

Appeal Decision

Site visit made on 16 September 2016

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 22 September 2016

Appeal Ref: APP/T3725/W/16/3149123

Budbrooke Services (north), Warwick Bypass, A46, Warwick, Warwickshire CV35 8HA

- 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 Euro Garages Limited against the decision of Warwick District Council.
 - The application Ref W/15/1810, dated 3 November 2015, was refused by notice dated 5 January 2016.
 - The development proposed is the erection of a Starbucks Drive Thru' Coffee Shop and associated parking. 24 hours.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have not sought to rely on development plan policies in their reason for refusal, relying instead on the National Planning Policy Framework (the Framework) in their assessment of Green Belt matters. My attention has however been drawn to the provisions of the emerging Local Plan – Publication Draft April 2014, and particularly Policy DS19 which states that “*the Council will apply Green Belt policy in accordance with government guidance as set out in the national planning policy*”. I have therefore determined the appeal accordingly.

Main Issues

3. The main issues are:-
 - Whether or not the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect on the openness of the Green Belt; and
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.
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Reasons

Inappropriate Development

4. Paragraph 87 of the Framework is clear that inappropriate development is, by definition, harmful to the Green Belt. It should not be approved except in very special circumstances. There is no dispute that the appeal site is located within the Green Belt, where the Framework states, at paragraph 89, that the construction of new buildings should be regarded as inappropriate. Exceptions to this include proposals for the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
5. The appeal site is a broadly rectangular area of land, is generally overgrown with long grass and is separated from the existing roadside service area by a timber fence, occasional trees and unkempt hedgerow planting. There are no buildings within the appeal site to replace, nor would it be the case that the proposal would replace any of the buildings within the existing roadside service area indicated by the appellant as being within their ownership.
6. Although the appellant has suggested that the proposal “*could be considered*” to replace the disused former Little Chef roadside restaurant that immediately adjoins the existing service area to the south, I find that this argument fails. That building does not, on the evidence, fall within the appellant’s ownership and I have no indication before me of the likelihood of its removal. Thus, I conclude that the proposal would not amount to the replacement of an existing building, and it would not therefore benefit from one of the exceptions set out within paragraph 89 of the Framework.
7. Paragraph 90 of the Framework recognises that certain other forms of development are also not inappropriate within the Green Belt, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These forms of development include “*local transport infrastructure which can demonstrate a requirement for a Green Belt location*”.
8. Neither the Framework nor Planning Practice Guidance (the Guidance) elaborate on what constitutes local transport infrastructure for the purposes of paragraph 90. However, access to the existing roadside services is limited to traffic travelling northbound on the A46 which, I am advised, forms part of the strategic trunk road network. I have also been referred to the provisions of Department of Transport Circular 02/2013¹ (the Circular), and particularly Annex B of that document, which refers to roadside facilities for road users of motorways and all-purpose trunk roads.
9. It is stated by the appellant that the proposal would provide roadside facilities that would fit within the driving time and distance guidelines set out in the Circular for such facilities on all-purpose trunk roads. As access to the existing facility is limited to those on the trunk road network, I conclude that the proposal would fulfil more than a local purpose and would not therefore constitute local transport infrastructure.

¹ DfT Circular 02/2013 – The Strategic Road Network and the Delivery of Sustainable Development

10. Thus, I consider that the proposed development would not be one of the other forms of development set out in paragraph 90 of the Framework that are considered to be not inappropriate. The proposal would therefore be inappropriate development within the Green Belt which is, as the Framework sets out, by definition harmful to the Green Belt.

Effect on Openness

11. The existing built extent of the roadside service area is focused around the filling station forecourt and kiosk building, and the now empty Little Chef building immediately to the south. However, at the rear of the existing kiosk building, the exit route from the parking area threads its way between the fuel pumps for heavy goods vehicles and the timber fence, trees and hedgerow that mark the existing northern limit of the service area. This area feels very much like the periphery of the site, and there is no sense or suggestion that the existing service area, either functionally or visually, extends beyond existing boundary features towards the appeal site.
12. The Framework advises at paragraph 79 that openness is an essential characteristic of Green Belts, and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It follows that openness is defined by an absence of buildings or other forms of development.
13. In this instance, although the northern, eastern and western perimeter of the field within which the appeal site lies is heavily screened by mature tree and hedgerow belts, the proposed development would nonetheless mark a significant encroachment into the open countryside beyond the existing service area. Whilst I note the appellant's contention that the site lies within the development envelope originally envisaged in proposals for the service area from the 1970's and 1980's, and indeed it may be the case that the substantial tree and hedgerow belts that I have noted above are a legacy of those early proposals, time and subsequent permissions have however seen the site develop in a different manner. My assessment of the impact on openness needs to be on the basis of the current state of the site.
14. As there are no buildings within the appeal site or the field in which it sits therefore, the proposal would inevitably, and significantly, cause harm to the Green Belt through the resulting loss of openness. By virtue of the cumulative spread of the existing and proposed development, and the siting of the "drive-thru" building towards the far, northern, end of the site, the proposal would also significantly impact upon the Green Belt purpose of safeguarding the countryside from encroachment.
15. The Framework advises that substantial weight should be attached to any harm to the Green Belt. I have attached such weight in this instance because of the harm that would be caused to the Green Belt by reason of the inappropriateness of the proposal and the loss of openness.

Other Considerations

16. I have been referred to the provisions of the Circular which suggests that roadside facilities should be provided at driving time intervals of approximately half an hour. As there are no similar facilities nearby, the appellant avers, the proposal would satisfy the provisions of the Circular and should weigh in favour of the proposal.

17. However, I note that the Circular states that these timings are not prescriptive, and I have not been provided with compelling or substantive evidence to demonstrate that the appeal site meets these provisions. In any event, the existing roadside services provide refreshment and catering facilities within the forecourt kiosk and so the site already provides the travelling public with the ability to stop and take refreshments and a break in the course of their journey. Thus, I afford this matter only limited weight.
18. It is also stated that the closure of the Little Chef facility on the southern side of the forecourt provides an overriding need for an additional facility in the form of the development proposed. Furthermore, the high volumes of traffic passing the site support a synergy between the proposed development and the existing facilities present within the service area. However, neither factor provides a compelling reason for an inappropriate form of development that would cause harm to the openness of the Green Belt and does not therefore outweigh the harm I have identified above.
19. I note that there have been no objections to the proposal on highway safety grounds, and that matters relating to ecological issues and the incorporation of renewable technologies could be addressed through the use of conditions. Although these matters weigh in favour of the proposal, they do so on only modest terms.

Conclusion

20. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Substantial weight must therefore be given to the harm to the Green Belt that I have identified above due to the inappropriate nature of the proposed development. In addition, the proposal would lead to a harmful loss of openness and an adverse impact on the Green Belt purpose of safeguarding the countryside from encroachment. As I am obliged to do, I give substantial weight to the harm to the Green Belt.
21. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
22. For the reasons set out above therefore, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR