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# Appeal Decision

Site visit made on 27 June 2017

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 11 July 2017**

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**Appeal Ref: APP/Z4718/W/17/3172570**  
**Lands Farm, Cliffe Lane, Gomersal BD19 4EU**

- 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 Robert Bean against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2016/62/92321/EO, dated 11 July 2016, was refused by notice dated 8 December 2016.
  - The development proposed is the re-contouring of land to provide adequate surface water drainage and improved land quality through the importation of suitable inert fill material.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are: (i) whether the proposed development is inappropriate development in the Green Belt; (ii) the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and (iii) if the development is inappropriate, 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

### *Inappropriate development*

3. Paragraph 90 of the National Planning Policy Framework (the Framework) explains that engineering operations are not inappropriate development in the Green Belt provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.
  4. The site comprises of two agricultural fields used for pasture, which have at one time been suitable for growing crop. The appellant asserts that the proposed development is necessary to improve land drainage at the site and to maximise the agricultural efficiency of the land. While the land would not be temporarily available for agricultural purposes, the appellant farms this and surrounding land and intends to continue doing so. The proposed works all fall under the remit of an engineering operation, subject to consideration of the effect of the proposal on the openness and purposes of the Green Belt which shall decide whether or not the development is inappropriate.
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### *Openness and Purposes of the Green Belt*

5. The Framework sets out 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.
6. The character of the landscape is one of rural fringe. The site is generally enclosed mature established hedgerows and trees on the southern and eastern boundaries. A dense wood next to a disused railway line forms the northern boundary. The north-western boundary is, however, more open and there are glimpses from Cliffe Lane and the vehicular access to the farmstead of the existing landform. This slopes from south to north. Public footpath SPE/46/20 also allows uninterrupted views of the site as it crosses the land and into the woods. This is a well-trodden route.
7. Ground levels vary across the site. Thus, the proposal would result in an average change of roughly 1.5 metres, with a maximum change of about 3 metres. This remodelling would result in a loss to the openness of the land. Also, the type and nature of equipment which would be required to carry out the works along with the stockpiling of top soil would change the current tranquil setting that the land affords. The effects of these would be limited to the period of work, with the site later returned to pasture. Over time the proposal would relate well to the undulating landscape which surrounds the site and it would continue to act as a green buffer. However, the Framework does not seek to make a distinction regarding the level of harm through a reduction in Green Belt openness. It would be a harm to the Green Belt, which I give substantial weight as directed by paragraph 88 of the Framework.
8. While the site is open, the proposal would not result in a large built-up area being formed. Insofar as safeguarding the countryside from encroachment, the land is generally well contained by hedgerows, trees and a woodland. Also, it would not appear, based on the proposed gradients, as a man-made element. It would also return to be open. Accordingly, the proposal would not result in any encroachment beyond the site's boundaries into the adjoining countryside or lead to an urbanising effect on the site or the wider area.
9. On this basis, I conclude that the proposal would not be at odds with the purposes of including land in the Green Belt as set out in paragraph 80 of the Framework. I also conclude that the proposal would not preserve the openness of the Green Belt, albeit the effects would be moderate and temporary given the fundamental aim of Green Belt policy set out in paragraph 79 of the Framework, is to keep land permanently open. Nevertheless, this is a Green Belt harm that means the proposal would be inappropriate development in the Green Belt. As such, conflict would arise with paragraph 90 of the Framework.

### *Other considerations*

10. Notably, the land was not unduly wet or boggy at the time of my visit, but this was during the summer not long after a period of particularly warm weather. Still, the Council accept that the land to the eastern side of the site suffers from poor drainage. I gather the land is typically wet and not usable for up to half the year; livestock become stuck, cut off and can be destroyed; and health and safety issues arise from the use of agricultural equipment due to the site's steep gradient. These all, I am certain, limit the use of the land for agriculture and I recognise the appellant's aspirations to increase the land's productivity.

