



Appeal Decision

Site Visit made on 15 September 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2021

Appeal Ref: APP/Z4718/W/21/3276643

Land Opposite 8 Mountain Way, Kirkheaton, Huddersfield HD5 0EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ray Hines against the decision of Kirklees Metropolitan Council.
 - The application Ref 2020/60/93365/W, dated 21 February 2020, was refused by notice dated 19 January 2021.
 - The development proposed is described as 'residential development'.
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Decision

1. The appeal is dismissed.

Main Issues

2. 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, including the effect upon the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the 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

Whether Inappropriate Development

3. 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 149. Exceptions include: 149. e) limited infilling in villages and 149. g) limited infilling or the partial or complete redevelopment of previously developed land where it would not have a greater impact on the openness of the Green Belt than the existing development.
4. With regard to exception 149. e) I note that there is no dispute between the parties that the site lies within a village. Whilst the Framework does not include

a definition of infilling, paragraph 19.1.7 of the Kirklees Local Plan (2019) (KLP) states in this regard that plot size should be small, normally sufficient for not more than two dwellings and within an otherwise continuously built-up frontage. These are nonetheless logical parameters to have regard to in terms of defining infilling.

5. The appeal site is small and could not accommodate more than two dwellings (the proposal being outline with all matters reserved). It has a road frontage to the south with open fields extending to the north. It lies between the side boundary of 2 Orchard Road and a hedgerow, beyond which is a small wooded area and a field. As a result, despite there being a property opposite, it is open to natural features on two sides, in addition to the road. It would therefore not fall within any reasonable interpretation of infill and is not within an otherwise continuously built-up frontage. Development here would obtrude into the countryside rather than assimilating visually within the village. The proposal would therefore not meet the exception at 149. e) of the Framework.
6. The appellant has referred to the property opposite the site and considers the proposal as 'rounding off' of the settlement. Whilst this may be the case, this is not infill for the reasons outlined above. Furthermore, like many areas of Green Belt, there is a visual relationship with the surrounding urban area but this does not mean that it is infill.
7. Policy LP59 of the KLP supports limited infilling or the partial or complete redevelopment of previously developed land subject to a number of criteria. This broadly conforms with the provisions of the Framework. As reasoned above, the proposal is not infill.
8. The appellant states that there were previously sheds on the site although this is disputed by the occupier of a neighbouring property. Nonetheless there is no evidence of any previously existing buildings on the site and I have not been provided with any evidence to support this claim. Whilst the site may have an extant permission, there is no evidence of the site being maintained as a garden or used for residential purposes within the recent past or indeed, ever. The site has a natural appearance and is overgrown. On the basis of the evidence before me I am therefore not convinced that the site is brownfield.
9. Nonetheless, regardless of whether it is brownfield land, in any event I must consider the effect of the proposal on openness in terms of Framework paragraph 149. g). Whilst overgrown, the site is open and undeveloped in character. Although on the edge of a settlement, it is seen in the context of the adjoining fields and woodland. Any development would be prominent from Mountain Way and the adjacent public right of way. The provision of any dwellings on the site would therefore result in a significant loss of openness and encroachment into the countryside, albeit that visual effects may be capable of being reduced to some extent via a sensitive approach taken to reserved matters. The proposal therefore does not meet the exception at 149. g) of the Framework and as such is inappropriate development in the Green Belt. For the same reasons, the proposal conflicts with Policy LP59 of the KLP.

Character and Appearance

10. Dwellings in the surrounding area tend to be positioned in reasonably spacious plots and set back behind front gardens and driveways. Larger, more private gardens tend to be located to the rear.

11. The site is narrow and tapers from its widest point adjacent to 2 Orchard Road and the narrower section adjacent to the public right of way. Even a small dwelling would likely need to be positioned reasonably close to the field boundary to the north and highway to the south. Consequently, any dwelling on the site would appear cramped and out of scale with its surroundings. This would be particularly evident in views from the public right of way where both boundaries would be seen alongside one another. Furthermore, owing to its proximity to the road, the proposal would appear imposing in views from Mountain Way and would represent an incongruous addition to the streetscene, at odds with the surrounding character.
12. Whilst I acknowledge that the development of the site may give it more of a tidy appearance, this would not outweigh the harm I have found above. For these above reasons I conclude that the proposal would be harmful to the character and appearance of the area and would conflict with Policy LP24a) of the KLP and the provisions of the Framework, which amongst other things seek to provide high quality design that safeguards character and appearance.

Other Considerations

13. I have had regard to the extant planning permission for use of the land as garden. Whilst I cannot be sure if this is a realistic alternative, I note that even if the land were to become a garden serving 2 Orchard Road, this would retain a degree of openness. Moreover, it would appear significantly more open than if a dwelling were to be constructed on the site in line with the proposal. I therefore give limited weight to this as a fallback option.
14. I accept that the proposal would make a limited contribution to housing supply. Economic and employment benefits would also arise from the construction and occupation of the development. However, these benefits are comparatively minor and as such carry limited weight.

Planning Balance and Conclusion

15. The proposed development would be inappropriate development in the Green Belt and would harm openness. The Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also be harmful to the character and appearance of the area. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
16. Given the substantial weight to be given to Green Belt harm combined with the other identified harm, relative to the modest benefits of the proposed scheme, the harm that would arise would not be clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist, such that the appeal should be dismissed.
17. I have considered all other matters raised but none outweigh the conclusions I have reached. For the reasons set out above, I dismiss the appeal.

Paul Martinson

INSPECTOR