



Appeal Decision

Site visit made on 4 June 2018

by **Alison Partington BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th June 2018

Appeal Ref: APP/W4705/W/18/3196495

Former Foreside Mill, Halifax Road, Denholme, Bradford BD13 4EZ

- 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 Stirling Investment Properties LLP against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 17/05256/MAF, dated 4 September 2017, was refused by notice dated 4 January 2018.
 - The development proposed is the erection of 42 affordable dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the *National Planning Policy Framework* (the Framework);
 - The effect of the proposal on the openness and the purposes of the Green Belt; and
 - If the proposal would be 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 it.

Reasons

3. The appeal site lies within the Green Belt. Except in very special circumstances development, Policy GB1 of the *Replacement Unitary Development Plan for the Bradford District (adopted October 2005)* (RUDP) restricts development within the Green Belt unless it meets certain criteria.

Previously developed land

4. Paragraphs 89 and 90 of the Framework set out the forms of development which are not inappropriate within the Green Belt, and establishes in paragraph 89 that new buildings within the Green Belt are inappropriate unless they are for one of a small number of exceptions. One such exception (bullet point 6) relates to the limited infilling, or the partial or complete redevelopment of previously developed land.

5. The appeal site was a former mill that has been demolished in the last few years. It is not disputed that the site is previously developed land. However, to fall within the sixth bullet point the development must not have a greater impact on the openness of the Green Belt, and the purposes of including land within it.
6. Openness is an essential characteristic of the Green Belt. Currently, although the floor slab and some low walls of the former mill building can still be seen amongst the undergrowth and scrub vegetation, the site is free from buildings and other structures. Consequently, the development of the site for 42 houses would have a significantly greater impact on the openness of the Green Belt than the site does at present.
7. The purposes of including land within the Green Belt are set out in paragraph 80 of the Framework. The Council have indicated that they considered that the development would represent a significant urban encroachment into the countryside. The derelict nature of the site gives it a different character to the surrounding countryside. Therefore, whilst I accept the scale of the development is more urban than rural, as it would not encroach beyond the boundary of the existing site, it would not be contrary to the purpose of safeguarding the countryside from encroachment. Nor do I consider that it would be contrary to any of the other purposes of including land in the Green Belt.
8. I note that permission was granted in 2010¹ for the erection of 35 dwellings on the site following the demolition of the mill as it was considered that that scheme did accord with this bullet point. Nevertheless, at that time the mill building was still present on the site and so the assessment of the impact on the openness of the Green Belt would have been different. Moreover, from the layout plans of the previous scheme before me, the extent and amount of development was not as great as currently proposed.
9. However, notwithstanding my conclusion regarding the purposes of the Green Belt, and even though the proposal represents the redevelopment of previously developed land, it would not accord with the 6th bullet point exception in paragraph 89 as it would have greater impact on the openness of the Green Belt. In this respect it is inappropriate development.

Infill development

10. It has also been argued that the proposal is infill development and is not inappropriate for that reason. It is agreed that the site forms part of the linear settlement of Denholme Gate. Policy GB3 of the RUDP indicates that this is one of a number of settlements where infilling may be allowed provided that: it falls within the infill boundary of the settlement, as defined on the proposal map; it fills a small gap in a small group of buildings; it is related to the scale of the settlement and does not adversely affect the character of the settlement or its surroundings.
11. The fifth bullet point of paragraph 89 of the Framework also allows for the limited infilling in villages. The Framework does not provide any definition of what it considers to be 'limited infilling' but the supporting text to the RUDP policy sets out that an 'infill site' is a small gap in a small group of buildings,

¹ Application Reference 10/03362/MAF

normally sufficient for example for only one dwelling, which is bounded by buildings on at least two sides.

12. In this case the proposal is for 42 houses which is significantly greater than is suggested would normally be able to be accommodated on an infill site. In addition, to one side the site is bounded by an area of open land used for car parking rather than buildings. As such, it would not accord with the definition of an infill site, even though it is agreed that the site is situated with the infill boundary of Denholme Gate.
13. The appellant has argued that the policy does not indicate that all three criteria have to be met, and so, even if it is not considered to be a small gap in a small group of buildings, as the Council have accepted that it meets two of three criteria, it does not mean it is contrary to the policy. However, in my view, even though the use of the word 'and' is not used at the end of each of the criteria, any normal reading of the policy renders it clear that all three criteria have to be met. Therefore, I consider that the proposal would not accord with this policy and would be inappropriate development in this respect.

Affordable Housing

14. The fifth bullet point of paragraph 89 of the Framework also allows limited affordable housing for community needs under policies set out in the Local Plan. The appellant has indicated that the proposal should be treated as a "rural exceptions site" as it would be an entirely affordable housing scheme.
15. To this end, Policy HO11 of the *Bradford Core Strategy Development Plan Document (adopted July 2017)* indicates that the Allocations Development Plan Document and Neighbourhood Plans will give consideration to allocating rural exception sites within specific rural settlements where sufficient affordable sites to meet local need cannot otherwise be delivered. However, it has been indicated that the Allocations DPD is still at an early stage of preparation, and I have not been informed that there is a Neighbourhood Plan for the area. As such, consideration has not yet been given to whether or not rural exception sites are required in this area.
16. The Framework defines rural exception sites as small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. Small numbers of market homes may be allowed at the local authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.
17. There is no indication that the proposal would provide affordable housing to meet the criteria of a rural exception site as defined by the Framework. Furthermore, there is no mechanism before me to secure the provision of affordable housing on the site as defined by the Framework, whether as an exceptions site or not. Without such a mechanism the site cannot be considered as a rural exception site, or as an affordable housing scheme. The proposal would therefore not accord with the fifth bullet point exception of paragraph 89 and would be inappropriate development in this respect.

Conclusion on Green Belt issues

18. In the light of the above I therefore conclude that the proposal would be inappropriate development, which according to paragraph 87 of the Framework is, by definition, harmful to the Green Belt. In addition, there would be a degree of harm arising from the loss of openness.

Other Considerations

19. It is not disputed that the Council cannot demonstrate a 5 year housing land supply. However, the Planning Practice Guidance states that "unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt."² Moreover, whilst the affordable housing statement highlights the need for such housing in the city as a whole as well as in the Shipley and Bingley sub-area, without any mechanism to secure the provision of such housing, I give this little weight.
20. My attention has been drawn to another appeal³ in a different authority, where substantial weight was given to the fact that the proposal would provide 100% affordable housing. However, this site was not in the Green Belt, and was in a village where a Supplementary Planning Document had identified there would be limited opportunities to meet identified demand for affordable housing for this particular village. Moreover, the proposal was accompanied by a Unilateral Undertaking to secure the provision of affordable housing. As a result, it does not represent a direct parallel to the appeal scheme, which I have, in any case, determined on its own merits.
21. The proposal would develop what is an unsightly vacant site, and would bring some visual improvement to the area. Nevertheless, as outlined above, this would be to the detriment of the openness of the Green Belt, which is one of its essential characteristic. Whilst there is both national and local policy support for the re-use of previously developed land, within the Green Belt, the Framework is clear that this should only take place where the development does not have greater impact on openness. I note that the draft revised Framework has amended the wording of this bullet point. However, only limited weight can be given to this as it is only a draft proposal and appeals have to be determined on the basis of national and local policies as adopted at the present time.
22. The construction of the dwellings would provide some temporary work for local contractors, and future occupiers would help to maintain the vibrancy of local services. Whilst there are limited services and facilities within walking distance of the site, it is on a bus route, and so future occupiers would not be solely reliant on the private car for their day to day needs. However, I note that the Council have indicated that there are other potential housing sites in and around villages which are less remote from services than this site.
23. Although it is suggested that the proposal would make prudent and minimal use of natural resources, and would generate minimal waste and pollution, there is no substantive evidence to indicate how this scheme would differ from other housing schemes in this regard.

² Paragraph Reference 3-034-20141006

³ Appeal Reference APP/T3535/A/14/2217031

24. The appellant has highlighted that the Council raised no objections in terms of the design of the scheme, or with regard to the impact of highways, flooding, residential amenity or ecology. Be that as it may, an absence of harm in respect of these matters is a neutral factor.

Conclusion

25. To conclude: the proposal would be inappropriate development in the Green Belt which is harmful by definition. Whilst it would not conflict with the purposes of including land within the Green Belt, the proposal would result in a reduction in openness, and there is a degree of harm arising from this as well. According to the Framework (paragraph 88) substantial weight has to be given to any harm to the Green Belt.

26. Despite having regard to all the other considerations put before me, I consider that taken together, the factors cited in its favour do not clearly outweigh the harm the scheme would cause. Consequently, very special circumstances do not exist, and the proposal would conflict with the Framework and Policies GB1 and GB3 of the RUDP.

27. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR

Richborough Estates