The Planning Inspectorate

Appeal Decision

Site visit made on 17 May 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2024

Appeal Ref: APP/Z4718/W/23/3331810
Land rear of 15 & 17 Abbey Road, Shepley, Huddersfield, West Yorkshire, HD8 8EP

- 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 SIW Properties against the decision of Kirklees Metropolitan Council.
- The application Ref is 2023/60/90794/E.
- The development proposed is outline application for erection of residential development and highways improvements comprising widening of lane at junction with Abbey Road.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters except access reserved for future consideration. I have dealt with the appeal on that basis, treating the proposed site plan as being indicative of the reserved matters.

3. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately represent the proposal, and I have therefore used it within this decision.

4. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issues

5. The main issues are:

   - Whether the proposal would be inappropriate development in the Green Belt, with due regard to openness; and

   - Would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

6. The appeal site consists of an area of open scrubland on the edge of a settlement. This proposal for residential development is located within the Green Belt, and Paragraph 154 of the Framework sets out that the construction of new buildings within the Green Belt is inappropriate, subject to a number of exceptions.

7. In the Officer's report, the Council states that none of these exceptions apply in this instance, and that the proposal therefore constitutes inappropriate development in the Green Belt.

8. However, the exception at paragraph 154(e) of the Framework refers to limited infilling in villages. The appellant does not address this exception specifically, but refers to the proposed development constituting infill development on the edge of the settlement. Reference is also made to dwellings in the vicinity of the site.

9. The appeal site is located to the rear of linear development along Abbey Road. Opposite the site across an access road is an example of tandem residential development, and there is a small cluster of dwellings located further along the access.

10. However, the cluster of dwellings is of a separate character to the main settlement due to the gap separating them from the built form of the linear development and the tandem dwelling. The appeal site is also clearly part of the open countryside to the rear of linear development along Abbey Road, rather than representing a logical infill site within the settlement. Therefore, even if I were to conclude that this settlement is a village, the spacing and arrangement of dwellings in this area means that the appeal proposal does not represent limited infilling.

11. The proposal would therefore not meet the requirements of the form of development set out in paragraph 154(e) of the Framework, nor any of the other exceptions. The proposal would therefore be inappropriate development in the Green Belt.

Other Considerations

12. The appellant refers to a number of considerations which it contends represent very special circumstances.

13. The appellant considers that the proposal constitutes infill development on the edge of the settlement such that the harm to the Green Belt would be limited. Nevertheless, the proposal would be inappropriate development which is, by definition, harmful to the Green Belt and the Framework states that substantial weight should be given to any harm.

14. A Green Belt Boundary Review prepared by the Council indicates that the existing boundary is weak in places and that the appeal site sits within such a 'weak boundary'. However, this does not negate the inclusion of the site within the Green Belt or the weight to be given to any harm to it in accordance with the Framework. Indeed, the proposed development of the site would represent an unwelcome consolidation of the cluster of buildings into the settlement. As

the appeal site is viewed as being part of the countryside on the edge of this settlement, the proposal would conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. That said, given the scale of the development site and the context of its location, the proposal would only lead to limited harm to the openness of the Green Belt.

15. The Council cannot demonstrate a 5 year housing land supply (HLS), and the appellant refers to a figure of 3.96 years. However, as indicated on the planning application form, the proposal would only contribute a maximum of 2 dwellings to the supply of housing. The benefits arising from this would be very limited even given the Council's housing land supply position.

16. My attention has been drawn to the Colney Heath[1] Appeal Decision which confirmed that the lack of a 5-year HLS can be considered as a very special circumstance. However, that related to a development of a significantly greater scale than the appeal proposal with commensurately greater benefits, including in respect of the number of houses proposed, affordable housing and self-build plots. The circumstances of the Colney Heath Appeal are therefore materially different to the appeal before me.

17. The proposal would include improvements to the lane leading to the site to enable 2 cars to pass at its junction with Abbey Road. This would represent a betterment arising from the proposal in respect of the appeal site and the properties accessed from this lane. However, the number of properties served by this lane is limited. Although the Highways Supporting Statement submitted by the appellant refers to 2 highway incidents in the area, this also states that these were located away from the site access and that it is considered that there are no existing road safety issues. On that basis, I consider that the benefits to highway safety arising from the proposal would only be of a limited degree.

18. The proposal would bring economic benefits in terms of the creation of construction jobs and increased spend in the local economy both during and post construction. However, due to the scale of the development these benefits would be very limited, and in respect of construction would only be for a short period of time. Reference is made to potential biodiversity benefits on the paddock to the rear, but given the extent of the land these benefits are likely to be of a limited extent. Considered as a whole, these benefits therefore carry no more than limited weight in favour of the proposal.

19. The Council accepts that the proposal would not give rise to any design or residential amenity issues. However, a lack of harm is not a benefit and these matters are therefore a neutral consideration.

Conclusion

20. The proposal would be inappropriate development within the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm. The proposal would also lead to limited harm to the openness of the Green Belt.

21. The Framework requires that inappropriate development in the Green Belt should not be approved except in very special circumstances. Even given the Council's housing land supply position, the benefits arising from the proposal

[1] Appeal Decision: APP/B1930/W/20/3265925

would only carry limited weight in favour of the appeal, considered individually and cumulatively. Therefore, the other considerations in respect of this appeal do not clearly outweigh the substantial weight to be given to the harm to the Green Belt that would arise from the development. On that basis, very special circumstances to justify the proposal do not exist.

22. The proposal would therefore be contrary to the policies of the Framework with regard to protecting Green Belt Land. Although I have had regard to the Council's HLS position, the application of policies in the Framework that protect land designated as Green Belt provide a clear reason for refusing the development proposed. In accordance with paragraph 11 and footnote 7 of the Framework, the 'tilted balance' of paragraph 11(d) of the Framework is not engaged.

23. The Council's reason for refusal does not refer to any policies of the development plan. The appellant has referred to a number of development plan policies, but these do not lead me to a different conclusion in respect of the proposal's conflict with the Framework in respect of protecting Green Belt land.

24. For the reasons given above the appeal should be dismissed.

David Cross

INSPECTOR