



Appeal Decision

Hearing held on 13 August 2024

Site visit made on 13 August 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th of September 2024

Appeal Ref: APP/N4205/W/24/3343705

Land at Ringley Old Brow, Stoneclough, Radcliffe, Bolton M26 1FR

- 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 Gary Dent against the decision of Bolton Metropolitan Borough Council.
 - The application Ref is 16985/23.
 - The development proposed is the erection of 1 no. 4 bed detached self-built eco-dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Gary Dent against Bolton Metropolitan Borough Council. This is the subject of a separate decision.

Preliminary Matters

3. The appellant and the Council agreed a description of the proposed development within the Statement of Common Ground. I have used this agreed description in the banner heading above.
4. At the time the Council determined the planning application, the Places for Everyone Joint Development Plan Document 2022 to 2039 (PfE Plan), was emerging. The PfE Plan has been adopted since and now forms a part of the development plan in force. Consequently, certain policies within the Bolton Core Strategy 2011 (Core Strategy) have been replaced. I attach no weight to the replaced policies within the Core Strategy in my decision. For the avoidance of doubt Bolton's Allocations Plan 2014 (AP), inclusive of Policy CG7AP referenced within the Council's reason for refusal, remains part of the development plan.
5. On 26 June 2024 the appellant submitted late evidence in the form of two appendices to their Statement of Case which included a self-build housing needs assessment. However, these were subsequently withdrawn by the appellant. As a result, in coming to my decision, I have not had regard to them.

6. On the same date the appellant also submitted two appeal decisions in relation to sites in Neston¹ and Clayton Le Dale². Although shortly afterwards the appellant withdrew these decisions, at the hearing, the appellant stated that he sought their resubmission. With content within the Neston appeal decision concerning whether the development in that case amounted to limited infilling in a village and the Clayton Le Dale case involving the erection of a self-build dwelling, each of the cited appeals have some relevance to this appeal. The Council confirmed that they were familiar with the decisions and had no objection to their submission. In such circumstances, I find the submission of the two appeal decisions to be procedurally fair. Therefore, I have taken them into account in my decision.
7. Following the Council's decision, a signed unilateral undertaking (UU) has been submitted. The purpose of the UU is to secure that the dwelling proposed is a self-build property. I comment on these matters later in my decision.
8. On the 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. This included a revised Framework draft text for consultation. Published on the same day was the written ministerial statement entitled "Building the homes we need" (WMS). As necessary, I refer to these matters later in my decision.

Main Issues

9. The main issues are:

- Whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework, any relevant development plan policies, and any effects upon openness; and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposed development would be inappropriate development and its effects upon openness

10. The Framework identifies that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless it would constitute one of the exceptions set out in paragraph 154. The Framework also states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At the hearing, the appellant confirmed their view that the proposal would principally comply with the paragraph 154 exception at criterion (e), but that there would be, at the least, some compliance with criteria (f) and (g) as well.

