

Appeal Decision

Site visit made on 7 October 2014

by Mrs A Fairclough MA BSc(Hons) LLB(Hons) PGDipLP(Bar) IHBC MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 February 2015

Appeal Ref: APP/R4408/A/14/2223480

Hawthorne House, New Row Lane, Ingbirchworth S36 7GG

- 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 Alan Hayes against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref: 2013/1352, dated 5 December 2013, was refused by notice dated 7 February 2014.
 - The development proposed is described as "housing to garden and curtilage of existing house (3 new units)".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline. The application form indicated that the matter of access is to be considered and that appearance, landscaping, layout and scale are reserved for later approval. The submitted plans included a plan that identified only one vehicular access to the site, the proposed access. This plan also showed an indicative layout of the proposed development including an internal access drive with hard landscaping and the suggested layout of the proposed dwellings.
3. After the appeal was lodged, the High Court issued a judgement in the case of *Redhill Aerodrome Ltd v SSCLG, Tandridge District Council, Reigate and Banstead Borough Council [2014] EWHC 2476 (Admin)*. The main parties were consulted and they submitted comments in response to this. However, the Judgement was overturned in the Court of Appeal. The main parties were again asked for views. Neither party made any comment.

Main Issues

4. The main issues in this case are:
 - (a) Whether the proposal is inappropriate development in the Green Belt;
 - (b) The effect of the proposal on the openness of the Green Belt;
 - (c) The effect of the proposal on the character and appearance of the Ingbirchworth Conservation Area;
 - (d) The effect of the proposal on highway safety; and
 - (e) If the proposal would be inappropriate development whether harm by reason of inappropriateness, and any other harm, is clearly outweighed

by other considerations so as to amount to very special circumstances necessary to justify it.

Reasons

Whether the proposal is inappropriate development in the Green Belt

5. The appeal site is located within the Green Belt. It includes Hawthorn House, a 2-storey, stone dwelling, and its garden curtilage, which is overgrown. The proposed development is for the erection of 3 dwellings within the curtilage. The proposed development would not fall into any of the inappropriate development exception categories as defined in Paragraph 89 of the Framework. On this basis, the proposed buildings would be inappropriate development within the Green Belt. This would harm the Green Belt.

The openness of the Green Belt

6. The proposed development would have an effect on the openness of the Green Belt, i.e. land not covered by structures, which vertically project and have a mass and form. Paragraph 79 of the Framework indicates that the fundamental aim of Green Belt policy is to prevent sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence.
7. The Design and Access Statement accompanying the originating application states that 3 dwellings of 5/6 bedrooms would be constructed. Thus, the proposed development would reduce the openness of the Green Belt. This would harm the Green Belt. It would also undermine the policies that seek to protect it including Policy CSP 34 of the Local Development Core Strategy (LDCS) dated 2011, which states, amongst other things that, in order to protect the countryside and open land around built up areas the extent of the Green Belt will be safeguarded and will remain unchanged.

Conservation Area

8. The Council has raised concerns regarding the effect of the proposed development on the character and appearance of the Ingbirchworth Conservation Area (ICA). The appeal site is located within the ICA. I saw that the ICA is predominantly rural in character and it includes a linear group of buildings focussed along Huddersfield Road and a ribbon development of less densely built properties, including cottages and farms, fronting a network of narrow country lanes. Many of the buildings are vernacular in character and have been built using traditional materials such as stone and slate. There are also mature trees and hedgerows in the ICA. These features contribute to the significance of the ICA, the heritage asset.
9. The appeal site is roughly triangular in shape and is situated on a hillside. It is located at the junction of two lanes, Mill Lane and New Row Lane, which bound two sides of the site. Due to the rising land levels of the hillside, it is elevated significantly above road level and is retained by a stone wall on these sides. There are several mature deciduous trees positioned along the retaining wall. The third side of the appeal site abuts rising fields.
10. The statutory test in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing the character or appearance of

conservation areas. The DAS indicates that there would be 3 new detached dwellings with 5/6 bedrooms. They would share the new access. Given that the settlement pattern is ribbon like development, where the existing properties mainly face towards the lanes and generally have their accesses, either pedestrian or vehicular (or both) directly onto these lanes, the appeal scheme would create an atypical form of development on the basis that one access point off the lane would provide vehicular access to 4 dwellings. This would not reflect the established historic settlement pattern in the locality.

11. The appellant indicates that new trees would be planted and that no significant trees would be removed or damaged as a result of the proposed development. There are several large, deciduous trees located along the roadside boundaries of the appeal site. These trees are protected (Ref: Penistone Road Tree Preservation Order No 4 1958: G2). In my view, these trees contribute positively to the locality. Given that the protected trees have large canopies, it is possible that they would have restricted root growth due to their close proximity to the retaining walls. In addition, it is also possible that the tree roots could extend well into the appeal site. I note that the land is sloping and I agree with the Council in that it is possible that significant excavation would be required to construct the proposed development and this includes the access. However, no substantiated evidence, including a tree survey, has been submitted to demonstrate that the trees would not be detrimentally affected. The loss of one or all of these protected trees would not preserve or enhance the character or appearance of the ICA.
12. In addition, the proposed access would serve the 3 proposed dwellings and Hawthorne House when typically dwellings in the ICA are served by individual accesses directly off the network of roads and lanes. Such a development would be discordant with the historic arrangement of the settlement. From the information submitted, the proposed scheme would not relate to the local character in terms of the existing built form and grain in this rural locality.
13. On the evidence provided, I am not satisfied that that the proposed development would not cause unacceptable harm to the ICA. Thus, I am not convinced that the statutory test would be met or that it would comply with LDCS Policy CSP 30 and Policy WR19 of the *Barnsley Unitary Development Plan* (UDP). These policies require that new development in the ICA will only be permitted if it preserves or enhances the character or appearance of the area.
14. Considerable importance and weight should be attached to the desirability of preserving or enhancing the character or appearance of conservation areas. In the language of the Framework, the harm the proposal would cause to the significance of the designated heritage asset would be less than substantial on the basis that the appeal site forms a small part of the ICA. Thus, the harm to the ICA would be limited to a small area of it. Paragraph 134 of The Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. The appeal proposal would provide three large, modern houses and the occupiers of these dwellings would contribute to the local economy. However, although these are public benefits, I do not consider that they would outweigh the less than substantial harm that would be caused to the significance of the designated heritage asset, the ICA by the loss of or damage to the protected trees as a consequence of the proposed access.

Highway safety

15. The Highway Authority raises concerns that the proposed access would not be perpendicular to New Row Lane and that the required visibility distances would not be achieved on the basis that manoeuvrability standards through accesses are based on a 90-degree angle of exit and entry.
16. New Row Lane is a very narrow, winding lane, which rises towards the south. It serves the local traffic as well as larger farm vehicles. The appellant states that road speeds are low and that traffic flows are insignificant. The Council has not submitted information on traffic flows or road speeds. I saw that it had a speed limit of 30mph and it appeared to be lightly trafficked. Although the appellant states that the proposed access would be perpendicular to New Row Lane, the details on the plan are very limited, with no details on access dimensions, junction radii or visibility distances. The appeal site is constrained by an angled field boundary immediately adjacent to the proposed access. Thus, from the evidence provided, it appears that the access and drive would only provide an angled exit with substandard visibility.
17. The Highway Authority also states that the proposed access would not be wide enough to allow for 2-way access or that there would be adequate space for turning within the appeal site. It goes on to state that vehicles would need to reverse back onto New Row Lane if the entrance was blocked by exiting vehicles or would not be able to exit in the forward gear if no turning facilities were provided within the appeal site.
18. Whilst the appellant states that the proposed access junction would meet all the required highway safety standards, from the evidence provided I do not consider that this has been adequately demonstrated. Given the narrow road width, the horizontal and vertical alignment of the road, which includes a sharp bend to the south of the proposed access, and the constraints of the appeal site, I am not convinced that these standards could be achieved and that the proposed access would not create a highway hazard. This could be significantly detrimental to highway safety.
19. I note the appellant's assertion that the original access could be used. However, this does not overcome the concerns I have raised regarding the proposal before me.
20. On this basis, I consider that the appellant has not adequately demonstrated that the proposed development would provide a safe access to the appeal site. It would conflict with LDCS Policy CSP 26, which requires that new development will be expected to be designed and built to provide safe, secure and convenient access for all road users. It would also be contrary to Paragraph 32 of the Framework, which states that decisions should take into account whether safe and suitable access to the site can be achieved.

