

Appeal Decision

Site visit made on 1 November 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 24 November 2016

Appeal Ref: APP/C2741/W/16/3153863

Crockey Hill Farm, Crockey Hill, Wheldrake Lane, York YO19 4SN

- 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 Mr Gary Cooper against the decision of City of York Council.
 - The application Ref 15/02343/FULM, dated 29 December 2015, was refused by notice dated 21 March 2016.
 - The development proposed is described as change of use of agricultural grassland for use for 6 no holiday lodges and wildlife pond with landscaping works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The date of the application on the form is unclear. In the banner heading above I have therefore substituted for the date of the application the date it was received, as recorded by the Council in its decision notice.
3. For clarity, whilst the application is described as a change of use of land for the siting of holiday lodges on the basis that the lodges would be within the definition of a caravan in the Caravan Sites Control and Development Act 1960 and the Caravan Sites Act 1968, it includes operational development in the form of engineering operations to create new hardstanding and a pond.

Main Issues

4. The main issues are:
 - a. Whether or not the proposal would be inappropriate development in the Green Belt having regard to relevant development plan and national planning policies;
 - b. The effect of the proposal on the openness of the Green Belt;
 - c. The effect of the proposal on the character and appearance of the surrounding area; and
 - d. If the proposal 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.
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Reasons

Whether inappropriate development

5. The appeal site is agreed to be in the York Green Belt, the general extent of which is set out in Policies YH9(C) and Y1(C1 and C2), and Key Diagram of the Yorkshire and Humber Regional Spatial Strategy (RSS) saved by the Regional Spatial Strategy for Yorkshire and Humber (Partial Revocation) Order 2013.
6. The National Planning Policy Framework (Framework) is a significant material consideration. In addition draft Policy GB1 of the City of York Draft Local Plan 2005 (LP), although not part of the development plan, would among other matters prevent "planning permission for development" (thus including a change of use) that conflicts with the purposes of including land in the Green Belt. A version of the plan is supplied that is subtitled "Fourth Set of Changes". It is clearly based on previous guidance, PPG2 which the Framework replaced in 2012. However it is consistent with the aims of the Framework to protect the Green Belt from inappropriate development, so is a material consideration.
7. The Framework makes clear that most development in the Green Belt is inappropriate and should be approved only in very special circumstances. The effect of Paragraphs 87, 89 and 90, when read together is generally understood to be that all development in the Green Belt is inappropriate unless it falls within a category set out in Paragraph 90 or is new building within one of the exceptions referred to in Paragraph 89. It is established that Paragraph 89 is to be interpreted in its statutory context, which distinguishes between operational development and change of use. "Buildings", or "the construction of new buildings", would not therefore include mobile homes.
8. Even if the lodges are considered to be buildings due to their permanence and attachment to the land, they would not fall even potentially within the relevant exceptions in Paragraph 89. Firstly, holiday accommodation does not come within the definition of outdoor sport or recreation as set out in Paragraph 89. Secondly, Crockey Hill has sporadic development along Wheldrake Lane and the A19. Whilst there are buildings in the immediate vicinity, the appeal site is a large expanse of grassland about 1ha in size and as such the proposal would not amount to limited infill in a village. Thirdly, the grassland has been used most recently for agricultural uses and so excluded from the definition of previously developed land in the Framework; it would not therefore benefit from the exception in Paragraph 89 that supports redevelopment of such land.
9. Engineering operations would not be inappropriate development provided they preserve openness and do not conflict with the purposes of including land in the Green Belt. The new pond would preserve openness. However the additional hard surfacing, albeit on 'grass-tech' maintenance tracks, would result in parking of vehicles that would fail to preserve openness and conflict with the purposes of including land in Green Belt, including that of preventing urban sprawl by keeping land permanently open. The engineering operations as a whole would not therefore come within the exception in Paragraph 90.
10. I conclude that the proposal would be inappropriate development contrary to the Framework. Inappropriate development is by definition, harmful to the Green Belt and according to Paragraph 88 substantial weight should be given to any such harm. Such development should not be approved unless very special circumstances exist to justify why permission should be granted.

The effect of the proposal on the openness of the Green Belt

11. Preventing urban sprawl by keeping land permanently open is a fundamental aim of Green Belt policy and the most important attribute of Green Belts is their openness. The boundaries of the site are defined by mature native hedges and trees. However, aside from the engineering operations, six new holiday lodges, each described in the appeal statement as 12 x 6 metres, would result in development where none existed before. The harm due to this significant loss of openness attracts substantial weight against the proposal.

