



Appeal Decision

Site visit made on 14 May 2024

by **J Downs BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31st May 2024

Appeal Ref: APP/X4725/W/23/3330785

Common Road, South Kirkby

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by D. Noble Limited against the decision of Wakefield Metropolitan District Council.
 - The application Ref is 21/01673/FUL.
 - The development proposed is residential development comprising 22 new dwellings, along with associated parking, site road and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by D. Noble Limited against Wakefield Metropolitan District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Since the appeal was submitted, Wakefield District Local Plan 2036 Volume 1 Development Strategy, Strategic and Local Policies (24 January 2024) (LP Vol 1) and Volume 2 Settlement Specific Policies (24 January 2024) (LP Vol 2) were adopted, replacing the Local Development Framework Core Strategy and Local Development Framework Development Policies Document. The Council raised this in their statement. An updated National Planning Policy Framework was also published in December 2023. The appellant had the opportunity to respond to these matters at the final comments stage of this appeal.
4. It is not in dispute that the majority of the site is no longer in the Green Belt and is allocated for residential development. I have been made aware of correspondence between the Council and the appellant on a subsequent application with respect to the Green Belt boundary.
5. I sought confirmation from the Council as to the position of the boundary of the Green Belt. They provided a copy of their published Policies Map. This is not at a resolution which allows for the precise position of the boundary to be established. However, the appeal site is of a regular shape. It continues the width of the previous development site. I have not been made aware of any reason why it would be necessary for the southern boundary to include the small step in, nor is one readily apparent. I am therefore satisfied on the evidence before me that the whole site is no longer in the Green Belt. Consequently, there is no longer any conflict with local or national policy.

Main Issue

6. The main issue in this appeal is whether or not the contributions sought are reasonable and necessary to make the proposed development acceptable.

Reasons

7. LP Vol 1 introduces new policy requirements with respect to the contributions necessary to make the effects of the development acceptable. The site is allocated for housing in LP Vol 2. Allocation HS46 identifies a number of issues which should be addressed in any proposal to develop the site. This includes Green Belt Compensatory Improvements and a commuted sum towards green space improvements as the site is below 2ha. The Council has confirmed that the provision of travel passes and contributions towards biodiversity net gain would also be required. Measures to ensure the future maintenance of the surface water drainage system would also need to be secured. The Council has set out that these matters could only be secured through a planning obligation. I have no reason to dispute the need for these contributions, nor to reach a different conclusion that a planning obligation would be the most appropriate mechanism to secure these measures. There is no obligation before me to address these issues.
8. I therefore conclude that the contributions sought are reasonable and necessary to make the proposed development acceptable, and that this need has not been met. The proposed development would therefore be contrary to LP Vol 1 Policies SP15 which seeks to influence the demand for travel, SP22 which requires compensatory measures where land has been removed from the Green Belt, LP30 which requires a drainage strategy for all development, LP48 which sets requirements for open space in new housing development and LP56 which requires development to provide a minimum net gain of 10% of the current ecological value of the site. It would also be contrary to LP Vol 2 Policy HS46 which sets out site specific requirements.

Other Matters

9. There is no substantive evidence before me that the Council cannot meet its requirements with regard to the supply of housing land. Nor is there any mechanism which would secure the proposed dwellings as affordable housing or low cost market housing. Notwithstanding, there would be an undoubted benefit from the delivery of housing on an allocated site quickly after the adoption of the LP. However, this would not outweigh the harms that would arise from the development failing to make the contributions necessary to meet the demands that would arise from it.

Conclusion

10. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR



Costs Decision

Site visit made on 14 May 2024

by **J Downs BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31st May 2024

Costs application in relation to Appeal Ref: APP/X4725/W/23/3330785 Common Road, South Kirkby, WF9 3FJ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by D. Noble Limited for a full award of costs against Wakefield Metropolitan District Council.
- The appeal was against the refusal of planning permission for residential development comprising 22 new dwellings, along with associated parking, site road and landscaping.

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour by a local planning authority can include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. There is no substantive evidence before me that the Council specifically asked for an application to be submitted. Nor can the outcome of any planning application be guaranteed. In any event, the planning system operates on the basis that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. It is not in dispute that the site was within the Green Belt at the time the application was submitted. The National Planning Policy Framework is unequivocal that the Government attaches great importance to Green Belts. The emerging development plan was still subject to modification and consultation. The Council's decision to refuse the application was therefore not unreasonable.
4. Furthermore, the expenses identified by the appellant are the normal costs incurred in the submission of a planning application. The PPG is clear that the award of costs is related to those costs incurred during the appeal process.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as defined in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

J Downs

INSPECTOR