Other Considerations

21. According to Government advice, given in the Framework at Paragraph 87, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
22. Paragraph 88 of the Framework confirms that, when considering any planning application, substantial weight is to be given to any harm to the Green Belt and that very special circumstances will not exist unless the harm by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations.

23. The appellant maintains that the Council cannot demonstrate a five-year supply of deliverable housing and thus the development plan is out of date. The appellant also asserts that the appeal site is a windfall opportunity and that it could contribute to the 5% buffer. I have not seen anything from the Council to rebut these assertions. The appellant refers to sites LD9 and LD8 as being already identified as new housing opportunities in Ingbirchworth but adds that the appeal site as a windfall site could contribute to the 5% buffer, as it is immediately available and is feasible. The appellant also asserts that the Council is proposing to release land in the Green Belt. The Council indicates that it is not looking to release any land in the Green Belt but it is assessing the Borough's needs in terms of the emerging Local Development Plan Framework (LDF) process in the light of the recent the Strategic Housing Land Availability Assessment (SHLAA) dated 2013. However, the LDF is at an early stage and the SHLAA, which aims to deliver 1200 low-density dwellings, as referred to by the appellant is not part of the development plan. Thus, it would be some time before allocated sites or windfall opportunities within the Green Belt could be considered.
24. Even if the development plan policies relating to the supply of housing are out of date, and the mechanism of Paragraph 14 of the Framework is applied, the adverse impacts of the proposed development that I have identified above, significantly and demonstrably outweigh the benefits that would flow from the provision of three dwellings when assessed against the Framework. Moreover, a Written Ministerial Statement of 1 July 2013 confirms, among other things that, in relation to conventional housing, a single issue of unmet demand is unlikely to outweigh harm to the Green Belt and other harm to constitute the very special circumstances justifying inappropriate development in the Green Belt. Therefore, the argument that the proposed scheme would be a windfall opportunity carries limited weight.
25. Furthermore, the appellant refers to several other converted and developed properties within the ICA. However, I have not been provided with any background information regarding these schemes. I am required to determine each appeal on its own merits in the light of current policy. This assertion carries limited weight.

Other Matters

26. Concerned neighbours have raised the issue of loss of living conditions in terms of potential loss of outlook and privacy. However, as the scheme is in outline only with access before me, I am not able to assess the impact of the proposed development on loss of neighbours' living conditions. On this basis and on the basis that any issues relating to neighbours' amenity could be overcome, I apportion limited weight to the neighbours' concerns.

Planning Balance and Conclusions

27. Although the provision of additional dwellings could contribute to the economics of the locality, I have demonstrated above that the appeal site is not suitably sustainable and the appeal proposal would result in harm. Therefore, based on the evidence provided, there are no very special circumstances that, either singly or when taken together, are sufficient to clearly outweigh the substantial

harm to the Green Belt, as a result of the inappropriateness, and the harm caused by the reduction in the openness and the potential harm to both the character and appearance of the ICA and highway safety that I have identified. Therefore, the very special circumstances necessary to justify granting planning permission do not exist. For this reason, I conclude that the appeal should be dismissed.

Mrs A Fairclough

INSPECTOR