



Appeal Decision

Site visit made on 4 June 2024

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/Z4718/W/24/3340904

Moorhouse Farm, Moorhouse Lane, Birkenshaw, Bradford BD11 2AY

- 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 Mr and Mrs Light against the decision of Kirklees Council.
 - The application Ref is 2023/62/93013/E.
 - The development proposed is the demolition of existing buildings and the erection of 8 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and the erection of 8 dwellings at Moorhouse Farm, Moorhouse Lane, Birkenshaw, Bradford, BD11 2AY in accordance with the terms of the application, Ref 2023/62/93013/E, subject to the conditions in the attached schedule.

Applications for costs

2. Applications for costs have been made by both main parties. These applications are the subject of separate Decisions.

Background and Preliminary Matter

3. Planning permission Ref: 21/62/94599/E was granted on the site for the demolition of existing buildings and the erection of 6 dwellings in March 2023. Following this approval, a further application for 9 houses, with a larger red line site boundary, was submitted and refused permission (Ref 2023/62/93013/E). The proposal and plans were revised during the determination of this planning application with the description of development changing from 9 dwellings to 8 dwellings. As such, I have used the agreed amended description in the banner heading above and considered the appeal on the basis of the revised plans and proposal.

Main Issue

4. The main issue is:
 - (i) Whether the proposed development is inappropriate development in the Green Belt.

Reasons

Whether Inappropriate Development

5. The appeal relates to an irregular shaped piece of land that contains Moorhouse Farm, which is now used for commercial equestrian and caravan storage purposes. I am informed that it has 34 stables that are contained within 2 large scale buildings on the site. The site also includes a car park, ancillary outbuildings, areas of hardstanding, some shipping containers and a ménage, and is accessed via a short winding road off Moorhouse Lane. The appeal site lies within the Green Belt.
6. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 154.
7. The exception most pertinent to this appeal is paragraph 154 (g) which provides for 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.
8. Furthermore, Policy LP59 of the Kirklees Local Plan Strategy and Policies, 2019 (Local Plan) allows for the partial or complete redevelopment of brownfield sites provided that the extent of the existing footprint is not exceeded, and redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for.
9. It is common ground between the main parties that the appeal site meets the definition of previously developed land as set out within Annex 2 of the Framework and, I have no reason to disagree. This appeal therefore centres upon whether the proposal would have a greater impact on the openness of the Green Belt than the existing development.
10. Openness is an essential characteristic of the Green Belt and has a spatial and visual aspect. The submitted plans show the extent of the footprint of the existing buildings on the appeal site to be exceeded by the proposed development. It would also clearly result in some new built development where none currently exists. However, the supporting text to Local Plan Policy LP59 sets out that although the extent of the existing footprint should not normally be exceeded, it may be possible to redistribute built form on the site provided that the resulting impact is no more than that of the existing development. It also states that the assessment of all proposals will include an assessment of any intensification of use on local roads.
11. It is uncontested that the proposal would result in a reduction in both building volume and building footprint within the site, and the appellants' calculations in this respect have not been challenged by the Council. Thus, a 28% reduction in the volume and a 37% decrease in the footprint of the existing buildings would have a significant influence in assessing the openness of the site and the Green

Belt. These decreases would result in a noticeable reduction in the overall mass and scale of the built form on the site.

12. I appreciate that the extent of the edge red line around the site has been increased when compared to that of the previous planning application and permission. Nonetheless, the proposed dwellings would still be contained within the curtilage and yard area of the existing business and would not be on land of high environmental value. They would also be seen against the backdrop of other housing from several viewpoints. Furthermore, a portion of the site is proposed to be landscaped and returned to open planted land. As such, no conflict would arise with the Green Belt purpose of safeguarding the countryside from encroachment.
13. I would also expect large vehicles, horse boxes and transporters to be a common occurrence at the site, and therefore an element of visual intrusion to occur to the Green Belt. The proposal would remove these, and any domesticating factors such as garden paraphernalia potentially arising from the proposed development would be more than offset by the reductions in both building footprints and volumes, and areas of associated existing hardstanding. Such paraphernalia would also be relatively low level and would be screened from a number of long-distance views by boundary treatments and potential landscaping.
14. Furthermore, the existing buildings provide housing for 34 stables and the numbers of vehicular trips to and from the site are unrestricted. I am therefore unable to conclude that a proposal for 8 dwellings would result in an intensification of use on local roads.
15. In light of the above, I therefore find that the proposal would result in an acceptable redistribution of the built form on the site. This would not have a greater impact on the openness of the Green Belt than the existing development, in both visual and spatial terms. As such, the proposed development would not be inappropriate development in the Green Belt and no conflict would arise with Local Plan Policy LP59 and paragraph 154 (g) of the Framework.

Other Matters

16. Neither main party has raised any objections to the effect of the proposed development on the setting of Manor House, a Grade II listed building. The Council consider Manor House's significance to derive in a large part from its architecture, traditional materials and detailing and I have no reason to disagree. In reaching my decision I have had special regard to the statutory duty to pay special attention to the desirability of preserving the setting of this listed building. Given the separation distance, the amount of intervening buildings and limited intervisibility between this listed building and the appeal site I agree that the proposal would not harm the significance and setting of this heritage asset.
17. I am also satisfied that acceptable intervening distances would be achieved between the proposed dwellings and existing nearby houses and their rear garden areas to ensure that existing and future residents would not experience any significant loss of outlook or privacy. Furthermore, the Council's highways development management section did not raise any objections to the scheme, in respect of congestion to the road network or highway safety, subject to

conditions. Nor is there any firm evidence to suggest that the proposal would have an unacceptable effect on biodiversity, public footpaths, or place an undue strain on local infrastructure, including schools and doctor's surgeries.

Conditions

18. I have considered the conditions suggested by the Council against the tests of paragraph 57 of the Framework and advice in the Planning Practice Guidance: *Use of planning conditions*. The appellants and the Council were given the opportunity to comment on the conditions I consider should be imposed.
19. In addition to the statutory time limit condition, I agree that a condition specifying the relevant plans is necessary to provide certainty. Conditions relating to materials and landscaping, are also reasonable and necessary in the interests of character and appearance.
20. In the interests of ensuring adequate drainage and flood risk, conditions are required for foul and surface water drainage schemes and to provide mitigation for future storm events. For the same reasons it is necessary to approve a scheme for temporary surface water management drainage throughout the construction phase. All of these conditions are linked to the development of the site and therefore need to be approved prior to works commencing.
21. The site is identified as being within an area of probable unrecorded shallow mine workings, with intrusive investigation recommended to examine this further. I have therefore required such details to be provided, and any recommended actions taken as necessary, along with a signed declaration from a competent person to confirm that the site has been made safe and stable. Conditions are also necessary to require assessment and remediation measures should any contamination be found during the course of the development, in order to ensure that contamination is properly addressed.
22. In addition, I have imposed a condition to require a preliminary ecological assessment and ecological design strategy as suggested by the Council. This is necessary to ensure that the development provides ecological enhancement and creation measures.
23. In the interests of highway safety, conditions are also required relating to the provision of visibility splays, a scheme for the widening of Moorhouse Lane and a schedule of the means of access to the site for construction traffic to be submitted for the local planning authority's approval. However, the installation of electric vehicle charging points is now covered by Building Regulations and so a condition in this respect is unnecessary. I have therefore omitted this suggested condition.

Conclusion

24. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be allowed.