11. Furthermore land drains, on their own, are likely to quickly silt up, which would negate any short-term benefit from just installing drainage. However, equally I cannot be certain, due to the lack of substantive details, that the combination of a herringbone drainage system and inert self-draining material would allow the land to drain more easily and are the minimum scope of work necessary to provide a long-term solution. The proposal would use a sizeable amount of inert waste material and there are no assurances that fill material would come from local builders disposing of hard-core and sub-soil. Moreover, I am not persuaded, given the absence of substantive evidence, that this material could not be disposed at a landfill in accordance with saved Policy WD4 of the Kirklees Unitary Development Plan (UDP) or that the proposal would drive waste up the waste hierarchy set out in the National Planning Policy for Waste.
12. So, while the proposal would directly lead to a more effective and fuller use of this Green Belt land for agriculture, aside to any issues caused by the adjoining land, I am not satisfied that the proposed land raising is absolutely necessary. I therefore attach a moderate weight to the improved agricultural conditions within my overall assessment of the appeal scheme.
13. The existing land is open and undulating, although views from outside the site are not widespread. Consequently, while it forms a pleasant outlook, its value is not high. The proposal would lead to some harm to visual amenity for the period in which the works take place. However, the landform would be restored with the profile that is not universal. This is broadly consistent with the area and with saved UDP Policy WD5. I give this a neutral weight.
14. In tune with paragraph 81 of the Framework, there is a public footpath across the site which connects to a wider network. I gather footpath users often need to deviate away from the designated route to avoid large areas of standing water. The existing footpath would be temporarily diverted, but once finished the public footpath would not be subject to standing water. This would allow users' to access the land, providing recreation opportunities. As this would accord with saved UDP Policy R13 and paragraph 81 of the Framework, I attach this consideration a limited positive weight.
15. Paragraph 109 of the Framework sets out that *the planning system should contribute to and enhance the natural and local environment by: protecting and enhancing valued landscapes; and minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity*. The Wildlife Survey confirms that the existing sparse hedgerow and Oak trees do not offer a good wildlife habitat and are subject to soaking. Although they would be removed, and the watercourse culverted, a more substantial hedge and native trees would be planted at intervals in the hedge. The route and flow of the watercourse would not change. Providing the existing hedgerow and trees are removed between August and February, there would be no harm to the conservation status. Thus, the proposal would result in a net gain to biodiversity which would accord with saved UDP Policies WD1 and WD5, along with paragraph 109 of the Framework. I attach this moderate positive weight.
16. Vehicular and pedestrian access and egress to and from the site would be directly out onto Cliffe Lane. The access would join the highway on a bend which has a hedgerow on the northern side. This would be trimmed back to allow improved sight lines in either direction. This is important due to the rising nature of Cliffe Lane to the east. I recognise the appellant aims to minimise nuisance from traffic movements by planning delivery times, the

number of movements, implementing a strict monitoring regime and the control of vehicles entering and egressing and travelling across the site. I also note dust suppression measures would be operated, works would be phased and the public footpath would be diverted during phase 2. Collectively I attach these matters a limited positive weight, given the requirements of saved UDP Policies WD1, WD5, EP4, T10 and R13.

17. I attach the creation of employment opportunities a limited positive weight, given that they would be for a temporary period.

### **Conclusion**

18. The Framework clearly sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Even though there would be no conflict with the purposes of including the land in the Green Belt, the proposal would be inappropriate development in the Green Belt and result in a loss of openness. By definition this is harmful and I attach these harms substantial weight as required by paragraph 88 of the Framework. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
19. My analysis leads me to attach a moderate weight to agricultural and biodiversity benefits; limited weights to employment and recreation opportunities along with highway and site management points. A neutral weight is given to the visual amenity of the landscape. I have considered matters put before me in favour of the scheme by the appellant, however I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the proposal does not represent sustainable development.
20. For the reasons set out above, I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR