
Appeal Decision

Site visit made on 4 January 2023

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2023

Appeal Ref: APP/A4710/W/22/3303429

Ash Farm, Syke Lane, Causeway Foot, Halifax HX2 9NU

- 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 Ellis against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/00450/OUT, dated 23 April 2020, was refused by notice dated 28 March 2022.
 - The development proposed is described as 'Proposed residential development. 2 detached dwellings proposed.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with access and layout to be considered at this stage. The remaining matters related to appearance, landscaping and scale are therefore reserved for later consideration. I have dealt with the appeal on this basis and treated the submitted plans where relevant as indicative with regards those outstanding matters.
3. I have been referred to policies within the emerging Calderdale Local Plan (ECLP). I have scant information on the progress of the ECLP from either party, although the plan does not appear to be at an advanced stage. As such, in accordance with paragraph 48 of National Planning Policy Framework (the Framework), these policies carry little weight.

Main Issues

4. The main issues are as follows:
 - whether the proposed development would constitute inappropriate development in the Green Belt; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development in the Green Belt

5. Subject to the exceptions listed in Paragraphs 149 and 150, the Framework makes clear that the construction of new buildings should be regarded as

inappropriate in the Green Belt. The appellant advises that paragraph 149(e), (limited infilling in villages) and paragraph 149(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) are of relevance to this proposal.

6. With regards to paragraph 149(e), neither 'infilling' nor 'villages' are defined in the Framework. My attention is drawn to a court judgement¹ which determined that the decision maker in that case had wrongly treated the boundary of the village as defined in the Local Plan as being determinative of the issue whether the proposed development was in the village. This is a matter of planning judgement for the decision maker and includes an assessment of the situation on the ground and based on the merits of the proposal in question.
7. The appeal site is a field located adjacent Syke Lane, between Ash Farm to one side and a stable block to the other side. From the evidence before me and my observations on the site visit, the appeal site forms part of a small number of buildings lining the southern side of Syke Lane. The local area is predominantly rural and characterised by agricultural fields and long-range open views across the landscape interspersed with sporadic farm buildings and small clusters of other built form, including dwellings.
8. However, I disagree that the appeal site does not form part of the countryside visually or spatially. Other than aforementioned clusters of built form, there are expanses of open fields in all directions. Moreover, the site does not physically or visually read as a continuation of nearby settlements due to the distances between these elements. Consequently, regardless of whether site would constitute infilling, in my judgement the appeal site is not within a village for the purposes of Paragraph 149(e) of the Framework.
9. Turning to paragraph 149(g), I note that the appeal site has a Certificate of Lawful Use or Development² which establishes that the use of the land is that of a garden in respect of Ash Farm. Regardless of whether the proposal would constitute limited infilling or redevelopment of previously developed land, to meet this exception the proposal must not have a greater impact on the openness of the Green Belt than the existing development.
10. From my observations on the site visit, the appeal site had some metal sheeting and trailers stored on it, but no buildings or substantial structures. As such, despite its lawful use as a garden serving Ash Farm, it retains an open character. The erection of two dwellings and associated hardstandings and/or boundary treatments would increase the amount of built form on the site in terms of their height, massing, volume and the spread across the site when considering the two plots, including access provisions. Accordingly, in both spatial and visual terms, the development would have a much greater impact on openness than the existing situation.
11. Based on the foregoing, the proposal would constitute inappropriate development in the Green Belt. In accordance with paragraph 148 of the Framework substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt

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

² 19/01391/191

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

12. Policy GNE1 of the Replacement Calderdale Unitary Development Plan (UDP) (adopted August 2006) is included in the reason for refusal on the decision notice. This policy seeks to contain urban areas and restrain development in the Green Belt. However, while the protection aims of this policy align with Green Belt policy in the Framework, there are no exceptions listed and GNE1 is therefore not entirely consistent with national policy. As such, conflict with Policy GNE1 of the UDP is given reduced weight.

Other Considerations

13. There is no dispute between the main parties that the Council cannot demonstrate a five-year supply of deliverable housing land. The existing figure is given in the Council's officer report as two years, and I have not been presented with an appeal statement to update this.
14. I am therefore taken to paragraph 11(d) of the Framework, which advises that where policies which are most important for determining the application are deemed to be out-of-date, for decision-taking this means granting permission 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. Footnote 7 of 11(d) includes Green Belt land as an asset of particular importance. This would, therefore, provide a clear reason for refusal of the development proposed. With the above in mind, although the Council cannot demonstrate a five-year supply of deliverable housing sites, the presumption in favour of sustainable development set out at paragraph 11 of the Framework does not apply.
15. Nevertheless, the proposal would provide some benefits which weigh in favour of the scheme, in the form of two additional dwellings to the Council's existing stock alongside jobs created during construction, local spending from future residents and increased Council Tax revenue. These are worthy of some weight, albeit given the scale of development this would be limited.

Green Belt Balance and Conclusion

16. I have found that the proposal would be inappropriate development in the Green Belt. As per paragraph 148 of the Framework, this carries substantial weight against the scheme. Set against these, there are few material considerations cited in support of the proposal and these carry limited weight. They therefore do not clearly outweigh the totality of the harm the scheme would cause. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
17. As such the proposal would conflict with GNE1 of the UDP and Green Belt policy as set out in paragraphs 147 – 151 of the Framework. For the reasons given above, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR