



Appeal Decision

Site visit made on 3 July 2018

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 17 September 2018

Appeal Ref: APP/F4410/W/18/3194657

Tickhill and Wadworth Bar, Railway Station, DN11 9EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Hird against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 13/02377/FUL, dated 17 October 2013, was refused by notice dated 16 October 2017.
 - The development proposed is the creation of four detached Passivhaus dwellings with associated landscaping and car parking on 1.52 ha of land.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaced the version published in 2012. The parties have had the opportunity to comment on the implications of this for their cases. For clarity, references to the Framework in this decision are to the 2018 revised version.

Main Issues

3. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy; and
 - The effect of the proposal on the openness and purposes of the Green Belt; and
 - Whether the proposal would be a suitable site for development having regard to sustainable patterns of development and access to local services and facilities; and
 - If it is inappropriate development, 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

4. The appeal site is bounded by a railway embankment to the west, the A60 to the north and Oddy Lane to the east. It is within the open countryside and the Green Belt.

Whether the proposal would be inappropriate development in the Green Belt?

5. The Framework establishes at paragraph 145 that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt subject to a number of exceptions. These include at criterion (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development.
6. Policy CS3 of the Doncaster Core Strategy (Core Strategy) part A advises that in the Green Belt national policy will be applied, including a presumption against inappropriate development other than in very special circumstances. Part C states that proposals (in the countryside) which are outside development allocations will only be supported in a number of circumstances. These include where they would protect and enhance the countryside; not be visually detrimental by reason of siting, materials or design; and preserve the openness of the Green Belt and Countryside Protection Policy Area and not conflict with the purposes of including land within them.
7. Policy ENV1 of the Doncaster Unitary Development Plan (UDP) sets out the purposes of including land in the Green Belt. UDP Policy ENV3 states that within the Green Belt development will not be permitted, except in very special circumstances, subject to a number of exceptions. These do not include an exception concerning previously developed land and so this policy is not consistent with the Framework in this regard. In line with the advice at paragraph 213 of the Framework, this limits the weight I afford to this policy.
8. The Glossary at Annex 2 of the Framework defines previously developed land as that which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that that whole of the curtilage should be developed) and any associated fixed surface infrastructure.
9. The appeal site was formerly a railway station and sidings and is currently used for open storage. There is a modest dilapidated brick building and areas of hardstanding and rough grass, shrubs and trees. A certificate of lawfulness allows for the storage and distribution of railway materials including ancillary equipment at the site. The red line plan for that excludes the northern part of the appeal site. As such, whilst accepting that the majority of the appeal site is brownfield, the Council argues that its northern part does not have a current or redundant use and so is not previously developed.
10. Although it is excluded from the extent of the certificate of lawfulness, in practical terms the northern part of the site appears as part of the same parcel of land as the rest of the site. It is included within the site's clearly defined boundaries and has a longstanding association with the rest of the site and its former use as a station. As such, in my view the northern part of the site

forms part of the curtilage of the developed land. On this basis, I am satisfied that the proposal concerns the redevelopment of previously developed land.

11. The concept of openness in the context of Green Belt policy has a spatial element and goes beyond the visual effect of a proposal. The appeal site's existing use already has some impact on openness. As set out above, the northern part of the site is excluded from the land covered by the certificate of lawfulness. Additionally the plan for the certificate of lawfulness is annotated with a line drawn east west across the site (marked A to B) and allows that part of the site south of the line only to be used for open storage up to a height of 4 metres.
12. The appellant indicates that the amount of open storage at the site varies in response to supply and demand and acknowledges that it is not always at capacity. As such, whilst there is nothing to stop all of the land south of the A to B line being used for storage up to 4 metres in height, I have seen nothing to demonstrate that this is necessary likely to be so on a regular or sustained basis. The Council regards the levels of open storage on the site to be moderate and considers the use to be low key. This accords with my own observations on site. Besides, by the nature of the use, materials are stored at the site for temporary periods only and then moved off. They are portable items which come and go rather than permanent structures.
13. I am aware that the site has planning permission for a temporary office building. This would measure around 9.6 by 7.5 metres to a height of 3 metres and would be located on the site's western boundary. However this is not in place and so is not currently affecting openness at the site. In any event, even if it were to be constructed, its impact on openness would be limited by its small size and temporary nature (it is permitted for a period of 3 years only).
14. The proposed houses would be single storey and recessed into the ground with green roofs that would be level with, or below, the ground levels of the site. Undercroft car ports would also be incorporated. The western side of the site would remain open as grass land and a wetland habitat and pond would be created at the southern end of the site. A new access would be provided from Oddy Lane which would run along the site's eastern boundary. Individual driveways would be constructed off this to serve the houses which would each have a patio area and gardens immediately to their south.
15. The use of the outside areas (patios and gardens) for domestic purposes would be likely to include the erection of fencing and introduction of other domestic paraphernalia. The appellant suggests that permitted development rights could be removed to preclude the provision of fencing and outbuildings. However, in order to mitigate against the impact of noise from the adjacent railway line, the parties agree that a 2 metre high acoustic fence should be provided around all the rear gardens. Whilst I have seen no further details of this, and note the appellant's view that the fencing could be integrated into the land form (and screened by planting), I have seen nothing to demonstrate how this would be achieved.
16. Part of Plot 1 and the new access from Oddy Lane would be on the land outside the extent of the certificate of lawfulness. Part of Plot 2 would take in land where although distribution activities can take place, open storage is prohibited. As such, the proposal would introduce development to generally open parts of the site that are not covered by the lawful use or permitted for

storage. Moreover, despite the dwellings being built into the landform and the retention of some open areas, the proposal would introduce a development of a permanence and scale that is not currently present on the site.

17. The projection into the site of four considerable four bedroom subterranean homes along with the new access, driveways, patios, gardens, required changes to the landform and the domestic nature of the use (along with the associated paraphernalia including the required acoustic fences) would all be readily perceived and detract from openness. Despite the site's screening and position at a lower level to the A60, the true extent of the properties would be evident in some views when seen from Oddy Lane, including those taken down the new access, as well as from within the site.
18. Even taking into account the removal of the site's existing building, areas of hardstanding and storage use, along with the cessation of commercial vehicular movements (including heavy goods vehicles) and setting aside the potential for the construction of the temporary office building, for the reasons set out, in my view the proposal would have a greater impact on the openness of the Green Belt than the existing development.
19. The proposal would therefore be inappropriate development for the purposes of national Green Belt policy as set out in the Framework and the development plan. The Framework confirms that inappropriate development is by definition harmful to the Green Belt (paragraph 143).

Openness and purposes

20. Paragraph 133 of the Framework indicates that openness is an essential characteristic of the Green Belt. As set out above, the proposal would have a greater impact on the openness of the Green Belt than the existing development. However, the loss would not be substantial and would result in only modest harm to openness.
21. Paragraph 134 of the Framework sets out the purposes of the Green Belt. These include (amongst other things) to assist in safeguarding the countryside from encroachment. The Council raises no particular objection to the proposal in this regard. The site is not in an agriculturally maintained condition and given its former and existing use and brownfield nature, some encroachment of development into the countryside has already taken place there. Even so, in introducing permanent built residential development, and impinging more on openness, I cannot see that the proposal would be consistent with the site's role in assisting in safeguarding the countryside from encroachment.
22. Therefore the proposal would have an adverse effect on one of the purposes of including land in the Green Belt. Taking into account the factors above, the size of the site and the relatively limited scale of the proposal, the harm caused in this regard would be minimal.
23. Thus, the proposal would cause modest harm in terms of loss of openness and minimal harm to one of the purposes of including land in the Green Belt. In accordance with the Framework (paragraph 144) substantial weight is given to this harm to the Green Belt.

Access to services and facilities

24. Tickhill is a district centre with a number of services and facilities including a primary school. It is estimated to be around one mile to the south of the appeal site and Wadworth is a similar distance to the north. Whilst these settlements could be reached from the appeal site via the main road, the A60 is busy with traffic and without footpaths in the vicinity of the appeal site. This is likely to prohibit walking and to some extent cycling along this route. The appellant suggests Tickhill could be reached on foot (approx 20 mins) or by cycle (approx 9 minutes) using Oddy Lane. However, Oddy Lane is a single lane, unmade, unlit track without footpaths that crosses agricultural fields. This being so, and given the distances involved, in practical terms I am not convinced that Tickhill would be likely to be accessible from the appeal site on foot (particularly in bad weather and at times of darkness).
25. There is a bus stop immediately adjacent to the site and a service to Doncaster and Workshop runs approximately every half hour Mondays to Saturdays and every hour on Sundays. The centre of Doncaster is 15 minutes away by bus. A school bus services also runs along the A60. As such, I accept that some opportunities to utilise public transport exist.
26. Nevertheless, taking all these factors into account, although there would be some opportunities for bus travel and to lesser extent cycling, in practical terms I consider that the future occupiers of the proposed house would have few alternatives to the use of a private vehicle to meet their day to day requirements such as getting to work and accessing services and facilities. Consequently, the proposal would not limit the need to travel or reduce reliance on the car. This would be at odds with the aim of the Framework to actively manage patterns of growth to promote sustainable transport.
27. I therefore conclude on this main issue that the proposal would not be a suitable site for development having regard to sustainable patterns of development and access to services and facilities.

Other considerations

28. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The appellant has forwarded a number of other considerations in favour of the proposal.

Character and appearance

29. The appellant argues that the proposal would reduce the site's existing visual impact and lead to an improvement in the character and appearance of the area. Although the existing storage use of the site is visible in some views from the A60 and Oddy Lane, the site is set at a lower level and there is existing planting to the boundaries. This being so, it is generally well screened and is not particularly prominent or highly visible. This would be so even when storage on the site is maximised in terms of its height and extent.
30. The proposed dwellings would be set into the landform, use natural materials and external hard landscaping materials would be colour matched to minimise their impact. Additional landscaping would be providing to strengthen existing boundary treatments and to screen external elements of the dwellings. New

woodland areas planted between the properties would introduce planting to the central areas of the site.

31. That said, whilst the site is brownfield with areas of hardstanding, it also incorporates areas of grass, trees and shrubs and for the most part has a semi-rural character despite its use. Thus, as things stand it does not appear particularly intrusive or immediately at odds with its countryside setting. In contrast the appeal proposal would introduce residential development to the site. It would bring built development into its northern section closest to the main road (where storage is not permitted) and, despite the existing and proposed landscaping and the subterranean nature of the houses, the residential use of the site would be evident in some views (as set out above).
32. Consequently, I consider that rather than enhancing it, the proposal would fail to protect and detract from the rural character of its surroundings and result in some limited harm to the character and appearance of the area. This would be contrary to Local Plan Policy CS3 Part C which is supportive of proposals only where they would protect and enhance the countryside.

Paragraph 79 of the Framework

33. Although the appeal site is close to an existing residential property immediately to the north, it is set well apart from the nearest settlements of Wadworth and Tickhill and separated from them by a number of intervening open fields. Accordingly, I regard the site to be isolated in the countryside.
34. Paragraph 79 of the Framework indicates that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of circumstances apply. These include at criterion (e) the design is of exceptional quality in that it is truly outstanding or innovative, reflecting the highest standards in architecture and would help to raised standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
35. Good design is supported by Core Strategy Policy CS14 and by paragraph 131 of the Framework which advises that great weight should be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
36. The proposed houses are designed to the internationally recognised Passivhaus standard and would exhibit the best in current practice in the development of ultra-low energy efficient living. Amongst other things they would incorporate high levels of insulation, have low energy and heating requirements, and be orientated to maximise solar gain. In this instance the houses are also designed to respond to the character and topography of the site and are built into the land form with green roofs.
37. However, the Passivhaus standard of the scheme does not in itself make the proposal innovative. The proposal's design principles, energy saving features and use of materials are well established. The Framework supports the move to a low carbon future and expects new development to take account of landform, layout, building orientation, massing and landscaping to minimise

energy consumption (paragraph 153). Thus, I do not regard such measures and approaches to be uncommon.

38. The Council refers to at least 125 other properties in England and Wales built to the standard and the appellant's Design and Access Statement recognises that Passivhaus is one of the most widely accepted approaches for delivering ultra-low energy buildings. Since it would be based on a model which has been successfully used elsewhere, the scheme would not be ground breaking in its design or exceptionally innovative in nature. Accordingly I am not persuaded that the proposal would be unique or particularly unusual.
39. The appellant argues that the proposal would provide a new local benchmark in design and a physical expression of how ecologically sound construction can be used to create a high quality standard of living. Although the site is on the A60, it is in a relatively remote position in terms of nearby settlements. Given this location, in practical terms, it is hard to see what opportunities the proposal presents to act as an exemplar. It has not been put to me that the development would be publicised or made available to view by local developers or the public. As such, I am not persuaded that it would be widely seen or appreciated to the extent that it would lead the way in the area by demonstrating energy efficient construction and design. On this basis, in my view the proposal would not serve as a model, or increase consciousness to a point where wider standards of design would be improved as a result of it.
40. Furthermore, given my findings regarding openness and character and appearance, I am not convinced that the proposal would enhance its immediate setting or be sensitive to the defining characteristics of the local area.
41. Overall, for the reasons given, I do not regard the proposed houses to be truly outstanding or innovative in design. Nor do I envisage that they would help to raise standards of design more generally in rural areas. Whilst the proposal would reflect the highest standards in Passivhaus architecture, it would fail to enhance its immediate setting and would not be sensitive to the defining characteristics of the local area. I therefore conclude on this matter that the proposal would not meet the special circumstances required by paragraph 79 of the Framework.

Use of previously developed land and the remediation of the site

42. The proposal would utilise brownfield land, which itself could help to protect other greenfield sites and this is a benefit which counts in its favour. Paragraph 117 of the Framework advises that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses. It also states that strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or brownfield land.
43. However, footnote 44 clarifies that this is except where this would conflict with other policies in the Framework. In this case, I have found that the proposal would conflict with the Green Belt policies.
44. The appellant advises that the site is contaminated due to its previous use as a railway yard. The proposal would see the remediation of the site, which the appellant argues would reduce risks from contamination to those exposed to the site and to the occupiers of the neighbouring dwelling to the north.

Paragraph 118 of the Framework at criterion (c) indicates that planning policies and decisions should (amongst other things) support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

45. Although this is a further benefit of the proposal, I have seen nothing to demonstrate what particular problems the existing site is causing in terms of contamination. I am mindful that any such risks to health could be controlled via other legislation. Furthermore, I am conscious that the remediation of the site could be realised in the absence of the appeal proposal.

Contribution to housing land supply

46. The appellant contends that the Council cannot demonstrate a 5 year supply of housing land. The Council does not provide any information on this matter. The appellant in any case argues that regardless of the Council's 5 year housing supply situation, the proposal would bring benefits in terms of its contribution to housing land supply (and help to achieve the Council's windfall allowance). I agree that it would help to boost the supply of housing in line with the government's objective set out at paragraph 59 of the Framework and appreciate that the five year supply housing land figure is not a ceiling or upper limit. This is a benefit of the proposal.

Highway improvements

47. The proposal would be accessed from Oddy Lane and the existing access from the A60 would no longer serve the site. There would be a reduction in the amount of traffic generated by the site and an improvement in visibility. The heavy goods vehicles which currently manoeuvre on the busy A60 to enter the site would cease. A pedestrian link would be provided from the site to the bus stop. These improvements are benefits of the proposal.
48. However, whilst I accept that the type of vehicles associated with a residential use would have a lesser impact on the highway, I have seen nothing to demonstrate that the existing use of the site causes particular problems in highway safety terms. The Transport Statement finds that Doncaster Road is subject to the national speed limit with warning signs and markings in place to slow drivers down at the junction of the existing station house. No queuing or capacity concerns were observed and the solid white lines were considered to restrict overtaking that automatically causes drivers to slow down. As such, there is no evidence to suggest that the existing situation at the appeal site is necessarily harmful to highway safety or has resulted in any accidents.

Biodiversity

49. Core Strategy Policy CS16 seeks to ensure that development enhances the borough's ecological networks and maintains strengthens and bridges gaps in existing habitat networks. As well as retaining existing trees and shrubs on the site, the proposal would introduce new woodlands and native planting to enhance foraging opportunities for bats and birds. A new pond and wetland habitat would also be created to the southern end of the site. These enhancements could be secured via a condition and are further benefits of the proposal.

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

50. The proposal would be inappropriate development in the Green Belt. It would result in modest harm to openness and minimal harm to one of the purposes of including land in the Green Belt. The Framework (paragraph 144) establishes that substantial weight should be given to any harm to the Green Belt. The proposal would also be conflict with the development plan in these regards.
51. Additionally, the proposal would fail to provide a suitable site for development having regard to sustainable patterns of development and access to services and facilities and so would result in limited harm in this regard. It would also give rise to some limited harm to the character and appearance of the area.
52. Subject to the use of acoustic fencing, the Council is satisfied that the proposal would provide adequate living conditions for future occupiers. There are no objections in terms of drainage or from Network Rail. The absence of harm in these regards counts neither for, nor against the proposal.
53. As set out above, the proposal would fail to meet the circumstances set out at paragraph 79 of the Framework in terms of its design. Even so, the benefits derived from providing ultra-low energy efficient living and minimising energy consumption do add some weight in favour of the scheme.
54. The proposal would contribute to housing land supply. The future occupiers of the houses would help to maintain the vitality of nearby rural communities and to support existing services through expenditure. The proposal would result in local construction related employment during the construction phase and give rise to revenue from Council Tax and New Homes Bonus. These are all benefits of the proposal, although they are limited by the scheme's small scale for only four dwellings. Additional modest benefits would also arise from the use of previously developed land, the remediation of the site, and in terms of highway and biodiversity improvements.
55. Bringing matters together, I consider that even taken together in combination, the other considerations in this case do not clearly outweigh the totality of the harm identified. As such, the very special circumstances necessary to justify the development do not exist.
56. Whilst I note the appellant's reference to the presumption in favour of sustainable development set out at paragraph 11 of the Framework, in light of footnote 6 to (d) (i), for the reasons set out above, I consider that the application of the Framework's Green Belt policies provide a clear reason for refusing the proposal.

Conclusion

57. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR