



Appeal Decision

Site visit made on 9 April 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2024

Appeal Ref: APP/N4205/W/23/3328477

Land North of 659 Radcliffe Road, Bolton, BL3 1AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Morris Homes North Ltd, Cornell Concept Group Limited, and PSP Bolton LLP against the decision of Bolton Metropolitan Borough Council.
 - The application Ref is 12387/21.
 - The development proposed is the erection of 112 No. residential dwellings with associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of 112 No. residential dwellings with associated works at Land North of 659 Radcliffe Road, Bolton, BL3 1AN in accordance with the terms of the application, Ref 12387/21, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application as originally made in 2021 was described as an "Application for full planning permission for 115 dwellings and associated works". In response to consultation responses and negotiation, the proposal was revised, with the number of dwellings reduced, and the description of development amended to that used in my banner heading and formal decision above.
3. Following the Council's decision on the application, the Places for Everyone Joint Development Plan Document for Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Tameside, Trafford and Wigan, 2022 to 2039 was adopted. The Council have however confirmed that Policy CG7AP of Bolton's Allocations Plan, adopted 2014 (the AP), around which their decision was based, has not been superseded and remains relevant. The appellant agrees.

Main Issues

4. Having regard to the evidence and the above, the main issues are:
 - Whether the proposal 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 proposal on the openness of the Green Belt.
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

5. Much of the appeal site and proposed built form lies outside the Green Belt. The case of the Council rests solely on the effects of those parts of it within the Green Belt; principally 8 of the 112 dwellings, but they do note that the access, junction, emergency access, attenuation basin, ponds, open space and pumping station would also lie within the Green Belt.

Whether inappropriate development

6. Policy CG7AP of Bolton's Allocations Plan, adopted 2014 (the AP) is consistent with the Framework insofar as it will not permit inappropriate development in the Green Belt, but for a limited number of exceptions.
7. One of those is the partial or complete redevelopment of previously developed sites, which would not have a greater impact on the openness of the Green Belt. The AP policy also requires that the proposal not have a greater impact on the purposes of including the land within the Green Belt than the existing development.
8. There is no disagreement that the part of the site within the Green Belt is previously developed land (PDL). It comprises a mixture of hardstanding used for open storage and several single storey buildings, is clearly enclosed, and markedly different in character and appearance to the fields around it.
9. Given this, I find that the proposal may not be inappropriate in the Green Belt, in accordance with Policy CG7AP and paragraph 154g of the Framework, subject to consideration of its effects on openness and the purposes of including land within the Green Belt.

Openness

10. I accept that as a result of the proposal, the site would host a greater volume of built form, with 8 two-storey dwellings rather than a range of single storey buildings and areas of hardstanding used for open storage. However, I do not consider that the overall impact on the openness of the Green Belt, either spatially or visually, would be greater than the existing development.
11. Viewed from within, and from the highway, surrounding network of public rights of way, or even on mapping and aerial photography, the site clearly has a developed character and could not reasonably be described as being open. It is plainly enclosed, discrete and separate from the wider area. Given the open storage across the site, its scale and appearance, even those areas without buildings do not have to my mind, any open characteristics, which the appeal proposal would harm.
12. The AP policy further requires that such redevelopment of PDL not have a greater impact on the (relevant) purposes of including land within the Green Belt than the existing development. Taking therefore my reasoning above on openness, I cannot find that the proposal would have a greater effect on the checking of the unrestricted sprawl of large built-up areas or upon the safeguarding of the countryside from encroachment. In terms of preventing towns merging, substantial areas of open space would remain to the west, south and east, and it is clear that the proposal would assist in urban regeneration.

13. Taking all of the above together, I find that the proposal is therefore not inappropriate in the Green Belt. It would therefore not conflict with Policy CG7AP of the AP, nor would it conflict with national policy in the Framework.

Very special circumstances

14. As I have found that the appeal proposal is not inappropriate in the Green Belt, it is not necessary to consider whether or not very special circumstances exist.

