



Appeal Decision

Site visit made on 29 December 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/A4520/W/23/3331344

Land adjacent to High House Farm and Hanger (NZ 31755 61122) off access road to High House Farm / Red Fox Nursery (to west) South of Newcastle Road (A184), Wardley NE10 8YS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Anthony Lang against the decision of South Tyneside Council.
 - The application Ref ST/0273/23/FUL, dated 8 April 2023, was refused by notice dated 19 September 2023.
 - The development proposed is described as, '*construction of two residential dwellinghouses and new access spur road West/East off existing access road (which leads South from A184) with associated landscaping and biodiversity net gain improvements*'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the above banner heading has been taken from the decision notice and appeal form as this accurately describes the proposed development.
3. An update to the National Planning Policy Framework (the Framework) has been published dated 19 December 2023 but there are no material changes relevant to the substance of the appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, including any effect on openness, having regard to the Framework and any relevant development plan policies;
 - Whether the proposed development would provide acceptable living conditions for future occupiers in relation to traffic noise pollution from the nearby highway network; and
 - Whether any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether inappropriate development and effect on openness

5. The appeal site relates to land located within the Green Belt to the southeast of Wardley lying immediately to the south of the A184 dual carriageway. An access road is located to the direct east of the site which leads to a garden centre complex which also contains a small number of dwellings. To the south of the site is an aircraft hangar. The wider open field is located to the direct west, beyond of which lies a dwellinghouse which is separated from the appeal site by a hedgerow. A number of trees and hedges are located along the northern and eastern boundary with a metal fence to the south.
6. Policy EA1 of the South Tyneside Core Strategy, 2007 (CS) relates to local character and distinctiveness and explains at provision B that the Council will protect and enhance the openness of the Green Belt.
7. Paragraph 154 of the Framework explains that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are, amongst others, 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; 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 area of the local planning authority. This exception is at paragraph 154 (g) of the Framework and has been identified by the appellant as the relevant criteria in this case.
8. The proposed development would consist of the construction of 2 dwellinghouses and whilst there is no definition of 'limited infilling' within the Framework, I agree with the Council that generally, infilling is the infilling of a small gap in an otherwise built-up frontage. Whilst there is development/brownfield land located nearby and further south, the site still has a rural appearance and does not form part of a built-up frontage. It also does not comprise previously developed land nor would the plots be affordable homes and thus would not fall within the above provision.
9. Further, paragraph 142 of the Framework explains 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. Openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that both aspects need to be considered.
10. The proposed development would introduce 2 dwellings into an existing open parcel of land currently devoid of any built development and thus would encroach into the countryside. In spatial terms, the footprint and mass would inevitably have an impact on the openness of the Green Belt despite the modest number of units proposed. The appeal site, whilst screened by hedges and trees to its boundaries, lies immediately to the

south of the A184 dual carriageway with an access road running to the direct east of the site which was well used at the time of my site visit in association with the commercial development further south. It is therefore clearly visible from a number of public viewpoints. Although the proposed dwellings would be located within close proximity of the existing built form further south and the main highway, so would benefit from some visual association, its mass, height and volume would still be clearly visible from public vantage points including the dual carriageway. The increase in built form along with its overall positioning would result in a loss of openness in visual terms leading to a fundamental and permanent change to the Green Belt. This would still be the case despite large amounts of openness being retained surrounding the site and whilst additional landscaping could be conditioned, this would not sufficiently mitigate against the identified harm as it would still lead to a loss of openness of the Green Belt both spatially and visually.

11. I am aware of the shortfall in housing across the borough and the Council has confirmed that they do not have a demonstrable 5-year housing land supply and that delivery of housing was substantially below the housing requirement over the previous three years. Consequently, because of the provisions of footnote 8, paragraph 11d) of the Framework should be applied. This explains that the policies which are most important for determining the application are in such circumstances considered out of date. Planning permission should therefore be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. On this basis, significant weight must be given to the Framework which clarifies at footnote 7 that the policies referred to are those in the Framework (rather than those in development plans) relating to amongst others, land designated as Green Belt. The proposed development relates to Green Belt land and as set out above would not fall within the exception test at paragraph 154 (g) of the Framework and thus despite the shortfall in housing across the borough and any lack of monitoring in this regard, the proposed development would still be inappropriate development in the Green Belt which would by definition be harmful to the Green Belt. As a result, the presumption in favour of sustainable development as set out at paragraph 11d) does not apply.
13. For the above reasons, the proposed development would not comprise limited infilling and would have an adverse impact upon the openness of the Green Belt and would conflict with the purposes of including land within it. I therefore conclude on this issue that, for the purposes of the Framework, the proposed development would be inappropriate development in the Green Belt which would by definition be harmful to the Green Belt. Consequently, the proposed development would be contrary to Policy EA1 of the CS and the aspirations of the Framework relating to protecting Green Belt land.

Living conditions

14. As referred to above, the appeal site lies immediately to the south of the A184 dual carriageway, and the northernmost property would have windows which would face towards the A184 along with an external area. I observed onsite that the A184 is a busy highway network with high-speed limits. Vehicle movements along this carriageway has the potential to cause an unacceptable level of noise and disturbance for future occupiers particularly taking into account the close relationship that exists. The proposal is not supported by evidence such as a noise assessment to ensure the development would not be harmful to future occupiers who would reside close to the highway. Based on the evidence before me and my own observations onsite, I cannot be certain that future occupiers would not be unduly harmed by levels of noise from the nearby highway network even considering the screening that exists.
15. I note the appellants' comments regarding the requirement for noise survey work with mitigation measures suggested such as landscaping, glazing and acoustic fencing. However, as the noise impacts of the proposals has not been assessed or how any potential impact can be appropriately mitigated, then I am not persuaded that it would be appropriate to apply a condition in this regard were I minded to allow the appeal.
16. For the above reasons, I conclude that the potential impacts upon future occupiers in relation to traffic noise pollution from the nearby highway network has not been satisfactorily demonstrated or how this can be appropriately mitigated. Consequently, the proposed development would not comply with Policy DM1 of the South Tyneside Development Management Policies, 2011 (DMP) and EA5 of the CS which together, amongst other matters, requires development to be acceptable in relation to any impact on residential amenity. For the same reasons, the proposed development would also be contrary to the aspirations of the Framework relating to achieving well-designed and beautiful places.

Other considerations

17. I am aware of the nature of the development which is claimed to comprise large self-build / executive / sustainable living / equestrian plots which are not found elsewhere, nor allocated currently or within the emerging draft Local Plan. However, even taking this into account, the development would still need to accord with the exceptions set out at paragraph 154 of the Framework relating to proposals affecting the Green Belt which it does not. I also appreciate there may be demand for such units and that there is a level of support shown for such unique dwellings within local policies including those in draft and national policy. It would still however fail to comply with Green Belt policy set out within the Framework where there is extra control over development.
18. My attention has been drawn to a previous application on land to the south for the demolition of existing helicopter, vehicle storage & maintenance hanger and erection of a terrace of seven 2-storey, 2-bedroom dwelling-houses with associated access, car parking, visitor parking and play & open space area (ref ST/1193/14/FUL / dated 08/06/2015). However, this

development does not relate to the appeal site in question which is currently free from built form and in any event is now expired and cannot be given any weight. It is also not my role within the context of this appeal to determine whether or not the adjoining site would still be suitable for residential development to meet unmet demand or predict the likelihood of the site coming forward should the current appeal be allowed. Reference has also been made to future submissions across the wider field although I am considering the scheme that is before me opposed to any other development. Such matters do not therefore attract any weight.

19. I have had due regard to the location of the appeal site which lies on the fringe of the urban area and access to services as well as noting nearby industrial uses which are the subject of further economic development. Even so, this would not weigh in favour of the proposal nor would claims made regarding effective and efficient use of land particularly given that the site is located in the Green Belt which must be assessed accordingly.
20. The Council do not raise concern in relation to a number of elements of the scheme but a lack of harm in this respect is a neutral factor in my overall decision and would not be sufficient to outweigh the harm I have identified.
21. I am aware of the various benefits put forward by the appellant including landscaping and biodiversity net gain which can be ensured by planning conditions. Given that the scheme relates to two dwellings, the extent to which these factors would be beneficial is limited and therefore carries limited weight.
22. There would be a contribution to the Councils' housing land supply in an area of unmet demand providing for a mix of dwellings. However, the modest contribution of two properties would make very little difference to the overall supply of housing and therefore attracts limited weight.

Planning Balance and Conclusions

23. Paragraph 152 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Additionally, the proposed development would have an adverse impact upon the openness of the Green Belt as well as other harm identified above.
24. Paragraph 153 of the Framework explains 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. Whilst I acknowledge the other considerations put forward by the appellant as set out above, the Framework makes it clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt which I have applied.
25. Therefore, those other considerations referred to above would not hold sufficient weight to outweigh the harm that I have found would be caused to the Green Belt by reason of inappropriateness and loss of openness as

well as the other harm identified. The very special circumstances needed to justify the development do not therefore arise.

26. Accordingly, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR