
Appeal Decision

Hearing held on 21 July 2015

Site visit made on 21 July 2015

by Mark Caine BSc (Hons) MTPL MRTPI

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

Decision date: 10/09/2015

Appeal Ref: APP/D2320/W/15/3006410

Land off Doctor's Lane, Eccleston, Lancashire, PR7 5QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Partner Construction against Chorley Borough Council.
 - The application Ref 14/01157/FULMAJ, is dated 31 October 2014.
 - The development proposed was originally described as "The erection of 18 affordable homes to meet local needs with associated parking, landscaping and access."
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural and Preliminary Matters

2. On 21 July 2015, the Council adopted its Local Plan (LP). Consequently LP Policy HS8, which was referred to as draft in the main parties' submissions now forms part of the development plan and must be considered to be consistent with the National Planning Policy Framework (the Framework).
3. The Council has indicated in its grounds of appeal, that had it been in a position to determine the appeal, it would have refused planning permission for reasons relating to: inappropriate development in the Green Belt, harm to the openness of the Green Belt, and the lack of very special circumstances that would outweigh the harm.
4. The appeal was accompanied by an incomplete Unilateral Undertaking for the provision of a financial contribution towards the enhancement of existing playing pitches and the provision of allotments and amenity green space. In order to address this, a revised Unilateral Undertaking was requested at the hearing. I return to this matter below.

Application for costs

5. At the hearing an application for costs was made by Partner Construction against Chorley Borough Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues in this appeal are:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
- The effect of the proposal on the openness of the Green Belt and its visual impact on the character and appearance of the surrounding area.
- Whether the 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 inappropriate development

7. The appeal relates to part of an undeveloped open agricultural field that is located immediately to the west of the settlement of Eccleston, within the boundaries of the Green Belt. I have not been referred to any development plan policy in regards to Green Belt; nonetheless paragraph 89 of the Framework sets out that the construction of new buildings in the Green Belt is inappropriate except for a limited number of exceptions. These include limited affordable housing for local community needs under policies set out in the Local Plan.
8. The appellant argues that the site is a rural exception site as it would be a small site used for affordable housing in perpetuity where sites would not normally be used for housing. They also state that the proposal would not constitute inappropriate development as it would provide limited affordable housing for local community needs.
9. LP Policy HS8: '*Rural Affordable Housing – Rural Exception Sites*' is the most relevant policy in both of these respects. It sets out that, subject to meeting a number of criteria, a limited number of dwellings exclusively to meet a local need for affordable housing may be allowed. The criteria required to be met are that there are no other suitable sites available within the village; that the scale and nature of the development would be in character with the settlement; that it would significantly contribute to the solution of a local housing problem that cannot be solved any other way; that occupancy would be limited to people with a close local connection and who are unable to afford market housing; and that the development is managed by a Registered Provider or similar body.
10. Of these criteria, it was uncontested at the hearing that the development would be managed by a Registered Provider or similar body. It has also not been disputed that the appellant's submitted 'Alternative Sites Assessment' does not find any alternative sites for the proposed 100% affordable housing. Furthermore, paragraph 85 of the Framework states that it should be made clear that safeguarded land is not allocated for development at the present time and that planning permission for its development should only be granted following a local plan review, which proposes the development. As such I am satisfied that on the basis of the information before me there are no other suitable alternative sites available at this time.
11. In terms of need, the proposal is entirely for affordable housing. I appreciate that Policy 1 of the Central Lancashire Adopted Core Strategy 2012 (CS) encourages limited growth and investment in Eccleston which is a Rural Local

Service Centre. However LP Policy HS8, as an exception site policy, allows a limited number of dwellings exclusively to meet a local need for affordable housing adjoining the settlement of Ecclestone. Indeed, the preamble to LP Policy HS8 sets out that the Chorley Rural Housing Needs Study (RHNS) identifies a significant need for more affordable housing in the rural parishes.

12. The RHNS identifies an affordable housing requirement of 22 dwellings annually in the Ecclestone Parish over the period between 2011/12 and 2015/6. The Council accept that the level of affordable completions is lower than the requirements set out in the SHMA and the RHNS, with only 33 affordable dwellings being delivered in Ecclestone over this period. Whilst it has been put to me that high numbers of affordable houses have been delivered annually borough wide, LP Policy HS8 seeks to specifically meet a local need for affordable housing.
13. Nonetheless, at the hearing the appellant stated that the proposed mix of thirteen 2 bedroom and five 3 bedroom properties was based on a conversation with a Housing Officer. Little further empirical evidence has been produced by the appellant to identify the type and number of households that are in need, and the type of accommodation, including bedroom numbers, which are in demand by local people.
14. Conversely, the Council has provided a housing register for Ecclestone from 1 June 2015 which substantiates that out of its 13 registered households, only 4 require three bedroom properties and two require a 2 bedroom house. Of these six households none are in the reasonable preference categories A-C, and only 2 are categorised as Band D which is for applicants where, amongst other things, they have a family connection to the area, demonstrate a contribution to local community or are employed in the Borough. I am also mindful of the Council's evidence regarding the occupation of the affordable units that have recently been provided within Ecclestone. This shows that out of the 25 socially rented units that were delivered between 2011/12 to 2015/6 only 13 of its households had a connection to Ecclestone.
15. I appreciate that the housing register may change if the appeal were to succeed, but on the basis of the evidence before me, I am unable to conclude that the proposed affordable housing would significantly contribute to the solution of a local housing problem that cannot be solved any other way. I also recognise that the cascade approach limits occupancy as it prioritises local need and allows the flexibility to avoid vacant dwellings. Nonetheless, given the uncertainty regarding the demand for two and three bedroom affordable properties in the Ecclestone area I can understand the Council's scepticism towards this as a mechanism to limit the occupancy of the dwellings to people with a close local connection.
16. I consider that the scale and nature of the proposed two-storey houses, which would be laid out in a short cul-de-sac and adjoin the built up area of the village, would comprise similar patterns of development to the adjoining settlement. The proposed 18 dwellings would be seen against the backdrop of houses and vegetation from certain directions, and would round off the settlement to the west.
17. Nevertheless, whilst there is no definition of 'limited' in the Framework the supporting text to LP Policy HS8 clearly states that for the purposes of development management a limited number of dwellings is considered to be a

maximum of ten dwellings. My attention has been drawn to main modification MMEC42 of the Chorley Local Plan 2012-2026 – Inspector’s Partial Report – October 2013 (IPR) in this regard. This indicates that the appropriateness of the scale of the local need proposal would depend on the specific characteristics of the village in which the development is proposed, together with its sustainability as they vary from village to village. However this modification was not required in relation to Policy HS8, but was considered necessary to provide clarification on ‘small-scale’ in regards to criterion f of CS Policy 1 for smaller villages and substantially built up frontages. In light of this, and for the reasons given above, I do not consider that the 18 proposed affordable houses would constitute limited affordable housing for local community needs under policies set out in the Local Plan.

18. Overall therefore, even though the proposal would accord with some aspects of LP Policy HS8, it would conflict with the key criterion of providing a maximum of ten affordable dwellings that would significantly contribute to the solution of a local housing problem that cannot be solved any other way. Consequently it would not be classed as a rural exception site or fall within the criteria for limited affordable housing set out in paragraph 89 of the Framework as an exception to the construction of new buildings in the Green Belt as inappropriate. I therefore conclude the proposal would constitute inappropriate development that is, by definition, harmful to the Green Belt and in conflict with the Framework. I subsequently attach substantial weight to the harm arising due to the inappropriate nature of the development

Openness and visual impact on character and appearance

19. Paragraph 79 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness in a Green Belt context is a physical absence of buildings and structures, rather than an element of an area’s character.
20. It is inevitable that a development of 18 dwellings on the appeal site would impact on the Green Belt’s openness. Indeed, given the predominantly green and undeveloped nature of the site, I find that the proposal would have a significant harmful impact on the Green Belt’s openness. Also, this would constitute an encroachment of built form into the countryside, thereby conflicting with one of the purposes of Green Belts. I appreciate that harm to openness could apply to any rural exception site in the Green Belt; however for the reasons provided above I do not consider this to constitute a rural exception site.
21. The clear urbanising of the site and the loss of its open character to 18 houses would be visible from the windows of neighbouring properties and readily apparent from Doctor’s Lane and Banner Close. Whilst LP Policy HS8 steers affordable housing to sites outside of village boundaries, but which adjoin the village built up area, it would still cause limited harm to the undeveloped nature of this area.

Other considerations

22. The appellant has submitted a viability assessment (VA) in order to demonstrate that a contribution of £31,572 towards public open space and the requirement for the development to meet Level 4 of the Code for Sustainable

Homes (now 19% minimum dwelling emission rate as set out in the transitional requirements of CS Policy 27) would make the scheme unviable. The assessment is also intended to show that a scheme for 10 affordable dwellings rather than 18 dwellings would not be achievable.

23. Paragraph 73 of the Framework advises that to ensure viability, the costs and requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. The Planning Practice Guidance (PPG) also requires a detailed assessment of the Gross Development Value, which on housing schemes, comprises the assessment of total sales and/or capitalised rental income from the development. Central to the consideration of viability is land or site value that is informed by comparable, market-based evidence wherever possible.
24. Nonetheless, a detailed assessment of the Gross Development Value has not been provided. The appellant explained at the hearing that the £288,000 Land Value figure provided in the VA was the price that they had agreed to pay the land owner for the site, and there is little of substance before me to suggest that this or other costs have been informed by comparable market-based evidence. At the hearing I also heard about the required Break Even Points, Net Present Value, and Performance Percentage thresholds. However the appellant was unable to provide me with any further details in regards to how these had been calculated. In the absence of this information I am therefore unable to conclude that the requirement for a 19% minimum dwelling emission rate or a scheme for 10 affordable dwellings would be unviable. As such I apportion very minimal weight to this factor in the overall Green Belt balance.
25. The appellant has stated that there are no other rural exception site developments in the Borough and has referred me to a number of other planning permissions for such developments that they have obtained in other areas of the country. However I have not been provided with the full details that led to these proposals being accepted so cannot be certain that they represent a direct parallel to the appeal proposal. I have, in any case, considered the appeal on its own merits and therefore also attribute very minimal weight to this.
26. The proposal would provide 18 affordable houses, which would help to meet a shortfall of such accommodation in the borough. This would weigh in its favour. Nonetheless the PPG includes advice that unmet housing need, which must logically include the need for affordable housing, is unlikely to outweigh the harm to the Green Belt and other harm to constitute very special circumstances to justify inappropriate development in the Green Belt. Consequently I have given this moderate weight.
27. In reaching my conclusions I have taken into account other sections of the Framework. Nonetheless, there is not anything in the Framework that would lead me to reach a different decision. The subject of "achieving sustainable development" in the Framework has 3 dimensions, which are economic, social and environmental roles that are expected to be delivered equally. The proposal would avoid migration from the borough by providing new housing, and investment through construction so would perform a social and

economic role and, in so far as it is intended to incorporate Level 3 of the Code for Sustainable Homes, and is in a relatively accessible location near to public transport and local facilities, would in part perform an environmental role. Some weight can be attached to this. However, this must be offset by the extent to which, with regard to Green Belt and character and appearance considerations, it would fail to perform a wider environmental role and so, to that extent, any weight that can be attached to sustainability considerations must be limited.

28. It has also been put to me that the proposal would not impact upon the health of trees, ecology and highway safety and that the Council has not raised any objections in regards to these matters. However the absence of harm in these respects would be neutral in the overall Green Belt balance.
29. The appellant has submitted a planning obligation to provide financial contributions for the provision of allotments and amenity green space and to enhance existing playing pitches. However this has not been signed by the owner of the site. A revised version was requested at the hearing but has not been provided. Nonetheless, the undertaking would simply provide for mitigation of some of the development's impacts. Even if it was executed, and I was to find it to satisfy the relevant tests, it would not add any weight in favour of the proposal.
30. I note that the appellant is dissatisfied with the Council's handling of the application. However, this is a matter that would need to be pursued with the Council in the first instance. I confirm that in this respect, I have only had regard to the planning merits of the proposal that is before me.

Green Belt balance and conclusion

31. In conclusion I have identified that the proposal would be inappropriate development in the Green Belt as defined by the Framework. The Framework establishes that substantial weight should be given to any harm in the Green Belt. In addition it would significantly reduce the openness of the Green Belt and cause limited harm to the character and appearance of the area. As such, even when taken together, the other considerations reviewed above do not clearly outweigh the harm that the proposal would cause. Consequently no very special circumstances exist and the proposal is contrary to LP Policy HS8. Therefore for the reasons given above, the appeal is dismissed and planning permission is refused.

Mark Caine

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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Angela Gerrard
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