



Appeal Decision

Site visit made on 15 November 2022

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal Ref: APP/W4223/W/22/3299298

Land to the west of Healds Green, Chadderton, Oldham OL1 2SP

- 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 Mr A Tomlinson against the decision of Oldham Metropolitan Borough Council.
 - The application Ref OUT/347311/21, dated 22 July 2021, was refused by notice dated 24 December 2021.
 - The development proposed is described as infill development (16 No. dwellings), new access roads from Healds Green and Heights Lane, provision of community car parking (20 spaces), and double garage for No. 33 Healds Green with extended curtilage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline, with access, layout and scale being matters for which approval is sought. Details of appearance and landscaping are therefore reserved for a subsequent application.
3. The appellant contends in the opening section of his statement that, following pre appeal discussions between the appellant and Council, it was considered that several reasons for refusal could have been addressed. As such, the appellant has requested that I take account of this and consequently focus on the principle of the proposed development covered in reason for refusal (RfR) one. I have taken account of the request in my reasoning. However, I cannot ignore the other RfRs, otherwise I would not be able to carry out an appropriate planning balance.
4. I note that 2 Emerging Plans (EPs) have been referred to in submissions, ie the Oldham Local Plan (OLP) and Places for Everyone (PfE), a Plan now covering 9 of the Greater Manchester Authorities. Paragraph 48 of the National Planning Policy Framework (the Framework) advises that weight may be given to relevant policies in EPs according to the stage of preparation, the extent to which there are unresolved objections to policies and the degree of consistency of policies in the EP with those in the Framework.
5. I am aware that the PfE EP is currently being Examined, I therefore consider this EP to be at an advanced stage, which attracts some weight. I am not aware of a Public Examination date having been arranged for the OLP and I have not been provided with any details of the stage which it is at. I have not been provided with any details regarding whether there are unresolved objections to any policies that may have relevance to the appeal in either of

the EPs or the extent of any such objections should they exist. Nor have I been provided with details of the degree of consistency of policies in the EPs with those in the Framework. Consequently, at this point I attach limited weight to EP policies referred to in submissions.

Main Issues

6. The main issues are:

- whether the proposal constitutes inappropriate development in the Green Belt, having regard to any relevant development plan policies and policies in the Framework,
- if the proposed development is inappropriate development, its effect on the openness of the Green Belt,
- whether the proposal makes appropriate provision for affordable housing, having regard to relevant development plan policies and the Framework,
- whether the proposal makes appropriate provision for public open space, having regard to relevant development plan policies and the Framework,
- the effect of the proposal on the living conditions of occupiers of existing neighbouring properties, (in particular, dwellings on Healds Green),
- whether the proposal would provide satisfactory living conditions for future occupiers,
- whether the proposal would have an unacceptable impact on highway safety, and
- if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations that amount to the very special circumstances (VSCs) required to justify the development.

Reasons

Whether inappropriate development in the Green Belt

7. For planning policy purposes, the site is located within the Green Belt. Policy 22 of the Oldham Local Development Framework Development Plan Document: Joint Core Strategy and Development Management Policies, 2011, (LDF), states that development in the Green Belt will be permitted if it does not conflict with national Green Belt policies outlined in Planning Policy Guidance Note 2: Green Belts (PPG2). I consider Policy 22 of the LDF to be out of date in respect of it drawing upon guidance provided in PPG2, as PPG2 no longer exists. This PPG, along with others, was replaced by the Framework, and the most up-to-date version of the Framework was published in July 2021. The Framework is a significant material consideration. I shall therefore appraise the proposal in respect of Green Belt issues primarily against the Green Belt policies in the Framework
8. Paragraph 149 of the Framework advises that the construction of new buildings in the Green Belt is inappropriate development, except for the exceptions listed, one of which is "*limited infilling in villages*", sub-paragraph 149 e). The appellant contends that the proposal constitutes limited infilling in a village.

9. I appreciate the appellant's observation that what constitutes a 'village' is not defined in the Framework. Additionally, nor are the terms 'infill' and 'limited'. Furthermore, I have not been provided with any evidence that these terms are defined in the area's development plan. In respect of all these concepts, a judgement must be made.