Mark Caine

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Site Layout Drawing No 110/C, Proposed Site Footprint Drawing No 111/C, Proposed Plot 1 Layout Drawing No 112, Proposed Plot 1 Elevations Drawing No 113, Proposed Plot 2 Layout Drawing No 114/A, Proposed Plot 2 Elevations Drawing No 115/A, Proposed Plot 3 Layout Drawing No 116, Proposed Plot 3 Elevations Drawing No 111, Proposed Plot 4 Layout Drawing No 118/A, Proposed Plot 4 Elevations Drawing No 119, Proposed Plot 5 Layout Drawing No 120, Proposed Plot 5 Elevations Drawing No 121, Proposed Plot 6 Layout Drawing No 122, Proposed Plot 6 Elevations Drawing No 123, Proposed Plot 7 Layout Drawing No 124/A, Proposed Plot 7 Elevations Drawing No 125/A, Proposed Plot 8 Layout Drawing No 126/A, Proposed Plot 8 Elevations Drawing No 127/A, Existing Location and Layout Drawing No 100/B and Drawing No 1919-101 Rev C.
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until a detailed foul and surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) 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.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.
- 5) No development shall take place until an assessment of the effects of 1 in 100 year storm events, with an additional allowance for climate change, on drainage infrastructure, blockage scenarios and exceedance events, and surface water run-off pre and post development between the

development and the surrounding area, in both directions, together with a scheme for the mitigation of any identified effects has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works comprising the approved scheme have been completed, and such works shall be retained at all times thereafter.

- 6) No development shall take place until a scheme detailing temporary surface water drainage for the construction phase after the soil and vegetation strip has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include:

- Phasing of the development and phasing of the temporary drainage provision as required; and
- Methods for preventing silt, debris and contaminants entering existing drainage systems and watercourses and how flooding of adjacent land will be prevented.

The temporary works shall be implemented in accordance with the approved scheme and phasing. The approved temporary drainage scheme shall be retained until the approved permanent surface water drainage system is in place and functioning in accordance with written notification to the local planning authority.

- 7) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted, has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale;
 - iii) a verification report by a suitably qualified practitioner, has been submitted to and approved in writing by the local planning authority.
- 8) If during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its assessment and remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report by a suitably qualified practitioner for all the remediation works shall be submitted to and approved in writing by the local planning authority before development resumes.
- 9) No development shall take place until visibility splays at the Moorhouse Lane junction of 2.4m x 33m shall be freed of any obstruction exceeding 1m in height and shall be retained as such thereafter.
- 10) No development shall take place until a scheme for the widening of the Moorhouse Lane shared driveway to at least 4.8 metres (allowing for

simultaneous 2 way traffic flow) along with a 2 metre wide footway along its western side, in accordance with Drawing No 1919-101 Rev C, has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include construction specification and details of the surfacing, drainage, kerbing and associated highway works. The development shall be carried out in accordance with the approved details.

- 11) No development shall take place, including any works of demolition, until a schedule of the means of access to the site for construction traffic has been submitted to and approved in writing by the local planning authority. The schedule shall include the point of access for construction traffic, details of the times of use of the access, the routing of construction traffic to and from the site, construction workers parking facilities and the provision, use and retention of adequate wheel washing facilities within the site. The approved schedule shall be adhered to throughout the construction period for the development.
- 12) No development above ground level shall take place until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall include all soft and hard landscaping and surfacing, boundary treatments and planting and a schedule for their future maintenance and replacement. The landscaping works shall be carried out in accordance with the approved details and in accordance with an agreed implementation programme.
- 13) No development shall take place until a preliminary ecological assessment and ecological design strategy has been submitted to and approved in writing by the local planning authority. The preliminary ecological assessment shall set a biodiversity baseline whereby the ecological design strategy shall set out a strategy and plan to ensure a biodiversity net gain on the site for the lifetime of the development. Works shall be carried out in accordance with the approved ecological design strategy prior to the occupation of any dwellings and shall be retained thereafter.
- 14) No development shall commence until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

- 15) The development shall not be occupied until a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or

mitigation necessary to address the risks posed by past coal mining activity.

END OF SCHEDULE