Other Matters

15. The Council has referred to an alternative planning application submitted for the appeal site, excluding that part on the Green Belt, suggesting that it demonstrates that the Green Belt element is not required. Although they have presented me with a proposed layout for that proposal, I have not been given any further information. By contrast, the appellant has presented evidence about the particular conditions of this site which plainly bear on its viability and indeed, deliverability. As such, I give the alternative application, which is apparently yet to be validated, let alone determined, very little weight in my determination of this appeal.
16. In their reports to Committee and evidence to this appeal, the Council has addressed all other matters raised by consultees and in representations and found the proposal to be acceptable in those regards. Having regard to the evidence before me, including representations made directly to me and my observations on my site visit, I agree with that position, and there are no other matters which alter my reasoning.

Conditions

17. The Council has suggested a number of conditions to be attached, should planning permission be granted. Having had regard to the evidence, the requirements of the Framework and the Planning Practice Guidance I have imposed the standard conditions concerning implementation and compliance with the submitted plans. I have also imposed the requested conditions of the Council concerning site investigation, mining legacy mitigation, construction management, protected species protection, tree protection, drainage, landscaping, highways, access and parking, materials, archaeological investigation and recording.
18. The appellant has confirmed in writing that they have no objection to the terms of the pre-commencement conditions proposed by the Council. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development.
19. The appellant has provided detailed comments on two of the Council's proposed conditions, and I have taken these into account. Whilst I have made changes to the wording of the conditions around the Traffic Regulation Orders (TROs), I have not implemented all of their requested changes as I do not consider that they meet the tests on the basis of the evidence before me.

20. I am therefore satisfied that the conditions I have imposed meet the tests in, and requirements of both the Framework and the Planning Practice Guidance, that they have been kept to a minimum and only imposed where necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects.
21. The requirement for electric vehicle charging points has now been overtaken by other legislation so does not require a condition. The requested condition which sought to ensure that garages be made available at all times for the parking of motor vehicles has not been imposed as it is not precise, enforceable, or reasonable, nor is there any evidence to suggest that it is necessary.

Conclusion

22. I have found above that the proposal accords with the development plan, and there are no material considerations which indicate that a decision be taken other than in accordance with it. Moreover, there are material considerations which weigh in favour of it, including the regeneration of a previously developed site with difficult ground conditions, and the delivery of housing in an area of poor supply and delivery.
23. The appeal should therefore be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Prior to the commencement of the development a Site Investigation report shall be submitted to and approved in writing by the Local Planning Authority. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health, property and/or the wider environment; and the details of any proposed remedial works shall be submitted to and approved in writing by the Local Planning Authority. The approved remedial works shall be incorporated into the development during construction and completed prior to occupation of the development or the development being first brought into use; and Prior to first use/occupation of the development hereby approved: A Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall validate that all remedial works undertaken on site were completed in accordance with those agreed by the LPA.
3. Prior to the commencement of development, including demolition, ground works or vegetation clearance a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. The CMP shall include the following details:
 - a) Hours of construction and deliveries;
 - b) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway;
 - c) Dust suppression measures;
 - d) Noise emission suppression measures;
 - e) Construction routes in and around the site;
 - f) Compound locations together with details of the storage facilities for any plant and materials including off-site consolidation if appropriate, the siting of any site huts and other temporary structures, including site hoardings and details of the proposed security arrangements for the site;
 - g) Parking of vehicles associated with construction, deliveries, site personnel, operatives and visitors;
 - h) Sheeting over of construction vehicles.
 - g) Specific measures to protect the Darcy Lever Marshes Site of Biological Importance Development of each phase or plot shall be carried out in accordance with the approved CMP.
4. Prior to commencement of development, an updated survey for badgers shall be undertaken to ensure that the potential sett is not in use and no new setts are present and the findings of the survey and any additional mitigation measures/RAMS proposed submitted to and approved in writing by the Local Planning Authority. The appropriate mitigation measures/RAMS and contingency plans shall be implemented in accordance with the approved details.

5. No clearance, development or stripping of soil shall be carried out until:
 1. The trees and shrubs within or overhanging the site which are to be retained have been surrounded by fences of a type and in the locations shown on approved plan P.1410.20.02 rev C "Tree Protection Measures" (within the approved Arboricultural Impact Assessment ref. P.1410.20 revision C) prior to such works commencing.
 2. The approved fencing shall remain in the agreed location (in accordance with BS 5837:2012) until the development is completed or unless otherwise agreed in writing with the Local Planning Authority and there shall be no work, including the storage of materials, or placing of site cabins, within the fenced area(s).
6. Prior to the commencement of the development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing with the Local Planning Authority. Before these details are submitted an assessment shall be carried out submitted to and approved in writing with the Local Planning Authority, of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage system is to be provided, the submitted details shall:
 - 1) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, levels of the proposed systems including proposed ground and finished floor levels in AOD, mitigation measures to manage the risk of sewer surcharge where applicable and the measures taken to prevent pollution of the receiving groundwater and/or surface waters.
 - 2) Include a timetable for its implementation, and
 - 3) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime and
 - 4) show foul and surface water is drained on separate systems.
7. A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following.
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organization responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanisms by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

8. Prior to the commencement of development full details of the highway works to accommodate accessibility from the highway network and the construction of new site roads shall be submitted to and approved in writing by the Local Planning Authority. These works shall include a 2m footway along the Radcliffe Road frontage and implementation of road signage as indicated on drawing no J32-5433-PS-002 (appendix D to the Transport Assessment v1.2 dated October 2021). The approved scheme shall be implemented in full prior to the development being first occupied and retained thereafter.
9. No development, including site clearance, within the part of the site affected by the two on-site mine entries shall commence until the remediation works to address land instability arising from coal mining legacy have been implemented in full in accordance with the Ground Investigation Report (21MOR009/GI, January 2022) and Shaft Location Works (21MOR009/JS/L1/Rev0, 1 Nov 2022) by Betts Geo Consulting Engineers. Prior to first occupation of any plots numbered 33 to 48 (inclusive) as shown on approved plan N1093/P/PL01 rev K, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to and approved in writing by local planning authority. This document shall confirm the completion of the remedial works and mitigation necessary to address the risks posed by past coal mining activity.
10. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples or full details of materials to be used externally on the buildings and boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The approved materials shall be implemented in full thereafter.
11. Prior to the commencement of works to construct the ponds a scheme shall be submitted to and approved in writing by the Local Planning Authority for the construction of the three ponds. The ponds shall be constructed in accordance with the approved scheme and retained thereafter.
12. Prior to the development hereby approved being first occupied the means of vehicular access and emergency access to the site from Radcliffe Road shall be constructed in accordance with plan N1093/P/PL01 ref K.
13. Prior to the development hereby approved being first occupied the existing vehicular access serving the site shall be closed to vehicles and the existing highway (kerbing and footway) made good to adoptable footway standards. There shall thereafter be no means of vehicular access to or from the site, other than as shown on drawing N1093/P/PL01 rev K.

14. No dwelling shall be occupied until the footways/carriageway and turning provision leading thereto have been constructed and completed in accordance with drawing N1093/P/PL01 rev K.
15. Before each plot is first occupied, parking to that plot shall be provided in accordance with the approved plan N1093/P/PL01 rev K. Such spaces shall be made available for the parking of cars at all times.
16. Prior to first occupation, all developer obligations shall be fulfilled to enable the Local Highway Authority to carry out a review of Traffic Regulation Orders in the locality where necessary and relevant to the development being permitted, and to enable the Local Highway Authority to consult, advertise, promote and implement Traffic Regulation Orders to restrict parking at the site access onto Radcliffe Road and a 20mph speed limit within the application site. Such TROs shall be funded by the developer independently or through the s38 agreement. Any TROs shall be implemented in full prior to first occupation.
17. No dwelling shall be occupied until full details of the number, location, specification and timetable for provision of bat and bird boxes (including compensation specifically for swallows found nesting in building 1) have been submitted to and approved in writing by the local planning authority. The approved measures shall be erected/installed in accordance with the approved details and timetable and retained in their approved locations at all times thereafter.
18. No dwelling shall be occupied until a scheme has been submitted to and approved in writing with the Local Planning Authority for all external lighting. The lighting shall be designed to an illumination value of no greater than 5 lux at the nearest residential property. The beam angle of any lights directed towards any potential observer should be kept below 70 degrees. Spill shields should also be fitted. The scheme shall also include a "lighting design strategy for biodiversity" which shall:
 - i) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - ii) show how and where external lighting will be installed (through the provision of appropriate lighting contour plan and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the bats using their territory or having access to their breeding sites and resting places.

The approved scheme shall be implemented in full before the development is first brought into use and retained thereafter.
19. No dwelling shall be occupied until the boundary treatment to that plot as shown on drawing N1093/P/MP01 rev A has been implemented in full and this shall be retained thereafter.

20. Trees, shrubs and hedgerows shall be planted on the site in accordance with the approved landscape and planting scheme in full within the first planting season following the first occupation of any of the dwellings or the completion of the development, whichever is the sooner, or in accordance with phasing details included as part of a scheme to be submitted to and approved in writing by the local planning authority. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species.
21. A programme of archaeological works shall be undertaken in line with the Written Scheme of Investigation (WSI) for 'Archaeological Strip, Map and Record: Land North of Radcliffe Road, Darcy Lever' (dated 24 October 2022). The works are to be undertaken in accordance with the WSI, which covers the following:
 1. A phased programme and methodology to include:
 - a) archaeological evaluation via 'strip, map and record';
 - b) pending the results of the above, a targeted open-area excavation.
 2. A programme for post-investigation assessment to include:
 - a) analysis of the site investigation records and finds
 - b) production of a final report on the significance of the heritage interest recorded.
 3. Deposition of the final report with the Greater Manchester Historic Environment Record.
 4. Dissemination of the results of the site investigations commensurate with their significance.
 5. Provision for archive deposition of the report, finds and records of the site investigation.
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the approved WSI.
22. The development hereby approved shall be carried out in full accordance with the method statement contained within "Arboricultural Impact Assessment ref P.1410.20 rev C (1 Nov 2022) by Ascerta. An Arboricultural Supervisor shall be employed to supervise the works.
23. No vegetation clearance or demolition of buildings should take place between the months of March and August inclusive, unless a prior survey by a qualified ecologist confirms no nesting birds are present.
24. The development shall be carried out in accordance with the Invasive Weed Management Plan by Knotweed Eradication (ref IWMP2243A). Should there be a delay of more than one year between the date of approval of this plan and its implementation or the commencement of development then a new site survey and, if necessary, further remedial measures shall be submitted for the further approval of the Local Planning Authority. The scheme shall be carried out as approved and retained thereafter.
25. The development shall be carried out in full accordance with the Biodiversity Net Gain Assessment ref: UES02966/07 dated 14 Dec 2022, the recommendations of the Preliminary Ecological Appraisal ref: UES02966/01 dated 7 Sept 2021 and the Landscape Structure Plan no: M3433-PA-01-V02.
26. The development shall be carried out in full accordance with the Reasonable Avoidance Measures relating to amphibians, reptiles and hedgehogs as set out in the Preliminary Ecological Appraisal ref: UES02966/01 dated 7 Sept 2021.

27. The development hereby permitted shall be carried out in complete accordance with the following approved plans and documents:

Location Plan N1093/P/LP01

Planning Layout N1093/P/PL01 rev K

Landscape Structure Plan M3433-PA-01-V02

Material and Boundary Plan N1093/P/MP/01 rev A

House Type Booklet dated 31/10/22

Site Access Plan J32-5433-PS-001 rev A contained in the Transport

Assessment version 1.2 dated 1 October 2021

End of Schedule of Conditions