

Appeal Decision

Site visit made on 21 February 2023

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2023

Appeal Ref: APP/X4725/W/22/3301766

Land North of Gawthorpe Lane, Kirkhamgate, Wakefield WF2 0SR

- 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 Burland against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 20/01541/OUT, dated 23 July 2020, was refused by notice dated 27 April 2022.
 - The development proposed is the erection of 2 dwellings with all matters reserved except for access and layout.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the decision notice rather than the planning application form. This is because it more accurately describes the proposal, which was amended prior to refusal of planning permission from 'erection of commercial building (B1); erection of 3no. bungalows; part change of use for leisure and tourism'. I have determined the appeal on the basis of the amended description.
3. The decision notice clarifies the reasons for refusal of the planning application, which included concern regarding the lack of a Coal Mining Risk Assessment to ensure the site would be safe and suitable for development. Following the submission of further information in this regard, the Council has confirmed that following consultation with the Coal Authority, sufficient information has now been submitted and that this reason for refusal has been satisfied.
4. The application was submitted in outline form, 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 to those matters as indicative.

Main Issues

5. The main issues are as follows:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;

- The effect of the proposal on the character and appearance of the area;
- Whether the proposal would provide suitable living conditions for prospective future occupiers;
- The effects of the proposal on highway safety; 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 Green Belt

6. Subject to the exceptions listed in Paragraphs 149 and 150, the National Planning Policy Framework (the Framework) makes clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The proposal before me was assessed under the exceptions listed in paragraphs 149(e), (limited infilling in villages) and 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).
7. With regards to paragraph 149(e), neither 'infilling' or 'villages' are defined in the Framework. The appeal site is predominantly an undeveloped field with a small amount of hardstanding running from the proposed access location towards the north. The indicative site plan (Drawing No. 2029 - PA02 H) demonstrates how the two dwellings would be positioned within the site, with a general north south layout. I understand there is an existing bungalow to the southeast, for which I have been made aware of a grant of planning permission¹ in 2016. However, there would be significant distances between the proposed dwellings and said bungalow and houses to the north and east. Moreover, there are no other structures to the west before the M1 and an expanse of open countryside beyond the motorway. As such, regardless of whether the site could be considered in a village, I do not consider the proposal would constitute infill. It would therefore not meet the exception of paragraph 149(e).
8. Turning to paragraph 149(g), there is no evidence before me to indicate that the site would constitute previously developed land and I have already determined that the position of the dwellings would not meet the requirement to be considered limited infilling. Therefore, the proposal would not meet the exception given in 149(g) either.
9. My attention is drawn to three appeal decisions which included similar main issues to the proposal. I have the decision letters before me, although there are no further details on any of these cases such as plans or drawings. As such I cannot be certain of the exact circumstances or how they relate to the scheme in question. In any event, those locations would have had their own site-specific circumstances while they all appear to be located a considerable

¹ 16/02686/FUL

distance from the appeal site. They therefore do not lead me to conclude on this main issue differently.

10. Returning to the bungalow located off Gawthorpe Lane to the south, I have very little information relating to the grant of planning permission before me, although I did observe it on my site visit. While I agree that consistency in decision making is important generally speaking, it does not follow that because that application was approved the appeal should also be granted permission. I have assessed the proposal on its own merits and the approval of that adjacent property does not lead me to conclude differently.
11. To conclude on this main issue, the proposal would constitute inappropriate development in the Green Belt.

Openness of the Green Belt

12. Paragraph 137 of the Framework identifies that openness is one of the essential characteristics of Green Belts, along with their permanence. Openness has both a spatial and visual aspect and intrusion on either can, individually or collectively, impact upon the openness of the Green Belt.
13. From my observations on the site visit, the appeal site was clearly visible from many points along Gawthorpe Lane. It included some hardstanding and is bound by rail and post fencing but there were no buildings or substantial structures. As such, it retains an open character. The erection of two dwellings and associated hardstandings, boundary treatments and inevitable domestic paraphernalia such as garden furniture would increase the amount of built form on the site in terms of height, massing, volume and the spread across the site when considering the two plots. Accordingly, in both spatial and visual terms, the development would have a much greater impact on openness than the existing situation.
14. For the above reasons, the proposal would increase the level of built development within the appeal site and would result in harm to the openness of the Green Belt both spatially and visually. The loss of openness would be harmful to the Green and would conflict with the purposes of Green Belt policy, as stated in paragraph 137 of the Framework, to keep land permanently open.

Character and Appearance

15. Between the location of the proposed dwellings and the M1 to the west are open fields while to the north there would be a significant distance across another field to the adjacent building. To the south is the aforementioned bungalow and some storage containers, while to the east are dwellings which front Batley Road and others which are accessed from Gawthorpe Lane. The site is located on the edge of the settlement of Kirkhamgate, although it has a predominantly rural and open character. This character and its location make a positive contribution to the area and aid in the transition from edge of settlement to open countryside.
16. On the site visit, I observed that the site was clearly visible from Gawthorpe Lane in vantage points closer to the motorway, while it would also be visible from the rear gardens and upper floors of adjacent dwellings. Notwithstanding my findings with regards to the Green Belt, the proposal to erect two dwellings would urbanise a predominantly rural site in terms of the increase in built form, formalised garden areas, hardstanding and the required acoustic fencing, which

would necessarily be of solid construction contrary to the more traditional post and rail boundary treatments of the agricultural fields. This would be contrary to the established character of the area in a harmful manner.