Character and appearance

12. I saw that there were several non-farm buildings in the complex adjacent to the appeal site which are nonetheless seen in an agricultural context. The appeal site is a field managed as short mown grassland and makes a positive contribution to the setting of the former farm buildings and the open character of the surrounding landscape. It also relates to a sizeable gap on the north side of Wheldrake Lane opposite the intended position of the lodges. Overall it is an attractive agricultural landscape of undulating land with hedgerows and tree belts, serving as a valuable visual break among areas of buildings.
13. The proposed lodges would be sited around a new pond with new field enclosures. Extensive landscaping is proposed with new trees, hedging and planting. This would mitigate somewhat the visual impact of the lodges, and external lighting and non-reflective roof coverings would be designed to minimise light pollution. However light spill from the development would not be eliminated and the lodges would still be apparent in the vicinity, not least in winter months when the vegetation would be reduced.
14. On this issue I conclude that the proposals could not be integrated satisfactorily into the landscape without some erosion of its rural character or coalescence of development that would undermine the prevailing open character of this small settlement. I attach moderate weight to the harm that would thus be caused.

Other Considerations

15. The proposal would improve the range of tourist facilities that serve York and surrounding areas. In general terms this would be consistent with the encouragement given by Paragraph 28 of the Framework to development of land-based rural businesses. Two full-time and one part-time jobs would be created which would be a positive benefit.
16. Paragraph 81 of the Framework encourages the retention and enhancement of landscapes, visual amenity and biodiversity, or the improvement of damaged and derelict land. Potential exists for the new pond to enhance wildlife but this would be limited due to its proximity to the lodges. The species poor acid grassland would be improved through measures proposed in the ecological assessment, however the evidence suggests that the managed area where the lodges would be sited was more improved, and of less interest in terms of biodiversity than the former quarry area outside the appeal site.
17. This area to the west of the site has been reclaimed by vegetation and does not appear as damaged or derelict land. Nevertheless the proposed scheme would provide new permissive paths and landscaping on this land, exploiting an opportunity to provide access and enhance the beneficial use of the Green Belt in accordance with Paragraph 81.

18. The appellant warns that the land could fall into a derelict state due to financial constraints. There is no information provided to support this assertion, nor is it explained why the agricultural quality of the land might not be improved by levelling out areas of depression, or other remediation. There is nothing in the evidence to show that the new development would be the only viable solution to improving its quality. The existing conifer screen is not an unduly prominent feature and on the information supplied, I cannot see that the proposed scheme would be necessary to reduce its height or to plant native trees.
19. Whether the lodges would create a “clearly defined focal point” for this small settlement is arguable in view of the proposed screening from general views. Rather, the extent of new development would in my view detract from the distinctiveness of loosely formed groups of buildings in the hamlet. Moreover the holiday cabins would be in an enclosed and private site, providing limited direct benefits to the immediate local community.
20. Other lodges in the Green Belt may have been approved by the Council. I do not have full details of such approvals so cannot assess their relevance to this appeal proposal which I have in any event determined on its own merits.

Green Belt balance and conclusion

21. The proposal would cause harm in that it would be inappropriate development in the Green Belt. There would also be harm caused by loss of openness of a significant part of the appeal site. The Framework indicates that substantial weight should be given to any harm identified to the Green Belt. In addition the proposal would harm the character and appearance of the locality, to which I also give some weight.
22. On balance, the harm to the Green Belt by reason of inappropriateness together with the other harm I have identified would be considerable and would not be clearly outweighed by the other considerations raised, whether taken individually or cumulatively. Therefore, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. In the absence of a development plan that deals comprehensively with the York Green Belt, the proposal would nevertheless conflict fundamentally with the Framework, in particular Section 9, and would be contrary to draft Policy GB1.
23. In accordance with footnote 9 to paragraph 14 of the Framework, the presumption in favour of sustainable development established by the Framework does not apply in Green Belt locations. Despite the obviously careful attention paid to the preparation of the proposed scheme, the overall level of environmental harm would be such that, on balance, the scheme would not amount to sustainable development.

Overall Conclusion

24. For the above reasons and having regard to all other matters raised the appeal is dismissed.

Grahame Kean

INSPECTOR