
Appeal Decision

Site visit made on 9 December 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/P4225/C/19/3230313

**Land known as Fishing Lodges on the Eastern Side of Huddersfield Road
And To The South Of Smithy Green, Newhey, Rochdale OL16 3TG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Graham Tonge against an enforcement notice issued by Rochdale Metropolitan Borough Council.
 - The enforcement notice was issued on 4 June 2019.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission the material change of use of the land from a recreational fishery to a mixed use as a recreational fishery and the siting of a static caravan for residential use.
 - The requirements of the notice are:
 - (a) Cease the use of the Land for residential use;
 - (b) Remove the static caravan from the Land;
 - (c) Remove from the Land all stands, blocks and all other associated components used to station the static caravan;
 - The period for compliance with the requirements is nine months.
 - The appeal is proceeding on the grounds set out in section 174(2)[a] of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (a)

Main Issues

2. The site falls within an area of Green Belt. Accordingly, the main issues are:
 - Whether the proposal is inappropriate development within the Green Belt for the purposes of the Framework and development plan policy; and
 - Its effect on openness and the purposes of including land within it; and
 - The effect of the proposal of the proposal on the character and appearance of the area; and
 - 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.

Whether inappropriate Development in the Green Belt

3. The National Planning Policy Framework (the 'Framework')(2019) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145. In addition, paragraph 146 identifies that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One of the forms of development identified includes e) material changes in the use of the land (such as changes of use for outdoor sport or recreation...).
4. Policy G4 of the Rochdale Adopted Core Strategy (RACS)(October 2016) seeks to protect from development identified areas of Green Belt by restricting development to those limited types of development which are deemed not to be inappropriate by national planning policies unless very special circumstances can be demonstrated.
5. The appellant asserts that exception b) within paragraph 145 of the Framework is of relevance as the caravan is intended for use in connection with an established outdoor recreational activity. Paragraph 145 b) indicates that the construction of new buildings will not be inappropriate if they amount to the provision of appropriate facilities (in connection with the existing use of land or change of use) for...outdoor recreation...; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. However, the breach is identified as 'the material change of use of the land from a recreational fishery to a mixed use as a recreational fishery and the siting of a static caravan for residential use' and does not involve the erection of a building. Accordingly, paragraph 145 b) is not relevant in this instance.
6. The caravan is located between two fishing lakes, adjacent to a public footpath. The appellant advises that the caravan provides accommodation for the bailiff who provides 24 hour security and who would supervise the site and issue permits. It is asserted that this would improve the recreational offer with the resultant benefit to the local economy.
7. The appellant asserts that the caravan is required to protect the site from thieves, fly tippers and drug takers. However, I have not been provided with police reports or any other substantive evidence that crime is an issue at the site. Furthermore, I am not persuaded that alternative measures could not be employed to deter would-be offenders. Whilst I agree that fishing would fall to be considered under paragraph 146 e), I am not persuaded that it is necessary for a bailiff to live at the site on a full time basis or that the residential use of the caravan would be for the purposes of outdoor recreation.
8. The caravan occupies a prominent position in an elevated location which is clearly visible from the public footpath. In spatial terms, the caravan occupies a space which was previously free of structures and as such I consider that the caravan results in a loss of openness which, given its prominent location, harms the Green Belt and conflicts with the purposes of including land within it. Consequently, the caravan constitutes inappropriate development in the Green Belt, contrary to Policy G4 of the RACS and the Framework.

Character and appearance

9. Policy P2 of the RACS seeks to protect and enhance the borough's character, including the countryside. Although bound by mature vegetation, the site has an open character with views to and from the adjacent footpath. Although the caravan is set away from the road, given its close proximity to the footpath it appears as a prominent, incongruous feature, which diminishes the character and appearance of the area, contrary to Policy P2. Landscaping and the colour of the caravan does little to help it assimilate into the landscape.
10. I acknowledge that caravans are often used to provide accommodation in association with farming and recreational uses. However, each case must be considered on its own merits and the use of caravans elsewhere does not justify the appeal scheme.

Other considerations

11. The appellant advises that the fishing lakes contain valuable fish and that further investment in the site can only be made if a full time bailiff can be accommodated at the site. However, as set out above, it has not been demonstrated that crime is an issue at the site or that alternative means of protecting the site cannot be achieved. As such, I attach limited weight to this matter.
12. The appellant has drawn my attention to the aims of the Framework in terms of building a strong, responsive and competitive economy. I acknowledge the benefits that the employment of one person would make to the local economy and attach this modest weight. Whilst I accept that there are health benefits associated with fishing, fishing at the site could continue following the removal of the caravan. I therefore afford this negligible weight.

Other Matters

13. The appellant asserts that there is adequate parking, an existing satisfactory vehicle access and that the caravan is at low risk in terms of flooding. Whilst I acknowledge the Council has not raised concern in relation to these matters, the absence of objection does not weigh in support of the appeal scheme.

Ground (a) Conclusion

14. The Framework sets out the general presumption against inappropriate development within the Green Belt. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
15. The proposal would be inappropriate development in the terms set out in the Framework and lead to a limited loss of openness to the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be harm to character and appearance of the area.

16. The other considerations which arise do not clearly outweigh the totality of the harm. Consequently, very special circumstances do not exist and the proposal would conflict with the Framework and with Policies G4 and P2 of the RACS. Therefore, for all of the reasons given above I conclude that the appeal should be dismissed.

Conclusion

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

M Savage

INSPECTOR