Village

10. I have not been provided with any evidence that the development plan includes a settlement boundary around Healds Green. Even if one exists, as noted in the appellant's statement (5.25), the Courts¹ have concluded that although a local plan settlement boundary would be a relevant consideration, it would not necessarily be determinative, as it may not accord with an Inspector's assessment of the extent of a village on the ground.
11. The appellant contends that Healds Green is a village; the Council has not provided an opinion on this matter. Dictionary definitions generally refer to a village being a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. There does not appear to be any dispute between the parties regarding whether the settlement of Healds Green is in a rural area, nor is there any suggestion that the settlement constitutes a town. I have made my Decision on this basis.
12. Dictionary definitions of the term 'hamlet' often refer to it as being a settlement smaller than a village, and in Britain, one without a church. The appellant considers Healds Green is a village partly due to a Methodist Church having been erected in the settlement. However, as noted by the appellant in his statement (2.2), the church no longer exists.
13. The appellant draws upon an extract of a map from 1931² to support his view that Healds Green is a village. He describes the map extract as depicting the settlement pattern. I accept that a settlement pattern is discernible from the extract. However, to my mind the extract identifies more than one settlement, with reference for example to Healds Green and Chadderton Fold. Paragraph 2.1 of the appellant's statement refers to Healds Green, Chadderton Fold, Cragg and other close by properties forming a historic settlement in the northern part of Chadderton. Taking account of the location and arrangement of buildings shown on the map extract and my observations on the ground, I consider that the collection of areas and properties referred to by the appellant do not form one settlement.
14. My reading on the ground leads me to conclude that the settlement of Healds Green broadly, but not definitively, comprises the strip of properties/buildings shown in the centre of the Location Plan submitted with the appeal. That is, the core of properties/buildings located either side of Healds Green road extending from the northern boundaries of the former church on the western side of the road and number 38 on the eastern side, down to the junction where Healds Green road meets Heights Lane³; and the collection of properties/buildings immediately south of the southern end of Healds Green road, located on the southern and eastern side of the bend in Heights Lane, extending south down

¹ *Julian Wood v SSCLG and Gravesham Borough Council* [2015] EWCA Civ 195

² Appendix 10 of the appellant's appeal statement

³ The road in question is referred to in submissions as Heights Lane and Height Lane. For consistency, and as I do not know what the correct name of the road is, I have used the name Heights Lane throughout my Decision

to where the land slopes down towards a sports field, and east to the eastern boundary of a horse riding arena.

15. Geographers sometimes refer to numbers of inhabitants as being a determining factor when describing types of settlements, and I have seen it suggested that a village would comprise of between around 500 to 2000 inhabitants. Although I have not been provided with any information regarding the number of inhabitants in the area, given the number of dwellings located within what I have broadly defined as the settlement boundary, which is somewhere in the region of 40-60, I consider it highly unlikely that the number of inhabitants is anywhere near 500. I am not suggesting that the number of inhabitants of a settlement is the determining factor with regard to the type of settlement it is. It is simply one other factor to bear in mind.
16. As regards services and facilities available within the Healds Green settlement, I am only aware of one building that is used as a community facility, ie what is referred to in submissions as the community centre on Healds Green road.
17. Taking account of all the factors outlined above, I conclude that the settlement of Healds Green does not constitute a village for the purposes of sub-paragraph 145 e) of the Framework. Having concluded that the site is not within a village, it is not necessary for me to proceed to consider whether the proposal amounts to limited infilling within a village. However, should a higher authority than I conclude that the site is within a village, I shall proceed to consider the concepts of "infill" and "limited".

Limited infilling

18. The appellant contends that the proposal would be infill development, sited between numbers 15-29 Healds Green road and land to the rear.
19. The Council's view of what constitutes infill development is akin to the approach adopted by the Inspector in the Court of Appeal case of *R (Tate) v Northumberland County Council [2018] Civ 1519*, where the Inspector considered that one reasonable test of infill development would be the question of whether the development would occupy a gap in an otherwise built-up frontage. The appellant adopts a different view, drawing upon the view reached by an Inspector colleague in appeal Ref APP/W4223/W/19/3227776. The Inspector in this case did not confine the concept of infill to that of a gap in an otherwise built-up frontage. Rather, she accepted that a wider interpretation may be possible, ie development within the confines of a group of buildings.
20. In the absence of any definition or criteria pertaining to infill development in the area's development plan, I acknowledge that the concept of infill development referred to in paragraph 145 e) of the Framework may be wider than simply development occupying a gap in an otherwise built-up frontage; it could include development within the confines of a group of buildings. Nonetheless, the specific circumstances of the site still need to be borne in mind.
21. The site covers an area of around 0.58 hectares. It consists of open grassland, which is apparently used for grazing in connection with adjoining agricultural land to the west. I note the appellant's submissions suggest there is a detached dwelling located in the northern part of the site. However, from the submitted plans and what I could see on site, there does not appear to be any

buildings within the site edged red. There are dwellings located immediately beyond the northern section of the site and adjacent to the broadly eastern and southern boundaries of the site. However, the main north-western and south-western boundaries of the site abut open agricultural land. There is a line of trees running east-west that divide the site broadly in 2; and there are hedges of varying densities and height, scattered trees and post and wire fences around the site's boundaries.

22. The proposed community car parking area and site access off Healds Green road would itself fill the existing gap between Nos 15-29 Healds Green road. An internal road serving dwellings that would be sited within the northern half of the site, an additional access road off Heights Lane to serve dwellings in the southern half of the site, and the proposed dwellings, associated gardens and car parking areas would all be located on the existing open land that extends beyond the rear of built development along the western side of Healds Green road.
23. To my mind, it can be seen from the Location Plan that the site area is proportionally significant relative to what I have found to be the settlement of Healds Green. Furthermore, the number of proposed dwellings, ie 16, relative to the number of dwellings that make up the settlement, ie somewhere in the region of 40-60, is also proportionally substantial. Therefore, I consider the proposed development would be far more extensive than filling a gap in a built up frontage; nor would it be limited to development within the confines of a group of buildings. Indeed, I consider the proposed development would amount to an extension of the settlement.
24. For the above reasons I consider the proposed development is neither infill nor limited. I therefore conclude that the proposal constitutes inappropriate development in the Green Belt. Paragraph 147 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSCs.

Effect on openness of the Green Belt

25. The Framework advises that the essential characteristics of Green Belts are their openness and permanence⁴. The openness of the Green Belt has both spatial and visual dimensions. The Framework also advises that one of the purposes of Green Belts is to assist in safeguarding the countryside from encroachment⁵.
26. The proposal would introduce built development where there is currently none. Due to the size of the site and the extent of the development proposed, as outlined above, I consider the proposal would have a significant impact on the spatial openness of the Green Belt.
27. At minimum, the proposed development would be visible from numerous properties located on the western side of Healds Green road, from the southern end of Heights Lane as one travels in a northerly direction, and from a part of Chadderton Fold road. I consider that the visual openness of the Green Belt would be significantly impacted from these vantage points.

⁴ Paragraph 137 of the Framework

⁵ Sub paragraph 138 c) of the Framework

28. Paragraph 138 of the Framework outlines the 5 purposes Green Belt serves, one of which is to assist in safeguarding the countryside from encroachment. The appellant draws upon a dictionary definition of encroachment, ie "*a gradual advance beyond usual or acceptable limits*"⁶, to support his view that the proposal does not encroach into the countryside. Additionally, the appellant suggests that encroachment is usually linear in character. In my opinion, encroachment does not only relate to linear forms of development. Furthermore, with reference to the definition of encroachment offered by the appellant, I consider the extent of the proposal significantly advances beyond acceptable limits of development within the Green Belt within the context of the site.
29. I note that the Council, following an application for prior approval, has confirmed that permission is not required for erection of the agricultural building applied for on land immediately south-west of the north-eastern end of the south-western boundary of the site. At the time of my site visit the building had not been constructed. However, even if it had been, its presence would not have changed my views regarding the impact of the proposal on the openness of the Green Belt.
30. I also note that the appellant suggests that it would be possible to erect further agricultural buildings on the land referred to, the result of which would be further enclosure of the appeal site and reduction of open space. However, I have not been provided with any substantive evidence to demonstrate that such development is likely to occur. As such, I give little weight to this matter.
31. In light of the above, I conclude that the proposed development would significantly harm both the spatial and visual openness of the Green Belt, and it would encroach into the Green Belt thereby threatening one of the purposes of including land within it.

Whether the proposal makes appropriate provision for affordable housing

32. Policy 10 of the LDF requires all residential development of 15 dwellings and above to provide an appropriate level of affordable housing provision. I have not been provided with any evidence that an appropriate level of affordable housing would be provided, nor have I been provided with any mechanism that would secure such provision. I therefore conclude that the proposal does not make appropriate provision for affordable housing. As such, it does not accord with Policy 10 of the LDF or housing policies in the Framework.

Whether the proposal makes appropriate provision for public open space

33. Policy 23 of the LDF requires all residential developments to contribute to the provision of new or enhanced public open space, unless it can be demonstrated that it is not financially viable. I have not been provided with any substantive evidence to demonstrate that such provision would not be financially viable; nor have I been provided with any mechanism that would secure the provision of suitable new or enhanced public open space. I therefore conclude that the proposal does not make appropriate provision for public open space. As such, it does not accord with Policy 23 of the LDF or open space and recreation policies in the Framework.

⁶ Paragraph 5.14 of his statement

Living conditions – existing and future occupiers

34. Policy 9 of the LDF and sub paragraph 130 f) of the Framework seek to ensure, among other things, that the living conditions of occupiers of existing neighbouring properties would be protected and those of future occupiers would be satisfactory.
35. At minimum, as noted by the Council in RfR 4, the rear elevation of the proposed dwelling on plot 12 would be less than 14 m to the rear elevations of existing dwellings on Healds Green road. Although appearance is a reserved matter, it is unlikely that the degree of separation between these properties would protect the living conditions of occupiers of the properties located immediately east of plot 11.
36. I agree with the Council that the extent of private outdoor space that would be provided for plots 1-4 and 8 & 9 would not provide adequate private outdoor space for future occupiers of the associated proposed dwellings.
37. For the above reasons, I conclude that the proposal would result in unacceptable harm to the living conditions of occupiers of the dwellings referred to on Healds Green road; and that the proposal would not provide satisfactory living conditions for future occupiers of the dwellings that would be associated with the plots referred to. As such, the proposal does not accord with Policy 9 of the LDF or sub paragraph 130 f) of the Framework.

Highway safety

38. Policy 5 of the LDF seeks, among other things, to ensure that development provides appropriate highway safety measures. Paragraph 111 of the Framework allows for development to be refused due to unacceptable impact on highway safety.
39. No swept path analysis has been provided to demonstrate that the access from Heights Lane and the proposed turning area related to this access would be sufficient to enable refuse or large delivery vehicles to be able to enter, turn around and exit the site in a forward gear. This could result in such vehicles reversing out of the site onto Heights Lane, which I consider would create an unacceptable highway safety issue. Consequently, the proposal does not accord with Policy 5 of the LDF or Paragraph 111 of the Framework.

Other Considerations, Planning Balance, Very Special Circumstances & Conclusion

40. Paragraphs 2 and 47 of the Framework advise that applications for planning permission shall be determined in accordance with the development plan, unless material considerations indicate otherwise.
41. The Council suggests that with regard to the housing requirements outlined in the PfE EP, it would have supply of housing land representing 6.5 years. The appellant contends that as the PfE has not yet been adopted the housing figures are not yet Council policy, and therefore the existing housing requirement needs to be considered. As noted, I attach limited weight to policies in the EPs at this stage.
42. The appellant accepts that the Council's shortfall of housing land supply is not as extensive as it was when the planning application was determined, due to

the granting of large housing developments in recent times. However, he notes that there is still a shortfall. The Council considers that, based on the current housing requirement, it can demonstrate a housing land supply of 4.4 years. The appellant has not challenged this figure and I have not been provided with any substantive evidence to do so either.

43. Taking account of paragraph 11 d) of the Framework, and footnote 8, in such circumstances the policies that are most important for determining the application are deemed to be out of date and planning permission should therefore be granted...unless one of 2 circumstances apply. The first of these, 11 d) i., says unless "*the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.*"
44. Footnote 7 of paragraph 11 d) i confirms that land designated as Green Belt is one of the areas/assets of particular importance referred to in footnote 8. As such, a proposal that does not accord with Green Belt policies in the Framework provides a clear reason for refusal.
45. I have concluded that the proposal constitutes inappropriate development in the Green Belt, that it would have significant impacts on its spatial and visual openness, and that it would encroach into it. Therefore, the application of policies in the Framework which protect Green Belts provide a clear reason for dismissing the appeal. Consequently, the proposal does not benefit from a presumption in favour of sustainable development. Nevertheless, the planning balance required by s38(6) of the Planning and Compulsory Purchase Act 2004 still needs to be undertaken.
46. Paragraph 5.37 of the appellant's statement lists 12 other considerations which he considers collectively amount to the VSCs required to justify the development. Some of these matters have already been addressed above, so there is no need to reconsider them here.
47. In paragraph 3.5 of the statement the appellant also alludes broadly to economic, social, and environmental benefits resulting from the proposal to the settlement of Healds Green.
48. I accept that the proposal would provide some economic benefits, both during the construction phase and post construction due to future occupiers contributing to the economy of the wider area. I attach moderate weight to this matter.
49. The provision of 16 dwellings would contribute to addressing the existing housing shortfall in the area and assist in achieving the Government's objective of significantly boosting the supply of homes.
50. The proposal includes provision of 20 off-street car parking spaces for community use, located immediately off Healds Green road. The appellant suggests that the Healds Green settlement suffers from traffic congestion on Healds Green road, due to parking and manoeuvring of vehicles, especially when events are held at the community centre. It is asserted that the proposed community car parking would significantly improve highway safety, as well as enhancing the viability of the community.

