



Appeal Decision

Site visit made on 30 April 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th May 2024

Appeal Ref: APP/P4415/W/23/3333288

Three Acres, Lamb Lane, Firbeck S81 8DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jason Mace against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref is RB2022/1863.
 - The development proposed is the erection of 5 detached dwellings and associated garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline, with approval sought for access and layout. Appearance, landscaping and scale would be the subject of future applications for reserved matters.
3. In considering Green Belt issues, both the Council and the appellant have referred to paragraph numbers from the previous version of the National Planning Policy Framework (the Framework). In my decision I have referred to the paragraph numbers from the most recent version. The content of these paragraphs has not changed, so I am satisfied that no parties are prejudiced as a result.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - Whether or not the proposal could be safely and suitably accessed.
 - Whether or not the site is a suitable location for the development proposed, having regard to access to facilities.
 - The effect of the proposal on the historic environment.
 - The effect of the proposal on the natural environment.
 - Whether or not the proposal would result in suitable living conditions for future occupiers.

- 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

Inappropriate development

5. The appeal site lies within the Green Belt, within which inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. National policy in the Framework makes clear that the construction of new buildings is inappropriate in the Green Belt unless they fall within one of a number of exceptions. The relevant development plan policies adopt the same position.
6. It has been suggested to me that the proposal could meet the exception given for limited infilling in villages. Despite the presence of other dwellings along Lamb Lane, I do not consider that the appeal site lies within a village. The existing dwellings have the character and appearance of relatively isolated, rural dwellings, in place owing to previous patterns of development and use, rather than as part of a village. Further, whilst the site does lie between established, existing dwellings, given the number of dwellings proposed, particularly relative to the number of existing dwellings nearby, I do not consider that the proposal represents *limited* infilling in any case.
7. As such, I do not consider that the proposal falls under the exception in paragraph 154e) of the Framework and would be inappropriate development in the Green Belt.
8. Turning to the second suggested exception, that at paragraph 154g), as the proposal is not explicitly or exclusively for affordable housing, only the first limb applies. The Council consider that contrary to the assertions of the appellant, the site is neither previously developed land, nor domestic garden, and as such, does not benefit from any of the exceptions to new buildings being inappropriate development in the Green Belt as set out in the Framework.
9. Having had regard to the condition and appearance of the site, I agree that the site is not used as a domestic garden in connection with Three Acres. The site is distinct from it, both in terms of its character and appearance, and physical separation by means of gates and boundary treatments. Although there was open storage of materials on the site, including some building materials, whilst the site had been used, it was not clear whether or not this use was active, or if the site was previously developed. In any event, that exception is subject to consideration of the effects of the proposal on openness which I shall consider below.
10. As such, subject to consideration of its effect on openness below, the proposal would be inappropriate development in the Green Belt. It would therefore conflict with Policy CS4 of the Rotherham Local Plan Core Strategy 2013-2028 (the Core Strategy) and Policy SP2 of the Rotherham Local Plan Sites and Policies, adopted 2018 (the Local Plan).

Openness

11. The relevant exception in Paragraph 154g) of the Framework would require the proposal to not have a greater impact on the openness of the Green Belt than the existing development.
12. As I have noted above, the appeal site does have materials stored on it. It is also contained by boundary treatments along three sides. However, the third boundary, with long views towards Firbeck is largely open and the site has clear visual and spatial links to the wider landscape beyond. In addition, the height and spread of the stored materials, the lack of any actual buildings or enclosures and the overarching character of the site gives it, in my view, a fundamentally open character, appearance and nature.
13. As such, even if I were to accept that the site was previously developed, the residential development of it would have a greater impact on the openness of the Green Belt than the existing development. It would not therefore benefit from the exception in Paragraph 154g) of the Framework and the proposal would therefore be inappropriate development in the Green Belt.
14. As such, I find that the proposal would cause harm to the openness of the Green Belt, both spatially and visually. I note that the appellant accepts in their evidence that there would be an impact on openness, albeit at a limited, local scale. Despite this, and the size of the site relative to the size of the Green Belt as a whole, the Framework requires that substantial weight is given to any harm to the Green Belt. The proposal therefore conflicts with Policy CS4 of the Core Strategy and Policy SP2 of the Local Plan.

Access

15. It is intended to access the proposal from a short section of unadopted lane, which also serves as a bridleway, accessed from a classified road to which the national speed-limit applies.
16. Although the access to the main road already serves other properties, is used in connection with the farming of the land and brings bridleway users to the road, highways guidance requires 215m of visibility from this junction in order to be safe and suitable. The visibility splays submitted by the appellant fall far short of this in both directions.
17. Whilst I accept that there are road markings along this stretch of highway warning drivers to slow down, and signs suggesting the potential for horses and their riders, on the basis of the evidence and my experience on site, I do not consider that those are sufficient to remove the requirement for adequate visibility to be provided from the junction. Nor do I consider that the junction already being in place and in use is reason to set aside the visibility requirements, as the proposal would see an intensification of that use.
18. There is also nothing in the evidence before me which properly addresses the potential for conflict between traffic generated by the proposal and users of the bridleway as it runs along Salt Hill (the unadopted lane which links to the classified road). The short length of the lane concerned does not, to my mind, remove the need to properly consider that potential for conflict.

19. Taking the above together, I do not consider that the proposal could be safely and suitably accessed. It would therefore conflict with Policy CS14 of the Core Strategy, and national policy in the Framework.

Access to facilities

20. In considering whether or not the site is a suitable location for the development proposed, having regard to access to facilities I accept that shopping and working patterns have changed, particularly in the last four-years. I also accept that some of the settlements nearby are within walking distance. However, shops and services are not close at hand, and with the lack of public transport, footways and street-lighting, coupled with the speed of the surrounding roads and the difficulty in accessing them, I find it extremely unlikely that future residents would not rely on the use of the private-car to meet their day-to-day needs. Similarly, whilst shopping can be delivered, and work carried out remotely, that would not remove the likely needs or desires of residents to leave their homes on a reasonably regular basis. Whilst I also accept that taxis could be used, I find the suggestion that they be used in a location such as this for meeting day-to-day needs similarly unlikely.
21. Given that, I do not consider that the appeal site is a suitable location for the development proposed, having regard to access to facilities. The proposal does therefore conflict with Policies CS3 and CS14 of the Core Strategy, as well as national policy in the Framework.

Historic environment

22. To the north-east of the site, separated by a lane, two sets of boundary screening and around 140m, lies a Grade II listed ice-house, possibly originally associated with Firbeck Hall. Whilst the proposal would increase the amount of built form close to the listed building, owing to the separation distance, intervening development and screening, I do not consider that it would harm the significance or special interest of the listed building.
23. Furthermore, matters of detailed design, appearance and boundary screening to maintain the visual, spatial and perceptual separation could be dealt with at a future stage.
24. As such, the proposal would not harm the historic environment and would not therefore conflict with Policy CS23 of the Core Strategy, Policy SP40 of the Local Plan, or national policy in the Framework.

Natural environment

25. In response to the decision of the Council, the appellant has not provided any further information in respect of the effect of the proposal on the biodiversity of the site. Whilst detailed proposals would of course be considered at reserved matters stage, as this appeal deals with the principle of the proposal, including access and layout, it is important to understand the biodiversity baseline conditions of the site. The evidence before me establishes that a substantial amount of biodiversity value would be lost through the proposal, and sets out guiding principles for necessary future work.

26. However, the evidence before me does not make clear that the loss would be mitigated, much less that gain could be secured. As no further information has been provided to this effect to address the concerns of the Council, I find that the proposal would conflict with Policy SP33 of the Local Plan insofar as I cannot be sure that the proposal would not result in any net loss of biodiversity.
27. I note the suggestion by the Council that this matter could be dealt with by condition, as well as paragraph 55 of the Framework, but having considered the proposal, the evidence and the relevant policy, do not consider that in this case, such a condition would be reasonable or otherwise appropriate.

Living conditions

28. Although the appearance and scale of the proposal are reserved matters, layout is not, and the siting of the proposed dwellings would not conform to the guidance set out in the South Yorkshire Residential Design Guide (the Design Guide). Whilst that is guidance and not policy, it does nevertheless set out expectations of how development proposals should deliver good design and development which complies with the requirements of the development plan.
29. Despite the rural and relatively isolated nature of the appeal site and its surroundings, the proposal would introduce a number of dwellings which would be close to each other and other nearby residential properties. Not only would these relationships fail to comply with the standards of the Design Guide, they would be wholly atypical of the area.
30. Final details, including the arrangement of rooms and windows, boundary screening and planting, would be reserved matters, such that overlooking or overbearing effects could be considered in detail and controlled at a future application. Despite that however, the fundamental layout of the proposal is for consideration, and given its conflict with the Design Guide, I do not consider that it would result in suitable living conditions for future occupiers, and would therefore conflict with Policy CS3 of the Core Strategy, the content of the Design Guide and national policy in the Framework.

Whether very special circumstances exist

31. I have found that the proposal would be inappropriate development in the Green Belt. I have also found that it would harm the openness of the Green Belt. In addition, although I do not find that the proposal would harm the historic environment, I do not consider that it could be safely and suitably accessed, it is not in a suitable location having regard to access to facilities, I cannot be certain that it would not harm the natural environment, nor can I be certain that it would result in suitable living conditions for future occupiers.
32. Taking all of that together, I do not consider that 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.

33. In reaching this conclusion, I note the arguments of the appellant around the purposes of the Green Belt, but these do not fall to be considered in the relevant Framework tests and policies concerning development in the Green Belt. In any case, as I have found that there would be harm to the openness of the Green Belt, the proposal would therefore conflict with one of the essential characteristics of the Green Belt, and it would see encroachment into countryside.

Planning Balance

34. The Council and the appellant agree that the results of the Housing Delivery Test engage the tests at paragraph 11d of the Framework. However, my conclusions on the Green Belt, in accordance with the policies in the Framework, provide a clear reason for refusing the development proposed. As such, it does not benefit from the presumption in favour of sustainable development.

Conclusion

35. For the reasons given above I conclude that although the proposal would not harm the historic environment, in all other main issues, and taking it as a whole, it conflicts significantly with the development plan. I have found no material considerations, including the policies of the Framework, of such weight to indicate that a decision be taken other than in accordance with the development plan.

36. The appeal should therefore be dismissed.

S Dean

INSPECTOR