¹ Appeal Decision Reference APP/A0665/W/22/3302865

² Appeal Decision Reference APP/T2350/W/23/3335737

11. To meet the paragraph 154 (e) exception, a proposed building must firstly be in a village and, secondly, represent limited infilling.
12. To the west and the south of the site, concentrations of buildings are located on either side of the River Irwell. The building types vary, but include houses, a church, a school, a pub and a restaurant. Given the collective factors of their pattern, building type and proximity to one another, these concentrations of buildings form a quite built-up area containing one or more villages, perhaps even a part of a larger settlement in some cases.
13. When travelling towards the site from this built-up area, either along Ringley Old Brow or Ringley Road, buildings become more sporadically distributed. Here, in the spaces between the buildings, there are more pockets of open, wooded and undeveloped land. In this area, there are buildings and structures which exude an agrarian or equestrian appearance. Together, these factors signify that the villages and more significant settlement closer to the river have been left behind, and that the site and its immediate surroundings do not form a part of them.
14. Instead, I find that the site forms a part of the countryside or perhaps part of a hamlet, given that there are sporadic buildings around it, but not a village. For this reason alone, and as neither the development plan nor the Framework provide for infilling within hamlets, the proposal would not comply with the paragraph 154 (e) exception regardless of whether or not it would amount to limited infilling. I note that the Inspector found that the proposal the subject of the Neston appeal decision constituted limited infilling in a village. The Neston case plans are not before me, and judgements on whether proposals are within a village or represent limited infilling are very dependent on the site and proposal specifics. In the absence of full details, I cannot be sure that the Neston case is very comparable to the appeal proposal. For this reason, it is of very limited weight in my decision.
15. To meet the Framework paragraph 154 (g) exception, a proposed building must be located on previously developed land. It must constitute limited infilling, or the partial or complete redevelopment of the previously developed land. It must also not result in a greater impact on the openness of the Green Belt or, not result in substantial harm to the openness of the Green Belt if the proposed development would contribute to meeting an identified affordable housing need within the local planning authority area.
16. The site does contain some permanent structures in the form of telegraph poles and a streetlight. The particular land within the site where these structures are located is previously developed. However, altogether, these structures account for only a very small proportion of the site.
17. Although houses once stood on the site, evidence before me indicates that these were demolished many years ago. Towards the centre of the site some brick and stone remnants are in situ. They are also confined to a relatively small part of the site. The remnants are at ground level or only just above ground level.
18. Some recent landscaping clearance has taken place. Evidence before me of the site's appearance from 2008 shows that it had some substantial landscape

features and a verdant character. In these images, the remnants of the houses are not visible.

19. Presently, the great majority of the site comprises of grassland with other low-level plants. Scattered across it there are various material and waste deposits as well. Whilst the site is somewhat unkempt in appearance, and it does not exhibit the green and leafy character that it has had in the past, it is nevertheless largely open and vegetated, and the remnants of the demolished housing are an inconspicuous feature within it.
20. Consequently, I find that the evidence of the site's past housing has blended into the landscape. Therefore, except for the limited areas with the telegraph poles and the streetlight, the site is not previously developed land, and this accounts for the vast majority of the site.
21. The proposed dwelling would be flat-roofed and, utilising the sloping nature of the site, would be partly built-in to it. Nevertheless, with accommodation set across two floors, including three bedrooms, three toilet/bathrooms, a dressing room, an office, a lounge and an open-plan living/dining/kitchen space, it would be a building of significant size.
22. Where it abuts the road, the site is presently open. Upon completion of the proposed development, a new stone boundary wall would run along the entirety of the site frontage. The proposed dwelling would also have an elongated shape, with its lengthy frontage addressing the road. Other development proposed includes external hardsurfacing and a driveway upon which cars would be parked, whilst photovoltaic (PV) panels would protrude above the dwelling's roof.
23. In spatial terms, upon completion of the proposal, built development would be introduced onto the site which would utilise a far greater proportion of the site than is presently the case. In views of the site from Ringley Old Brow and Ringley Road, including those identified as viewpoints 2, 4, 6 and 7, within the Landscape and Visual Appraisal, the proposal's overall scale, mass and bulk would be readily apparent. As a result, although views of the proposal would be localised, it would be visually prominent within them.
24. Therefore, I have identified that all but a very small part of the site is not previously developed land and, as a consequence of the proposal, much more of it would become developed. The spatial and visual effects of the development would result in a greater impact on the openness of the Green Belt than the existing permanent structures. This means that the proposal would not comply with criterion (g) of paragraph 154 of the Framework.
25. I have been provided with no substantive evidence that the proposed dwelling would comprise affordable housing, as defined within the Framework's glossary, nor that it would be secured as such. Consequently, the proposal would not comply with the paragraph 154 (f) criterion.
26. For the reasons given above, the proposal would not comprise of any of the forms of development listed within the paragraph 154 criteria of the Framework. The proposal would therefore amount to inappropriate development in the Green Belt. This is harmful and, alone, must be attributed

substantial weight. Further harm would be caused to the Green Belt by reason of the reduction to its openness.

27. Assessed against Policy CG7AP of the AP, the proposal would also be inappropriate development, and it would conflict with it. Policy CG7AP exhibits some inconsistency with the Framework – its provision made for limited infilling in villages to not constitute inappropriate development applies only to certain villages rather than all, whilst it includes no criteria akin to paragraph 154 (f) of the Framework. Accordingly, I attribute more weight to the proposal's conflict with the Framework.
28. At the hearing, the appellant referred to the content of the Green Belt chapter of the revised Framework draft text, the subject of current consultation, including its reference to grey belt land. However, at this stage, the draft Framework text has not replaced or altered current Framework policy. As the draft text is the subject of a consultation there are considerable uncertainties regarding the extent to which the Framework's policies in relation to Green Belt land could change. Consequently, I afford very limited weight to the content of the draft Framework text.

Other considerations

Housing supply

29. The proposal would provide a boost to housing supply and be likely to contribute quickly to the supply of houses in the area. This would come at a time when the Council cannot demonstrate 5 years' worth of housing supply. It was agreed at the hearing that the supply is 3.9 years. The supply shortfall is, therefore, significant. The proposal's contribution toward addressing it would be valuable, but it would also be very modest and, in such circumstances, I attribute the proposal's contribution to supply a moderate amount of weight.
30. Altogether, the Government's 30 July 2024 consultation on proposed reforms to the Framework, other aspects of the planning system and the WMS, set out measures to promote housing growth. Those measures would include revisions to the standard method of establishing housing need. At the hearing, the appellant set out that a consequence of such a methodology change would be that the housing requirement in the area would be far greater. However, any alternative method for establishing housing need is not in force now. That the housing requirement in the local authority planning area could be higher in the future is, therefore, of very limited weight in my decision.

Self-build housing

31. Together, the Self Build and Custom Housebuilding Act 2015 (Self-build Housebuilding Act) and the Housing and Planning Act 2016 impose two duties upon local planning authorities in respect of such housebuilding. The first requires local planning authorities to establish and publicise a local register of custom/self-build housebuilders who wish to acquire suitable land to build their own home. The second is a duty to grant planning permission and provides that authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand for such housebuilding in the authority's area arising in each base period. Revisions to

the second duty, brought into effect by the Levelling-up and Regeneration Act 2023 (LURA), seek to ensure that only land permissioned explicitly for self-build housing will qualify towards a relevant authority's statutory duty to meet its demand. As a further consequence of the LURA, the register's demand is also the aggregate of the demand in the most recent base period coupled with any shortfall from previous base periods.

32. Within its Statement of Case, the Council set out that, up until the end of October 2023, the demand for self-build housing established by its register was 172 dwellings and that planning permission had been granted for 92 such dwellings. However, the tabular evidence of supply actually indicates to me the latter figure would only be 83. Regardless, the supply of planning permissions is not meeting the register's demand. More importantly, at the hearing, the Council confirmed that its supply figures are derived from, and equate to, all planning permissions for one or two houses. These planning permissions may not be for self-build dwellings at all.
33. In such circumstances, the Council acknowledged at the hearing that it cannot demonstrate that it has given enough suitable development permissions for self-build dwellings. Indeed, I have been provided with no compelling evidence of any permissions being granted within the local planning authority's area for dwellings which would certainly constitute self-build dwellings nor of the delivery of such housing.
34. Moreover, actual demand for self-build housing can far exceed that of the register as other sources of demand can exist. At the hearing, the appellant submitted that, based upon the evidence of the National Custom and Self Build Association, demand would be likely to be 64% greater than that of the Council's register. Whilst I have no compelling evidence that the appellant's percentage multiplier is very reflective of the situation across this local planning authority area, I also have no substantive evidence to conclude that the demand for self-build housing does not far outstrip that identified on the register.
35. Given all that is before me I can only conclude that there is a very substantial shortfall in the supply and delivery of self-build dwellings across Bolton. In this context, any contribution towards their delivery would be very valuable albeit any contribution which would be made by this proposal would also only be a modest one.
36. The submitted UU seeks to secure the proposal as a self-build dwelling. In effect, the UU sets out that the appellant covenants with the Council that the development, as described by the planning application, and granted planning permission by the Council, shall only be self-build/custom build housing. The UU defines what constitutes self-build and custom build housing and refers to the definition provided for by the Self Build Custom Housebuilding Regulations 2016 (the 2016 Regulations).
37. Firstly, in the event the appeal was allowed, the Council would not be granting the planning permission. Secondly, the definition of self-build and custom build housing is set out within the Self-build Housebuilding Act, and not the 2016 Regulations.

38. In my mind, this creates some uncertainty that the UU would effectively secure the proposal as a self-build dwelling. Because of these uncertainties, the weight to which I consider I can attribute to the UU is limited. In turn, as I am not confident that the UU would effectively secure a self-build dwelling, any benefit that would be derived from this must be reduced and I attribute to it only limited weight. If I had the confidence that the UU would be effective, and it would secure a self-build dwelling, this would be a benefit of the proposal of significant weight. I return to these matters in my Green Belt balance.
39. In the Clayton Le Dale case, the weight which the Inspector attributed to the contribution that a single dwelling would make to addressing self-build demand was an important reason in allowing the appeal despite there being conflict with the development plan. However, the decision makes no reference to the Green Belt, so I am quite confident that it was not within it. This is a important factor which sets that case apart from the proposal which is before me. Accordingly, the Clayton Le Dale case has very limited bearing upon my decision.

Biodiversity net gain

40. The appeal parties agree that the proposal would deliver a biodiversity net gain of over 85%. I have no reason to disagree. A net gain to such an extent would be a benefit of the proposal of significant weight.

Design and the proposal's energy efficiency credentials

41. The proposal is, in part, described as an eco-dwelling. It is proposed to include, amongst other matters, PV panels, a ground or air source heat pump, triple glazed windows and what have been described to me as Passivhaus levels of insulation and airtightness, partly deriving from the proposed incorporation of Insulated Concrete Form structures (ICFs).
42. Given this, the proposed dwelling would be highly energy efficient, and this would be a facet of the proposal of merit. That said, Policy JP-S2 of the PfE Plan sets out an expectation that, from the adoption of the PfE Plan, all new development should be net zero carbon in respect to regulated operational carbon emissions. Therefore, in order to fully comply with Policy JP-S2, all new developments would be required to be very energy efficient. Whilst the appellant submitted to me at the hearing that Policy JP-S2 is a strategic policy, and that the Council has not been consistently applying it to minor developments such as the proposal, I have been presented with no compelling evidence that this is the case.
43. Therefore, whilst I find that the proposed dwelling would be highly energy efficient, it has not been shown to me that it would have significantly better energy efficiency credentials than Policy JP-S2 requires all new policy compliant developments to be.
44. The proposed dwelling would exude a contemporary appearance and, in comparison to the prevailing character and appearance of the nearby properties, it would be a quite striking addition to the area. The inclusion of the ICFs, paired with the proposed natural stone cladding provides an example of the modern construction methods proposed within the dwelling.

45. However, there are other aspects of the proposed design which I find would be of less merit and less successful. The manner in which the PV panels would prominently project above the dwelling's roof would detract from the otherwise clean lines that its flat-roofed design would provide. Vehicular parking provision would entail a gravel driveway, prominently positioned next to the road. This is not an innovative solution, particularly within the context of the site's Green Belt location whereby the presence of cars themselves would have some effects upon openness.
46. Overall, I find that the proposed dwelling would be a highly energy efficient and well-designed property which would result in a high-quality development on a site with a currently unkempt appearance. However, it has not been shown to me that the design proposed would be so innovative or ground-breaking so as to amount to being truly outstanding or exceptional. The design of the proposed dwelling weighs in the proposal's favour but only to a limited extent.

Other matters

47. Some economic benefits, including job creation, would be derived from the proposal but these would only be modest. The site would have reasonable access to public transport and facilities within the area. However, the accessibility of the site in such respects is not especially good, and it does not weigh in the proposal's favour to any meaningful extent.
48. I have been provided with no substantive evidence that the risks posed by flooding in the area would be reduced by the proposal. The appellant submits that the proposal would reduce incidents of trespass, but I have no substantive evidence that trespass is a particular problem. Furthermore, the proposal would not be the only means to address it if it were.
49. The Design and Access Statement references a number of appeal decisions and planning applications within other local authorities. However, I have very limited details of them. From the details I do have, I note that the appeal cases at Bromley and York each involved major residential developments in the Green Belt of a scale incomparable to the proposal. In such circumstances, the cited applications and appeal decisions are of very limited weight in my decision.
50. The Ringley Fold Conservation Area (CA) is in the vicinity of the site. I find that the significance of the CA principally stems from its architectural, artistic and historic interest. This is exhibited by the CA's verdant character, the traditionally designed properties and the landmark buildings lining the River Irwell which provide evidence of the area's agricultural and industrial heritage. Owing to the local topography, intervening pockets of woodland and buildings, the site is screened from the CA. Given this, the proposal would result in no beneficial nor harmful effects upon the CA's significance. Both appeal parties agreed that this would be the case at the hearing. Accordingly, the effects of the proposal upon the CA is a neutral factor in my decision.

Green Belt balance

51. The proposal amounts to inappropriate development in the Green Belt which the Framework sets out is, by definition, harmful to it. The Framework also

sets out that substantial weight should be given to any harm to the Green Belt. Therefore, the harm by reason of inappropriateness alone receives substantial weight. The development would also reduce the Green Belt's openness, which gives rise to additional harm. Although the proposal is a minor development, the reduction in the openness of the site and this particular part of the Green Belt would, nevertheless, be considerable. I therefore attach further substantial weight to the harm by reason of loss of openness in visual and spatial terms.

52. The Framework makes it clear that inappropriate development should only be approved where very special circumstances exist. It is important to note that these very special circumstances will not exist unless the totality of the harm to the Green Belt (and any other harm should there be any) is clearly outweighed by the other considerations. This means that it is insufficient for the other considerations to merely outweigh the harm - they must do so decisively.
53. There are a number of other considerations which weigh in favour of the proposal which I have set out above, however, altogether these are not so significant that they clearly outweigh the harm to the Green Belt. Even in a scenario whereby I was to set aside my concerns with the efficacy of the submitted UU and thereby attribute the provision of a single self-build dwelling its full due weight (which would be significant weight), I would still conclude that the other considerations would not clearly outweigh the totality of the harm I have identified.
54. Consequently, the very special circumstances necessary to justify the development referenced at paragraph 153 of the Framework, do not exist. Whilst the Council cannot demonstrate a deliverable 5-year supply of housing land and paragraph 11 d) of the Framework applies to the proposal, the policies of the Framework that protect the Green Belt provide a clear reason for dismissing the appeal for the reasons given above.
55. As inappropriate development, and in the absence of very special circumstances, the proposal conflicts with Policy CG7AP of the AP. National planning policy attaches great weight to the Green Belt. Consequently, Policy CG7AP which relates to it is at the heart of the development plan. By conflicting with it, and even though the proposal would conform with some development plan policies, I find that the proposal conflicts with the development plan as a whole.

Conclusion

56. The proposal conflicts with the development plan as a whole and the material considerations in this case, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal should be dismissed.

H Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gary Dent	Appellant
Mike Stone	Origin Planning Services Ltd
Annabelle Langhorn	Anabelle Langhorn Landscape Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Helen Williams	Principal Development Officer
Beth Bradburn	Principal Development Officer