17. Accordingly, the proposal would harm the character and appearance of the area, contrary to Policies CS10 of the Wakefield District Local Development Framework Core Strategy (CS) (adopted April 2009) and D9 of the Wakefield District Local Development Framework Development Policies (DP) (adopted April 2009). These seek to respect and where appropriate enhance the character of the locality, among other things. The proposal would also be contrary to the design aims of the Framework which advises through paragraph 130 that development is sympathetic to local character.

Living Conditions

18. The appeal site is located in proximity to the M1 motorway. Evidently, this distance is approximately 110m from the appeal site boundary. I have had regard to the Acoustic Report (Paul Horsley Acoustics, Ref J3088), which concludes there is a high background noise climate from the motorway.
19. The report outlines mitigation measures required to allow the proposal to meet the required noise levels of the World Health Organisation. I note that the Council does not disagree that the proposal could be mitigated in terms of impacts of noise upon future occupiers of the properties. However, the mitigation would include residents not being able to open their windows and the necessity for a ventilation system to allow air flow within the dwellings as a result. Moreover, a 1.8m high solid acoustic fence would be required along much of the site boundary.
20. I see no reason to disagree that the effects of noise could have technical solutions. However, not being able to open their windows, particularly during periods of warmer weather, would be an oppressive internal environment for the occupiers of the houses, which would be unacceptably harmful to their living conditions, despite artificial ventilation measures.
21. The appellant has advised that there are houses closer to the M1 than the proposed dwellings would be. Be that as it may, these are existing and in the absence of evidence of recent planning permissions, I can only conclude these were likely constructed some time ago. I must assess the proposal against contemporary planning policy on the merits of the scheme itself, which I have done in determining this appeal.
22. Accordingly, while mitigation for noise impacts is available, these would in turn create harmful living conditions as a consequence. This would be contrary to Policies CS10 of the CS and D9 of the DP, which seek to ensure development would have no significant detrimental impact on the amenity of prospective users, among others. The proposal would also be contrary to the Framework, which advises through paragraph 130 that development should ensure a high standard of amenity for existing and future users.

Highway Safety

23. The indicative site plan demonstrates that vehicular access for the dwellings would be taken from Gawthorpe Lane to the south and hardstanding would extend to a midpoint between the properties with a turning head. A pedestrian footpath is also indicated on the plans which would run parallel to the access.

The appellant advises bins would be put out on Gawthorpe Lane on collection day as with other properties along this track.

24. I understand that the Council does not object to the use of Gawthorpe Lane in principle for vehicular access. However, there is no visibility splay on the site plan to ensure egressing vehicles would have suitable line of sight in both directions, particularly in light of the pedestrian path adjacent and the risk of conflict between the users of the access.
25. Although a turning head is indicated on the plan, there is no detail regarding its dimensions and how larger vehicles such as those used for deliveries could manoeuvre within the site to allow them to leave in a forward gear. Furthermore, there is little detail on how refuse collection could operate, and simply advising that bins could be dragged to the road would not be sufficient. Moreover, there is nothing to indicate where bin collection vehicles could turn around to leave Gawthorpe Lane.
26. Although it appears that there would be space to accommodate these provisions within the site, there is a distinct lack of detail to show how these provisions could operate. I take on board the appellant's point that the site plan is labelled as 'indicative'. However, the planning application form clarifies that approval is sought for access and this is not reserved for future consideration. Accordingly, sufficient detail should be included to ensure safe and suitable access to the site can be ensured.
27. To conclude on this main issue, the proposal has not demonstrated that highway safety can be ensured. This would be contrary to Policy D14 of the DP, which seeks to take into account the features of surrounding roads and footpaths and provide adequate layout and visibility to allow the development to be accessed safely and take into account access for emergency, service and refuse collection vehicles, among other things. The proposal would also be contrary to the Framework, which advises through paragraphs 110 and 112 to ensure a safe and suitable access for all users and to allow for the efficient delivery of goods, and access by service and emergency vehicles.

Other Considerations

28. Paragraph 148 of the Framework states 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.
29. My attention is drawn to the appellant's Design and Access Statement submitted with the initial planning application. Although there is little detail, this advises on the economic benefits of new business space and tourism in rural areas. However, as the appeal statement has clarified, the initial proposal was amended and the commercial and leisure elements were removed, with the final proposal for two dwellings.
30. Although there are no specific benefits of the final scheme brought to my attention, the proposal would add two dwellings to the Council's existing housing stock alongside the inevitable socio-economic contributions towards sustaining local services, as would temporary economic benefits by virtue of generating employment via construction. However, given the small scale of the proposal, I attribute limited weight to these considerations.

31. There was no dispute between the parties that the location would be accessible to local services and facilities as well as having public transport links to Wakefield and Leeds. However, a lack of harm in this or any other matter would be neutral in the planning balance rather than weighing in favour of a scheme.

Green Belt Balance and Conclusion

32. I have found that the proposal would be inappropriate development in the Green Belt and that it would be of limited harm to the openness of the Green Belt. As per paragraph 148 of the Framework, these matters carry substantial weight against the scheme. Moreover, I have identified harm to the character and appearance of the area, while the proposal would not provide suitable living conditions to prospective future occupiers of the dwellings and has not demonstrated that a safe and suitable access can be secured to ensure highway safety is maintained. These matters in totality weigh considerably against the scheme.
33. Set against these, there are few material considerations cited in support of the proposal and these carry limited weight. They therefore do not outweigh the harm the scheme would cause. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
34. As such the proposal would conflict with Policies CS1, CS3 and CS10 of the CS, D9 and D14 of the DP 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