
Appeal Decision

Site visit made on 8 November 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/B2355/D/22/3300859

7 Height End Cottages, Kirk Hill Road, Haslingden BB4 8TZ

- 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 Paul Badhan against the decision of Rossendale Borough Council.
 - The application Ref 2022/0177, dated 29 March 2022, was refused by notice dated 7 June 2022.
 - The development was originally described as proposed domestic off-road parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including an assessment of the effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the surrounding area;
 - The effect of the proposal on highway safety, having regard to visibility splays and surface water; and
 - Whether any 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 or not inappropriate development

3. 7 Height End Cottage is an end terrace located within the Green Belt. The dwelling has amenity space fronting onto Kirk Hill Road and there is access to the rear of the dwelling on Oakenhead Wood Old Road.
4. Paragraph 150 of the Framework sets out certain forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Within the list

- is b) engineering operations. The main parties agree that the proposal constitutes engineering operations, and I have no reason to disagree.
5. The location of the proposed development currently comprises a garden area, which sits higher than the adjacent highway, bounded by a stone boundary wall. The appellant highlights that the scheme would replace the area already used for parking adjacent to the highway in a more prominent position than that now proposed. At the time of my site visit there were no vehicles parked in this location and only a vehicle parked behind the dwelling on the small driveway. However, I am mindful that this was only a snapshot, and the appellant may park in this location at other times. Nonetheless, the area adjacent to the highway is a footway that falls outside the appeal site and there are not any clearly distinguishable parking spaces in this location.
 6. 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 appellant has drawn my attention to a legal judgement in this regard¹.
 7. To my mind, although I acknowledge that the scheme relates to a householder application and the parking spaces would be set down at highway level, the proposal would not preserve the openness of the Green Belt. This is because of the existing characteristics of the site which is a garden area (primarily comprising vegetation) with a traditional stone wall boundary treatment. In addition, due to the scale and urban design of the development which includes a retaining wall, hardstanding for three vehicles and could result in three vehicles being parked, and associated vehicle movement. The proposed development would be prominent and clearly visible from the highway. Consequently, the development would cause spatial and visual harm to the openness of the Green Belt, albeit to a limited degree due to the scale of the development. As such, the scheme would conflict with the fundamental aim of Green Belt policy, as stated in the Framework, to keep land permanently open.
 8. In my view, the proposed development would not conflict with the purposes of including land within the Green Belt. This is due to the scale of the development and because the area of land concerned is an existing, domestic garden area.
 9. Consequently, the proposed development, at the scale proposed, would not fall under any of the exceptions listed in the Framework and would be inappropriate development in the Green Belt, having regard to chapter 13 of the Framework.

Character and appearance

10. The proposed development would alter the character and appearance of this part of the appeal site. As set out above, the site currently comprises a residential garden which is bounded by a stone wall. Although the stone wall is characteristic of the local area, the appeal site does not significantly contribute to the character of the area.

¹ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

11. The proposal includes planting which I understand is similar to that approved in the locality². I agree with the Council's concern relating to the proposed planting and that there would be limited space to ensure healthy plant growth.
12. The proposed concrete blocks retaining wall would not be in keeping with the surrounding area. However, the appellant state that they would accept a planning condition relating to samples of the proposed materials associated with the retaining walls. This would help to ensure that the development is in keeping with the natural stone walls characteristic of the locality. Furthermore, a reasonable amount of garden space would be maintained which would help to soften the proposals impact.
13. Therefore, subject to an appropriately worded condition relating to the materials of the retaining walls, the proposal (without planting) would not result in significant net loss of visual quality of the site's frontage and would not cause harm to the rural character of the countryside.
14. For these reasons, the proposed development would have an acceptable effect on the character and appearance of the area. Consequently, it would comply with Policies HS9 and ENV1 of the Rossendale Local Plan 2019 to 2036 (2021). These seek, amongst other matters, to ensure new development takes account of the character and appearance of the local area. In addition, it would comply with chapters 12 and 15 of the Framework which seek to ensure developments are sympathetic to local character and ensure decisions contribute to and enhance the natural and local environment.

Highway Safety

15. The local highway authority state that they do not have any objections to the principle of the application but set out concerns and have suggested planning conditions. The reason for refusal relates to visibility splays for vehicles using the proposed parking area and surface water.
16. The visibility details drawing shows the visibility of the parking areas meet those required by the local highway authority. In terms of drainage, the appellant highlights that the parking area would be at the same level as the adjoining Kirk Hill Road, would be serviced in porous macadam and would be drained into the soil bed.
17. Given my conclusions in the previous section relating to planting, there would not be a need for mitigation planting/ a soil bed. I am satisfied that subject to a condition relating to surface water drainage (such as that suggested by the local highway authority) to ensure that the development would be adequately drained in a manner to avoid it running on to the adjacent highway. The appellant has satisfactorily addressed this reason for refusal and a safe and suitable access and parking would be provided.
18. For these reasons, the proposed development would be acceptable in terms of highway safety, having regard to visibility splays and surface water. Consequently, it would comply with chapter 9 of the Framework which states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

² Planning application no. 2020/0028

Other considerations

19. I acknowledge the other considerations highlighted, including that the appellant sets out that they have made substantial progress in restoring their home and reversing its physical decline and the similar approved development on Haslingden Old Road. It appears that the approved development was for a smaller parking area (for two cars) and the property previously had an existing drive providing off-street parking. Therefore, the two developments cannot be directly compared. The other considerations do not amount to a positive consideration in support of the appeal.

Whether very special circumstances exist

20. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. The proposal would not preserve the openness of the Green Belt. 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 potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. The other considerations highlighted are given neutral weight in that they neither weigh in favour or against. 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.

Conclusion

22. As set out above, I conclude that the proposed development would have an acceptable effect on the character and appearance of the area and on highway safety. However, the proposal would amount to 'inappropriate development'. There are no very special circumstances to outweigh the harm caused. Consequently, the scheme would conflict with chapter 13 of the Framework which seeks to protect the Green Belt.
23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR