The Planning Inspectorate

Appeal Decision

Site visit made on 25 June 2013

by Michael R Moffoot DipTP MRTPI DipMgt MCMI

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

Decision date: 18 July 2013

Appeal Ref: APP/H1033/A/13/2193485
Birch House, Birch Vale, High Peak SK22 1DH

- 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 & Mrs T B Lawton against the decision of High Peak Borough Council.
- The application Ref. HPK/2012/0292, dated 3 May 2012, was refused by notice dated 19 September 2012.
- The development proposed is residential development.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by High Peak Borough Council against Mr & Mrs T B Lawton. This application is the subject of a separate Decision.

Procedural Matter

3. The application is in outline form, with all matters other than access reserved for future approval. I have assessed the proposal on this basis and have therefore considered the site layout plan as indicative only.

Main Issues

4. The main issues in the appeal are:

   (i) whether the proposal constitutes inappropriate development within the Green Belt as set out in the *National Planning Policy Framework* ('the Framework') and the development plan;

   (ii) the effect of the development on the openness and visual amenity of the Green Belt and the character and appearance of the area, including the implications for the retention and health of protected trees on the site;

   (iii) whether the loss of the site for employment purposes would cause unacceptable harm to the supply of employment land within the Borough, and

   (iv) 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

Whether the proposal constitutes inappropriate development

5. The appeal site is situated on the steep northern slope of the Sett valley between Thornsett and Hayfield and comprises part of a heavily wooded parcel of land containing a number of vacant industrial buildings formerly used as an abattoir and knacker's yard. The proposal involves demolition of the buildings and the erection of five dwellings with associated gardens, garaging and parking accessed via an existing driveway off Spinnerbottom.

6. Saved Policy OC2 of the adopted *High Peak Local Plan* states that approval will not be given for new buildings in the Green Belt with the exception of certain types of development. The Council submits that the proposed development does not fall within any of the categories set out in the Policy and therefore comprises inappropriate development. However, in identifying the categories of development that are not inappropriate in the Green Belt, the Framework includes *"limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development"*.

7. Policy OC2 also states that other development will only be permitted where it maintains the openness of the Green Belt and does not compromise Green Belt purposes. I shall deal with these matters in more detail in the next part of my decision before returning to the question of whether the proposal would be inappropriate development.

Effect on openness and character and appearance of area

8. The existing structures on the site include three livestock reception/holding buildings, an animal processing facility, a carcass incinerator building with an office, changing room and staff facilities and a workshop/store. As the application is in outline form, the proposal does not include detailed drawings of the dwellings. The indicative layout drawing shows five detached dwellings and garages set on spacious plots within the general area occupied by the existing industrial buildings.

9. The planning application included an estimate of the floorspace of existing buildings on the site and the proposed dwellings. The Council does not dispute these figures and I see no reason to disagree. On this basis, it is reasonable to assume that the volume of built development on the site would be reduced as a result of the proposal, albeit that the assessment is based upon an indicative scheme. It therefore follows that the development would increase openness in this part of the Green Belt, which weighs in favour of the proposal.

10. The site lies in a well-wooded rural landscape characterised by steeply sloping valley sides, ribbon development, sporadic housing and farmsteads. Here, in order to protect the countryside for its own sake, saved Policy OC1 of the Local Plan restricts new development to that which is an integral part of the rural economy and can only be carried out in the countryside. It is no part of the appellants' case that the proposal would comply with this policy, but it is argued that the development would enhance the character of the countryside by replacing unsightly industrial buildings and a non-conforming use with a

development that would respect the site's setting and the rural character of the area.

11. The site is elevated above Spinnerbottom and is well screened by mature trees and other vegetation, so that when the trees are in leaf only a relatively small part of the development would be visible from Sitch Lane to the north and footpaths in the vicinity of the land. However, this is a large plot, and five sizeable detached dwellings would be far more visible during the autumn and winter months when the foliage thins out, notwithstanding the presence of some coniferous trees. The visual impact of the scheme would be compounded by the residential curtilages associated with the houses and the domestic paraphernalia that inevitably accompanies them, such as parked cars and hardstandings, fencing, washing lines, children's play equipment and garden furniture. The proposal would impose an urban form of development on a rural setting and erode the qualities of this attractive landscape. In doing so it would conflict with one of the purposes of the Green Belt, namely to assist in safeguarding the countryside from encroachment.

12. In coming to this view, I acknowledge that the existing buildings on the site are utilitarian in appearance and in a state of some disrepair. Nevertheless, they are relatively unobtrusive, and their appearance does not justify replacement with dwellings that would be alien to their rural setting and detrimental to the visual amenity of the Green Belt.

13. As to the implications of the proposal for trees on the site which are the subject of a Tree Preservation Order, I am satisfied that with careful construction of the passing places and protection of trees during the building stage the health and longevity of adjacent trees would not be significantly compromised. Furthermore, a Woodland Management Scheme volunteered by the appellants could ensure the proper care of the trees following development. However, the proximity of mature trees to dwellings would be likely to give rise to future requests for thinning or felling on safety and residential amenity grounds by occupiers which the Council may find difficult to resist, and would as a result be detrimental to the character of the area.

14. Improvements to visibility at the junction of the access with the public highway include demolition of part of a stone retaining wall and felling of at least one tree. Although the tree may be diseased the loss of the wall is regrettable, and whilst this does not, in itself, justify dismissal of the appeal it adds weight to my concerns regarding the visual impact of the development.

15. Although the proposal would result in an increase in openness, it would harm the character and appearance of the area and the visual amenity of the Green Belt. It would also encroach into the countryside by reason of its overtly urban form and would thereby conflict with one of the purposes of the Green Belt. As such, the proposal would be inappropriate development in the Green Belt.

Employment land

16. Amongst other things, saved Policy EMP9 of the Local Plan permits change of use of industrial land or premises provided that the developer can clearly show there is no market demand for the site for employment use. The supporting text explains that smaller industrial sites and premises in the Borough provide valuable space for small businesses and should be kept in employment use wherever possible. The Framework states that planning policies should avoid

the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. In such circumstances, it says that applications for alternative uses of land or buildings should be treated on their merits having regard to market signals.

17. The appellants advise that the availability of the premises and business was circulated to members of the relevant trade organisation[1] when the plant closed in 2008 but interest was weak. The two parties who enquired indicated that refurbishment costs and proximity to dwellings deterred them from pursuing the matter, and no firm offers were made. However, there is little evidence regarding the nature and extent of the exercise and the response to it. Moreover, it does not appear that the land and business has been actively marketed to a wider audience through conventional channels such as specialist or general selling agents and internet and newspaper advertising. Given the above policy requirement, I would expect a rigorous marketing exercise to have been undertaken to clearly establish the level of demand for the site, either for its established use or for an alternative business use. Such evidence is critical in my view to a proper assessment of the proposal against the policy.

18. In these circumstances, I conclude that the loss of the site for employment purposes would cause harm to the supply of employment land within the Borough in conflict with Policy EMP9 of the Local Plan.

Other considerations

19. The appellants have put forward a number of other considerations which, in their view, justify the proposal. It is submitted that the existing buildings are unsuitable for re-use, either for their original purpose or an alternative one and would require complete reconstruction at substantial cost. This may be the case, but no evidence has been provided regarding the structural integrity of the buildings or refurbishment works required to render them suitable for alternative uses. In this respect I note that the Inland Revenue, in assessing the appellants' application for a reduction in the rateable value of the site, did not consider the buildings to be beyond economic repair, although I appreciate that this matter is ongoing. It is also submitted that there has been no firm interest in purchasing the site, which I have addressed above. These arguments therefore carry minimal weight in favour of the proposal.

20. The appellants contend that the proposal would benefit local residents by significantly reducing the volume and type of vehicles using the site and surrounding highway network and getting rid of a largely unrestricted and intrusive industrial operation which had expanded since the previous appeal decision in 1991. There is merit in this argument, but evidence of the former scale of operations on the site and the level of vehicular activity is not sufficiently detailed to persuade me that this argument should carry more than limited weight in favour of the proposal. Similarly, evidence regarding former dwellings on the site, which appear to have been demolished some considerable time ago, is very scant and therefore carries very little weight.

21. I acknowledge that the dwellings could incorporate numerous renewable energy features, including double glazing, solar water heating and photovoltaic cells. However, these measures could be incorporated into any new building in any location. The 'green' credentials of the proposal therefore carry very limited

[1] The Licensed Animal Slaughterers' and Salvagers' Association

weight in favour of the development notwithstanding that the site is in a sustainable location with good access to local service, employment opportunities and public transport.

The Green Belt balance

22. The proposal would amount to inappropriate development within the Green Belt which is, by definition, harmful to the Green Belt, and substantial weight is to be attached to such harm according to the Framework. I have also concluded that whilst there would be an increase in openness, there would be harm to the character and appearance of the area and the visual amenity of the Green Belt and conflict with one of the purposes of the Green Belt. In addition, the development would result in harm to the supply of employment land within the Borough. There are no other considerations which clearly outweigh the totality of harm that would arise as a result of the development, and the very special circumstances necessary to justify the proposal do not therefore exist.

Other Matters

23. Concerns have also been raised regarding the implications of the proposal for highway safety. Visibility at the access could be improved as I have described above, but this would be at the expense of visual amenity. The proposal would not generate a significant number of vehicles and it would be possible to provide adequate parking within the site to serve the development, thereby avoiding additional parking on the public highway.

24. In terms of loss of light, privacy, noise and disturbance or any other effect upon the living conditions of those occupiers adjoining the appeal site, I consider that the development would not be so materially harmful as to warrant dismissal of the appeal on these grounds given the separation distances involved. As to concerns regarding the creation of a precedent if the appeal were to succeed, no similar sites have been identified and I have determined the appeal proposal on its individual merits. Finally, any dispute regarding the ownership of the land is between the parties concerned and has no bearing on the planning merits of the case.

Conclusions

25. For the reasons set out above, and notwithstanding the support from a Ward Councillor and some local residents, I conclude that the proposal is unacceptable and the appeal should fail.

Michael R. Moffoot

Inspector