



Appeal Decision

Site visit made on 28 March 2023

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 July 2023

Appeal Ref: APP/A4710/W/22/3309674

Land East of 2 Edge Lane, Colden, Hebden Bridge, West Yorkshire, HX7 7HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr L Haigh against Calderdale Metropolitan Borough Council.
 - The application Ref 22/00205/OUT, dated 9 February 2022.
 - The development proposed is one dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. This appeal relates to the non-determination of the outline application Ref: 22/00205/OUT, with all matters reserved, by Calderdale Metropolitan Borough Council as the local planning authority, within the specified timescale. As the proposal seeks outline consent, I have taken the submitted drawings and plans, except the location plan, to be indicative or illustrative and have determined the appeal on that basis.
3. The new Calderdale Local Plan 2018 – 2033 (the CLP), was adopted by the Council on 22 March 2023. Therefore, that plan and its relevant policies now forms the most up to date development plan for Calderdale against which I must determine this appeal. Accordingly, I have given full weight to the Plan and its relevant policies in this case. The CLP policies relevant in this appeal are Policy GB1: Development in the Green Belt and Policy BT4: The Design and Layout of Highways and Accesses.

Main issues

4. As the proposed development is within the green belt, and having considered the evidence before me, the main issues are:
 - whether the proposed 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 proposed development on the openness of the green belt;
 - if the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal; and
 - the effect of the proposed development on highway safety.

Reasons

5. The proposed development is a single dwelling on a site south of Edge Lane and west of its junction with Smithy Lane. The site is previously developed land and is currently occupied by a row of garage buildings which are set back from Edge Lane, the nearest public highway, by around 4 metres. This set back area provides a forecourt for the existing buildings and acts as an informal passing place for vehicles travelling along Edge Lane which is a narrow single-track lane with a width of around 3 metres. The site has a sloping topography from north to south downwards towards Smithy Lane and is clearly visible when viewed from the south and southwest. It is also within the designated Calderdale Green Belt and a Special Landscape Area.

Green belt: Inappropriate development,

6. The Framework says that local planning authorities should regard the construction of new buildings as inappropriate development in the green belt. However, paragraphs 149 and 150 of the Framework set out categories of development which may be regarded as not inappropriate in the green belt, subject to certain criteria. Paragraph 149(g) states that new buildings within the green belt are inappropriate unless they represent limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use – excluding temporary buildings. Moreover, such infilling or redevelopment must be found not have a greater impact on the openness of the green belt than the existing development or not cause substantial harm to the openness of the green belt where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the local area.
7. Policy GB1 of the adopted CLP follows the above approach set out within the Framework. Accordingly, I have assessed the proposal in this regard. The starting point is that the proposed dwelling is inappropriate development in the green belt unless an exception applies.
8. I have considered the appellant's points in relation to the appeal site being previously developed land and that other proposals in the green belt have been granted planning approval by the Council. I now deal with each of these points.
9. Photographic evidence has been provided by the appellant which shows residential properties existing on the site historically, although it is understood that the cottages identified on the site were removed in the 1970s. It is therefore acknowledged that the proposed development would be on previously developed land. Notwithstanding this, having regard to criteria set out in paragraph 149(g) of the Framework, from the evidence before me and as I have set out below, I find that the proposed development on the appeal site would likely have a greater adverse impact on Green Belt openness than currently exists. Furthermore, it appears to me that the proposal would make no contribution to an identified affordable housing need locally. As such, in accordance with paragraph 149(g) of the Framework, the proposal would not be an exception to inappropriate development in the green belt. In addition, and in this regard, the proposal is contrary to Policy GB1 of the CLP.

Green belt: openness

10. A key aim of green belt policy is to keep land permanently open. Therefore, in accordance with Paragraphs 137 and 138 of the Framework, I have also had regard to the impact of the proposal on the openness of the green belt and its related purpose of safeguarding the countryside from encroachment.
11. As all matters are reserved, the appellant has provided only limited details and plans relating to this outline proposal. A full assessment of the appeal scheme on openness is therefore difficult to undertake. However, the appellant has stated that the proposed dwelling would

likely be of a similar size and scale to the overall combined footprint and single storey height of the existing buildings on the site which comprise several storage sheds and garages and would also be of modest proportions. The appellant has also referred to the floorspace levels identified in the Nationally Described Space Standards for single storey 2-bedroom and 3-bedroom dwellings to illustrate their point. I have therefore also had regard to these in determining this appeal.

12. Whilst the above points in favour of the outline proposal may be the case, based on the limited detail and plans provided, I find there to be nothing substantive before me to support these assertions. During my visit to the site, I noted that the existing buildings were separated and had varying amounts of space between them. This is illustrated by the submitted site plan. Indeed, at the time of my visit, one 'plot' for the existing buildings appeared to be vacant, as is also reflected on the submitted site plan. This results in a significant gap in the existing built form visible on the site. As such, the existing buildings do not present a solid visual or physical built form, nor do they give the appearance of this in the wider area, particularly when viewed from the south along Smithy Lane.
13. The proposed dwelling is indicated to be likely of a similar height and scale to the existing buildings on site. However, the replacement of the collection of existing separate small-scale single storey sheds and garages with a single dwelling, albeit of modest proportions, would inevitably create a more substantive and enlarged form of development both visually and physically. This visually stronger, physically greater and more prominent form of development on the appeal site, with no visible gaps, would therefore have a greater impact on green belt openness than the existing buildings on the site. Furthermore, I find that the visual impact of the proposal on openness would be exacerbated due to the sloping and open nature of the appeal site and its prominent appearance in its surroundings, particularly when viewed from the south and south-west.
14. The proposed development on the appeal site would also effectively extend the built form of the adjacent small settlement of buildings situated to the east. As a result, the built form of the settlement would be strengthened and increased and would visibly encroach into the surrounding open countryside. This enlarging effect on the settlement and the strengthening of the built form on the appeal site would result in a greater visual and physical sense of development in the locality. The encroachment into the open countryside would have a substantive adverse impact on green belt openness that would be greater than currently exists. As a result, I conclude that the harm to green belt openness I have identified would be substantial and, accordingly, substantial weight is given to that harm in determining this appeal.

Green belt: very special circumstances

15. The Framework states how inappropriate development is harmful to the green belt and should not be approved except in very special circumstances. Such 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. Furthermore, it is for the appellant to demonstrate why permission should be granted.
16. I have had due regard to the appellant's arguments that the harm identified is outweighed by other considerations and that, as such, very special circumstances do exist. These other points are set out in turn and considered below.
17. The appellant makes the point that the Council is unable to demonstrate a five-year housing land supply and that it delivered only 55% of its housing requirement for the latest reporting period 2018-2021. Notwithstanding this, as the proposal is within the green belt, footnote 7 of paragraph 11(d)(i) of the Framework applies. Therefore, the tilted balance does not and its contribution to housing supply is therefore considered to be a neutral factor. In any event, the proposed development would provide one dwelling towards meeting the local planning authority's housing target. Whilst this would be an additional

dwelling within the local housing supply, the dwelling would be a very modest and limited contribution to the housing supply in Calderdale. As such, I find that the addition of a single dwelling carries very limited weight in favour of the appeal proposal.

18. Moreover, the Council recently adopted the Calderdale Local Plan 2018-2033. Having done so, the adopted plan has undergone an examination in public which considered, amongst other matters, local housing land supply. As a result, through the adoption of the local plan, it is therefore considered and concluded that the Council can now demonstrate a five-year housing land supply. Consequently, it is my view that the adoption of the local plan diminishes the weight to be attributed to the appellant's argument on local housing land supply in support of this appeal. Accordingly, I give limited weight to this point.
19. Whilst it is acknowledged that the appeal site appears to be on previously developed land, this alone does not amount to the very special circumstances required for the proposed development to be considered as not inappropriate in the green belt. From the evidence before me, as has been identified above, the proposal does not meet the exception criteria of paragraph 149(g) of the Framework and therefore it is considered to be inappropriate development in the green belt.
20. Details of schemes approved by the Council in the Calderdale Green Belt have been submitted by the appellant. It is argued that these schemes demonstrate a precedent for the Council granting developments in the green belt that are similar to the proposal in this appeal. Having given due consideration to these other approved schemes, whilst there may be some similarities to this appeal scheme in some cases, each case must be considered and assessed on its own merits and circumstances. Accordingly, and as I do not have the particular details or circumstances of the other permitted proposals before me, or indeed any particular detail on the proposed outline development in this appeal, I therefore must give this particular consideration only limited weight.
21. Whilst these other considerations, both individually and collectively, provide some support for the proposal, they do not overcome or outweigh the substantial harm to green belt openness and the green belt purpose of safeguarding the countryside from encroachment that I have identified. Therefore, having carefully taken account of all other identified considerations, I conclude that very special circumstances do not exist to justify the appeal proposal as being not inappropriate development in the green belt.
22. Consequently, I conclude that the proposal would be inappropriate development in the green belt. Furthermore, I find that the adverse impact of the proposed dwelling on green belt openness would be greater than that of the existing buildings on the appeal site and that very special circumstances do not exist to alter my assessment. As a result, the proposal would be contrary to Policy GB1 of the adopted CLP, paragraph 149(g) of the Framework and the green belt purpose of safeguarding the countryside from encroachment, as set out in paragraph 138(c) of the Framework.

Highway safety

23. I have considered the comments made by the highway authority on the proposal stating that any dedicated land identified for highways use would need to be agreed by legal agreement at the outline planning stage. I have also had regard to the appellant's point about the timing of when these comments were raised during the application process. Notwithstanding the timing, it is my assessment that the point made by the highway authority remains a significant material consideration in the determination of this appeal.
24. In my view, were land to be dedicated to highway use at the appeal site to provide for or retain a passing place on Edge Lane then it is reasonable to consider that this could have been explored and secured through a legal agreement at the outline stage of the planning application process. This would be the most effective demonstration that the proposed scheme would not be harmful to highway safety along Edge Lane. From what has been

submitted, there is nothing to indicate that such an agreement has been reached and is in place. Nor is there anything to indicate that this has been fully explored. Therefore, I am not satisfied that the safety issues concerning the retention or provision of a suitable passing place for vehicles on Edge Lane at or close to the proposed site have been adequately addressed.