51. I appreciate that the Transport Statement submitted in support of the proposal⁷ notes that: sections of the Healds Green road are not of sufficient width for 2 cars to be able to pass; on-street parking occurs on the road which further narrows the available carriageway width; there is no protection buffer between the edge of the carriageway and the step/boundary wall of the property opposite the site, and visibility is constrained for residents of the existing property opposite the site. However, the accident data drawn upon in the Transport Statement shows that only one accident was recorded as having occurred during the last 5 years, leading the authors of the report to conclude that the area within the vicinity of the site does not have any recurring highway safety problems that would be affected by the development.
52. Therefore, I consider that although the proposed community car parking could reduce on-street car parking and improve manoeuvring a little on Healds Green road, I have not been provided with any substantive evidence to demonstrate that the settlement "suffers from traffic congestion". Furthermore, the evidence suggests that there are no significant existing highway safety issues. Consequently, I attach limited weight to the provision of the community car parking area.
53. The appellant suggests the proposal would not adversely affect the character of the area or the landscape. However, given what I have found in respect of the detrimental impact the proposal would have on the Green Belt, I consider such impacts would undoubtedly adversely affect the character and appearance of the area and surrounding landscape. I therefore attach no weight to such matters in support of the proposal.
54. The appellant asserts that the proposed dwellings would be of an attractive design as well as being designed to the highest sustainability standards. Additionally, it is asserted that the proposal would offer a mix of housing types. However, as appearance is a reserved matter there is no evidence before me of the design of the dwellings or what the mix would be. Also, I have not been provided with any evidence of how the properties would be constructed, or any mechanism to ensure that they would be designed to the highest sustainability standards. Notwithstanding these concerns, high quality design, a mix of house types and sustainability standards are all requirements of local and national policies anyway. I therefore consider such matters to be neutral in the planning balance.
55. The appellant notes that the site is not in a flood risk area and would not create any flood risk issues, suggesting that such matters should weigh in favour of the proposal. Again, local and national policies require development to be directed away from flood risk areas and not to contribute to flood risk. Consequently, I consider such matters to also be neutral in the planning balance.
56. The appellant states that the site is located within easy access of a range of services, facilities and public transport options and opportunities would be available for walking and cycling. I note that, although the Council Officer's Report questioned such claims, the application was not refused on such grounds. Nevertheless, even if the site was deemed to have suitable access to a range of services, facilities and public transport options, these are again

⁷ Transport Statement produced by SCP, dated December 2020, Ref CT/200149/TS/02

requirements of local and national policies. I therefore consider such matters to also be neutral in the planning balance.

57. Paragraph 148 of the Framework advises that when assessing planning applications in the Green Belt, substantial weight shall be given to any harm to the Green Belt. Additionally, 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.
58. As noted, I have found that the proposal constitutes inappropriate development in the Green Belt, that it would have significant impacts on its spatial and visual openness, and that it would encroach into it. I have also found that the proposal does not make adequate provision for either affordable housing or public open space. Additionally, I have concluded that the proposal would adversely impact on the living conditions of occupiers of existing neighbouring properties, and that the proposal would not provide satisfactory living conditions for future occupiers of all the properties. Furthermore, it has not been satisfactorily demonstrated that the proposal would not create an unacceptable highway safety issue.
59. I therefore conclude that the other considerations outlined do not outweigh the significant harms I have found. Consequently, there are no VSCs that would justify the proposed development in the Green Belt. The proposal does not accord with the development plan as a whole. For the reasons outlined, there are no other considerations, including policies in the Framework, which lead me to conclude other than in accordance with the development plan. The appeal is therefore dismissed.

Other Matters

60. For completeness, I note several matters which I would have sought further comments on from the parties should I not have been dismissing the appeal. Thus, deliverability of the proposal due to a land ownership matter; impact of the proposed extension to the plot of number 33 and the associated proposed garage; impact of the proposed community car parking area on the living conditions of occupiers of existing neighbouring properties adjacent to the proposed car parking area; and 2 matters identified in the Council Offer's Report as being of concern, but did not feature in the RfRs, ie impact of the proposal on trees, and access for future occupiers to services, facilities, public transport options and opportunities for walking and cycling. However, as I have dismissed the appeal for other substantive reasons it has not been necessary to pursue these matters.

J Williamson

INSPECTOR