



Appeal Decision

Site visit made on 8 October 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2024

Appeal Ref: APP/P4415/W/24/3344261

Morthen House, Morthen Lane, Thurcroft, Rotherham S66 9JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Dean Baker against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref is RB2023/1298.
 - The development proposed is the construction of a single dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle ("PIP")) establishes whether a site is suitable in-principle, and the second stage (technical details consent ("TDC")) is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the consideration for PIP is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of the subsequent TDC application if PIP is granted. I have determined the appeal accordingly.
4. The appellant has submitted a Site Plan which includes the layout of one dwelling and a proposed access. For the avoidance of doubt, I have treated this drawing as indicative, and have determined the appeal on this basis.
5. The Council's second reason for refusal does not specify a development plan policy. However, it is clear from the Council's officer report and appeal statement that the relevant policies in respect of this matter are Policy CS14 of the Rotherham Local Plan Core Strategy 2013-2028, adopted 2014 ("CS") and Policy SP64 of the Rotherham Local Plan Sites and Policies, adopted 2018 ("LPSP"). The appellant has had the opportunity to comment upon these policies and therefore would not be prejudiced if I were to conclude against them in my decision.
6. The Council determined the planning application prior to the publication of the revised National Planning Policy Framework ("the Framework"). This does not

¹ Paragraph: 012 Reference ID: 58-012-20180615

have any direct implications for the appeal proposal. However, I have referred to the revised paragraph numbers where necessary.

Main Issues

7. The main issues are:

- a) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- b) the effect of the proposal on the openness of the Green Belt;
- c) whether the appeal site is in a suitable location for the proposal, with particular reference to future occupiers' reliance on the private car; and
- d) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development?

- 8. The appeal site is within the Green Belt. The Framework identifies 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.
- 9. Paragraph 154 of the Framework explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One exception pertinent to the appeal proposal is: (e) limited infilling in villages.
- 10. CS Policy CS4 states that land within the Rotherham Green Belt will be protected from inappropriate development as set out in national planning policy. LPSP Policy SP2 reflects the wording in the Framework regarding inappropriate development and very special circumstances, and states that all proposals for development should satisfy national guidance.
- 11. There is a dispute between the parties whether LPSP Policy SP8 is relevant to the proposal. It states that infill development in the Green Belt is only applicable to a closed list of villages. The proposal is not within one of the named villages and therefore, it would conflict with this policy.
- 12. However, case law² indicates that when considering whether a settlement is a village or whether a site is in a village, decision makers should have regard to the situation "on the ground" as well as any relevant policies. Accordingly, LPSP Policy SP8 is more restrictive in this regard and as such, is not wholly consistent with the Framework. I will return to this matter later in my decision.
- 13. The appeal site is located on the northern side of Morthen Lane (B6410) and forms part of the extensive grounds surrounding the host dwelling, Morthen House. Morthen House is the western-most dwelling of a small cluster of

² Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

dwelling along this side of Morthen Lane. There is also a smaller cluster of dwellings on the corner of Morthen Road/Morthen Lane/Morthen Hall Road. These two clusters form a group of dwellings ("the Morthen Lane group of dwellings") which are surrounded by open fields. The small number of dwellings that form the group and my observations on site lead me to conclude that the Morthen Lane group of dwellings could not be described as a "village".

14. Wickersley is to the north of the appeal site. The settlement's southern edge is clearly defined and is separated from the Morthen Lane group of dwellings by several open fields. Consequently, the Morthen Lane group of dwellings do not form a continuation of Wickersley. Morthen is to the southwest of the appeal site and comprises a small cluster of farms and dwellings. Morthen is visibly separated from the Morthen Lane group of dwellings by open fields. Consequently, the Morthen Lane group of dwellings do not form part of this settlement.
15. Thurcroft is to the southeast of the appeal site. Its western edge is clearly defined by the M18 motorway. There is some built development on the northern side of Morthen Road to the west of Thurcroft. However, it forms its own individual cluster clearly separated from Thurcroft and the Morthen Lane group of dwellings by open fields. Consequently, I do not agree that the Morthen Lane group of dwellings together with the cluster of built development on Morthen Road comprise the dispersed settlement of Thurcroft. As such, the Morthen Lane group of dwellings do not form part of Thurcroft.
16. For these reasons, the appeal site is not within a village and therefore it would not meet the exception set out in paragraph 154(e) of the Framework.
17. I have been directed to various appeal decisions that the appellant asserts support their view that the appeal site is within a "village". While limited information has been provided in respect of these examples, it is clear that the Inspectors' findings on whether each site is within a village was formed from their own assessments taken on the ground that are individual in each case and therefore, are not directly comparable to the appeal proposal.
18. There is conflict between the parties regarding whether the proposal would comprise infill development, with the appellant submitting various appeal decisions to support their case. However, as I have found that the appeal site would not be within a village, it is not necessary for me to determine whether the proposal would comprise "limited infilling".
19. Accordingly, in reference to the first main issue, the proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would conflict with paragraph 154(e) of the Framework, CS Policy CS4 and LPSP Policies SP2 and SP8. I am not obliged to assess the proposal against the purposes of including land within the Green Belt, as there is no requirement under paragraph 154(e) of the Framework.

Openness

20. Openness has both spatial and visual qualities³. The appeal site comprises a relatively flat area of lawn that forms part of the host dwelling's garden. It is devoid of development, although at the time of my site visit contained two football goals. The proposal would comprise a detached dwelling which would

³ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

also typically include hardstanding for vehicle access, parking and turning, and garden paraphernalia. Therefore, the proposal would, in spatial terms, reduce the openness of the Green Belt.

21. The boundaries of the appeal site are predominantly planted with vegetation that would afford the proposal a degree of screening. While there could be glimpses of the proposal when travelling along Morthen Lane, particularly in the winter months when the deciduous vegetation would not be in leaf, these glimpses would be fleeting. Furthermore, at the TDC stage, the proposed dwelling's siting, scale and massing could be designed to limit its visual impact. Consequently, it is unlikely that the proposal, in visual terms, would reduce the openness of the Green Belt.
22. Nevertheless, I have found that the proposal would harm the spatial dimension of the openness of the Green Belt. Accordingly, in reference to the second main issue, the proposal would harm the openness of the Green Belt.

Suitable Location?

23. According to Case Law⁴, the word "isolated" in the phrase "isolated homes in the countryside" within paragraph 84 of the Framework simply connotes a dwelling that is physically separate or remote from a settlement. There is no definition of "settlement" within the Framework, and whether a proposed new dwelling is or is not "isolated" is a matter of fact and planning judgement for the decision-maker in the particular circumstances of the case in hand.
24. The appeal site is within a small group of dwellings along the northern side of Morthen Lane. While I have found that the appeal site does not form part of Wickersley, Thurcroft or Morthen, equally it would not be physically separate or remote from this group of dwellings. Accordingly, I do not find that it would comprise an isolated dwelling for the purposes of paragraph 84 of the Framework.
25. Morthen Lane is a classified B-road that is subject to the national speed limit. At the time of my site visit, it was heavily used by vehicles that were travelling at speed. While I appreciate this was a snapshot in time, it is consistent with the Council's Transportation Infrastructure Service's comments that the road experiences significant flows of traffic at peak times and high vehicular speeds throughout the day.
26. While the distance to Thurcroft and Wickersley could be cycled. This would be along B-roads that carry a high volume of traffic including HGVs and are subject to the national speed limit. Accordingly, they are unlikely to be appealing to most cyclists.
27. There are bus stops within walking distance of the appeal site which, from the evidence before me, appear to provide a regular service that could be relied upon by future occupiers. However, the route to these bus stops from the appeal site would require future occupiers to walk along Morthen Lane which has no pavement for the majority of its length and is unlit. There is a narrow grass verge that, at the time of my site visit, was well maintained overall. However, walkers using the grass verge would be in proximity of fast-moving vehicles, and it would be unsuitable for use by future occupiers with young children or mobility issues, particularly after dark or during inclement weather.

⁴ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

28. I have been directed to a public footpath (Whiston Footpath No 24) to the west of the appeal site that provides access to Wickersley. However, to access the public footpath future occupiers would have to walk a significant length along Morthen Lane with fast moving vehicles, no pavement and no street lighting. Furthermore, the public footpath traverses across open fields which would be unsuitable after dark or during inclement weather.
29. Consequently, future occupiers of the proposal would be heavily reliant on the private car. A matter which I attach substantial weight.
30. I have been directed to a planning permission⁵ for the conversion of Morthen Lodge in proximity of the appeal site to demonstrate that future occupiers of the proposal would not be heavily reliant on the private car. However, Morthen Lodge is on the junction of Morthen Lane and Morthen Road with direct access to a pavement lit by street lighting that leads to bus stops. Therefore, it is not directly comparable to the appeal proposal.
31. I have also been directed to two appeals in which the Inspectors found the location of the appeal dwellings would allow future occupiers to access services and facilities to meet their day-to-day needs by modes of transport alternative to the private car. However, the Inspector in the first example⁶ states that bus stops would be accessible along lit pavements, and the Inspector in the second example⁷ states that while the road has no pavement or street lighting, it is subject to a 15mph speed limit with humps that discourage the fast movement of vehicles. As such, these examples are not directly comparable to the appeal proposal.
32. It has been asserted that the appeal site falls within the Wickersley Neighbourhood Plan Area and the Neighbourhood Plan's Strategic Green Infrastructure Corridor. However, I have limited information before me to determine whether they are of particular relevance to this main issue.
33. Consequently, in reference to the third main issue, the appeal site is not in a suitable location for the proposal, with particular reference to future occupiers' reliance on the private car. It would conflict with Policy SP64 of the LPSP and Policy CS14 of the CS which, amongst other things, seek to ensure that residential development has good access to a range of shops and services, and by enabling walking and cycling to be used for shorter trips and for links to public transport.

Other Considerations

34. The proposal would support the Government's objective of significantly boosting the supply of new homes. I also acknowledge that small and medium sized sites can make an important contribution to the housing needs of an area and are often built out quickly. The proposal would also aid the Council's requirement to accommodate at least 10% of their housing on sites that are no larger than one hectare. However, as the proposal is for one dwelling, its contribution to these matters would be small. I therefore afford them limited weight.

⁵ Planning Ref RB/2019/1904

⁶ Appeal Ref APP/X1355/W/20/3253276

⁷ Appeal Ref APP/P1805/W/20/3261731

35. The proposal's adherence to policies in respect of design, its effect on the living conditions of neighbouring properties, the retention of existing trees/vegetation, and compliance with the policies in the NP are all neutral matters.

Other Matters

36. The appellant asserts that the surrounding area has been subject to various forms of residential development and has provided a list of planning applications to demonstrate this point. However, the list suggests these examples were predominantly for replacement dwellings, the change of use of existing buildings to dwellings, or extensions to an existing dwelling, which are not directly comparable to the appeal proposal.
37. One example was for the construction of a dormer bungalow⁸. However, limited information has been provided to enable me to determine whether it is directly comparable to the appeal proposal. In any event, I must determine each case on its own merits.

Conclusion

38. The proposal would be inappropriate development in the Green Belt and would result in harm to the openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I have also found harm to the appeal site's location due to future occupiers' reliance on the private car. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
39. Given the substantial weight to be given to Green Belt harm and the harm I have found to the appeal proposal's unsuitable location, relative to the limited benefits of the proposed scheme, the harm is not clearly outweighed by other considerations. Therefore, in respect of the fourth main issue, the very special circumstances necessary to justify the proposal do not exist.
40. As previously discussed, Policy SP8 of the LPSP is not wholly consistent with the Framework. Even if I was to conclude that the policies which are the most important for determining the appeal are out of date, I have found harm to the Green Belt. Accordingly, paragraph 11(d)(i) of the Framework would apply and therefore, the application of policies in relation to the protection of the Green Belt provide a clear reason for refusing the development. As such, the presumption in favour of sustainable development would not apply.
41. For the reasons set out above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR

⁸ Planning Ref RB2011/0684