25. It is acknowledged that the forecourt area at the appeal site currently used as a passing point cannot presently be relied upon as such as it is privately owned land. Were the current, albeit informal, passing place at the appeal site to be lost then I find it likely that there would be frequent and significant conflict between passing vehicles along Edge Lane. This view is supported by the fact that other than the nearby junction between Smithy Lane and Edge Lane, the next nearest passing place is some distance further to the west on Edge Lane which is partially out of view from the point at the appeal site.
26. I have taken account of the narrowness of Edge Lane and the space provided which allows vehicles to pass at the appeal site. I have also considered the impact that the proposal would have on access to and from a substantive number of properties located further west along Edge Lane, including a local farm shop, which it appears can only practicably be accessed by vehicles via this Edge Lane route. As such, the present lack of agreement on retaining an element of highway use at the appeal site as a passing place for vehicles, fails to resolve a significant highway and pedestrian safety concern. The detrimental impact of the proposal in this regard and in terms of accessibility to other nearby properties both during the construction phase and following completion and occupation of the proposed dwelling therefore carries significant weight.
27. Whilst the resolution of this matter through a legal agreement could be conditioned and dealt with in a reserved matters application, at this stage there is no certainty of this being agreed. Moreover, given the highway authority's requirement for a legal agreement to be in place at the outline application stage, the lack of such an agreement before me weighs substantially against the proposal. Without this, I am not satisfied that a suitable highway arrangement can be achieved and agreed to address the highway safety concerns that have been raised.
28. Consequently, having regard to the above and all other relevant highway safety matters, I conclude that the proposed outline development would have a significant detrimental impact on highway safety. As a result, it would be contrary to Policy BT4 of the CLP which seeks to ensure that the design and layout of highways and accesses in new development provides for safe and free flowing movement of traffic, including cyclists, in the interests of highway safety.

Planning balance

29. The proposed scheme would be situated within the Calderdale Green Belt where particular criteria apply for development to be acceptable. Based on all that is before me, the proposal would be inappropriate development in the green belt. Moreover, I find that the single dwelling proposed would have a greater impact on green belt openness than the existing collection of buildings on the site. This impact would only be exacerbated with the associated domestic paraphernalia and the likely necessary height and massing of the built form of the proposed dwelling also taken into consideration.
30. Highway safety concerns in relation to the widening of Edge Lane as a passing place need to be resolved and agreed at the outline approval stage as the existing width of the passing point currently used at the appeal site would be potentially lost. I find that were the proposed outline scheme to be approved without this passing point or a suitable alternative agreed and secured, then on balance it is likely that the proposal would lead to significant adverse highway safety implications for both vehicle and pedestrian movements. I therefore consider this to be significant other harm and note that there is no further information submitted to address these concerns.

31. The proposal would provide an additional dwelling to the overall housing supply in Calderdale. However, given the site's location within the green belt, footnote 7 of paragraph 11(d)(i) of the Framework applies and the tilted balance therefore does not. As such, the proposal's contribution to local housing supply is a neutral factor in the planning balance. Notwithstanding this, the adoption of the CLP as the development plan for Calderdale demonstrates the Council has a five-year housing land supply and full weight is given to the Plan and its policies in the determination of this appeal.
32. Overall, whilst there would be the delivery of one new dwelling, the proposal would be inappropriate development in the green belt. Furthermore, the adverse impact on the openness of the green belt and the other harm identified relating to highway safety concerns weigh substantially against the proposal and demonstrably outweigh the limited benefits that the proposed dwelling would provide.

Conclusion

33. The Framework indicates that inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. In this case, the adverse effects on openness and the green belt purpose of safeguarding the countryside from encroachment are substantive. Accordingly, substantial weight is given to green belt harm. Moreover, very special circumstances do not exist unless the harm to the green belt, and any other harm, is clearly outweighed by other considerations. The other considerations identified and considered in this case do not outweigh the substantial green belt harm and other harm.
34. Therefore, based on the evidence and in my assessment, I find that the proposed outline scheme would be inappropriate development in the green belt and would have an adverse impact on green belt openness and its related purposes. Furthermore, having taking account of the appellant's points and matters made in support of the proposal, when considered individually and cumulatively, I find that those considerations and the limited benefits of the scheme would not outweigh the substantial weight that must be given to green belt harm. In addition, the proposal does not address the concerns raised and other harm relating to the impact that the proposal would have on highway safety.
35. As a result, I find that the outline proposal would be contrary to Policies GB1 and BT4 of the Calderdale Local Plan 2018-2033 and the relevant paragraphs of Section 13 of the Framework. Consequently, for the reasons given and having had due regard to all other matters raised, I conclude that the appeal should be dismissed.

A McCormack

INSPECTOR