensure that peak flows at the site can be controlled to pre-development rates up to and including 1 in 100-year events plus an appropriate climate change uplift. The appellant has also indicated a willingness to accept conditions in connection with the approval of the detailed drainage strategy as part of the grant of a permission.
28. Furthermore, the FRA also indicates that in formulating the surface water management strategy a sequential approach has been followed in respect of the hierarchy of drainage options.
29. Consequently, based on the evidence before me, and subject to suitable conditions in respect of the detailed drainage design, I am satisfied that the proposal would comply with Policy NR1 of the BLP, which seeks to manage the effects of flood risk. Likewise, the development would comply with the aims of the Framework policies in respect of managing flood risk.

Climate Change

30. Policy SP2 of the BLP requires development to demonstrate measures to adapt to and mitigate climate change. The policy sets out several design measures that are expected to be explored to maximise climate change resilience in development. The policy does not set a specific standard that developments are expected to achieve (i.e. carbon neutrality) but does indicate the need for applicants to refer to related Supplementary Planning Documents (SPD), or successor documents, for further guidance to the policy.

31. An Interim Sustainability Statement (March 2021) (ISS) has been prepared by the Council, which targets a net zero carbon rating for new dwellings (above 100sqm of floorspace). Where there is a shortfall, the ISS enables developers to provide mitigation through a financial contribution towards a carbon off-set fund. The Council has identified that the ISS can be considered a successor document referred to under Policy SP2 for additional guidance.
32. Given that the ISS accords with the general principles of the Framework in terms of planning for climate change, it is a material consideration to which I have given weight. However, the weight is significantly tempered as it is not an SPD that has been through due process², including public participation.
33. The Planning Practice Guidance (PPG) advises that local planning authorities can set energy performance standards for new housing or the adaptation of buildings to provide dwellings, that are higher than the Building Regulations. However, this should be undertaken through their development plan policies. Furthermore, the PPG also informs that whilst energy performance standards exceeding Building Regulations can be sought for new housing, this should only be up to the equivalent of Level 4 of the Code for Sustainable Homes (CfSH). Although the CfSH has been withdrawn following the Housing Standards Review in 2015, the standard to meet net zero carbon emissions (or otherwise provide a financial contribution to off-set emissions) that is outlined within the ISS would exceed the equivalent of Level 4 as outlined in the technical guide³.
34. Consequently, I ascribe the ISS only limited weight, and in this case, do not consider that the proposal's failure to meet the net zero aspirations of the ISS guidance necessarily constitutes a conflict with Policy SP2 of the BLP.
35. A sustainability statement for the proposed development has demonstrated that it would incorporate a variety of design measures to enable the proposed dwelling's carbon emissions to be reduced by 78%. Issues surrounding the provision of high-speed internet and electrical vehicle charging points could be suitably secured by condition should planning permission be granted, which the appellant has indicated a willingness to accept. Consequently, the proposal subject to relevant conditions, would incorporate measures to adapt and mitigate climate change, in line with the sustainability aims outlined under Policy SP2. I am therefore satisfied that, on the whole, the proposal accords with the objective of Policy SP2. Likewise, it would comply with the policy aims of the Framework in supporting the transition to a low carbon future that helps towards meeting the challenge of climate change.
36. Since the determination of the planning application, the appellant has also provided a signed unilateral undertaking, which would enable the relevant financial obligation (for off-setting of carbon emissions identified under the ISS) to be secured. However, given I have found the scheme to comply with the requirements of Policy SP2 without this, such an obligation would not be reasonable or necessary if planning permission was to be granted.

Other Considerations

37. The proposal would provide social and economic benefits associated with the delivery of four new family homes. It is further recognised that the Framework

² As set out in Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012

³ Code for Sustainable Homes Technical Guide November 2010

seeks to support the Government's objective of significantly boosting the supply of homes. I also understand that the appellant is experienced in delivering development and that the scale of the proposal may enable prompt delivery.

38. It has been further suggested that the Local Planning Authority (LPA) has a historic track record of under delivery of housing, such that the delivery of the proposed dwellings is a significant material consideration. However, the BLP has recently been adopted, which is understood to have allocated sufficient land to meet the Council's projected housing needs. Additionally, upon adoption of the BLP a re-calculation of the Council's Housing Delivery Test was undertaken based on the strategic policies of the adopted plan. This confirmed that the Council has a HDT measurement of 111% (May 2022), a five-year housing land supply (5YHLS) can therefore be demonstrated.
39. Overall, while the provision of four family homes, would contribute to the supply of housing and result in associated social and economic benefits, given the small scale of the proposal these benefits would be modest. Based on the evidence before me, the Council can demonstrate a 5YHLS, while in any case a presumption in favour of sustainable development that is outlined at Paragraph 11 of the Framework would not apply given the site's location in the Green Belt. Accordingly, I have afforded the benefits modest weight in the planning balance.

Green Belt Balance

40. The proposal is inappropriate development in the Green Belt and it would result in moderate harm to openness. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
41. In addition to the harm to openness, I have also found harm to the character and appearance of the area to which I give significant weight.
42. Overall, I find that together the modest benefits associated with the development of four dwellings at the site do not clearly outweigh the harm that I have identified. Consequently, very special circumstances that are needed to justify the development do not exist.

Conclusion

43. For the reasons outlined above, having regard to the development plan and all other material considerations, the appeal is dismissed.

Lewis Condé

INSPECTOR