



Appeal Decision

Site visit made on 12 January 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2021

Appeal Ref: APP/H1033/C/20/3259090

The Land East of Kirkstones, Garrison Road, Birch Vale

- 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 Green against an enforcement notice issued by High Peak Borough Council.
- The enforcement notice was issued on 12 August 2020.
- The breach of planning control as alleged in the notice is the creation of an area of hardstanding for the purposes of a helipad and the creation of a hardstanding area for the purposes of the parking of vehicles and the storage of trailers and vehicles.
- The requirements of the notice are:
Restore the Red Land to its condition before the breach took place by:
 - 5.1 Removing the hardstanding and materials which has been constructed, identified at paragraph 3.1 from the land.
 - 5.2 Reseed the ground with grass seed.
- The period for compliance with the requirements is:
 - 6.1 With respect of paragraph 5.1 within 2 months from the date this notice takes effect.
 - 6.2 In respect of paragraph 5.2 within 1 month of compliance with paragraph 6.1.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation.

The appeal on ground (c)

1. The ground of appeal is that the matter alleged does not constitute a breach of planning control. On the appeal form the appellant states that the second area of hardstanding is for the purposes of parking of trailers and vehicles and it is his contention that this does not constitute a breach of planning control. There is no argument presented under ground (c) with reference to the area of hardstanding for the purposes of a helipad.
2. Class B of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) relates to agricultural development on units of less than 5 hectares. Where the development is reasonably required for the purposes of agriculture within the unit, the provision of a hard surface on agricultural land comprised in an agricultural unit of not less than 0.4 hectares but less than 5 hectares is permitted. The appellant contends that the second area of hardstanding for the purposes of parking of vehicles and storage of trailers and vehicles and the associated access are required to fulfil the agricultural and maintenance needs of the site. It is argued that the hardstanding is reasonably necessary to store

agricultural trailers, vehicles and other paraphernalia required to undertake agricultural tasks.

3. However, in this particular case there is insufficient evidence to suggest that the land was in use for agricultural purposes on a unit of less than 5 hectares when the hard standing areas were installed. It is my understanding that the land may have been used for grazing some livestock, including sheep and alpacas, but the nature of any agricultural activity is unclear. In addition, some of the hardstanding area is being used for parking vehicles which do not seem to be associated with any agricultural activity but may be associated with the helicopter business.
4. Consequently, there is insufficient evidence before me that the hardstanding areas are reasonably required for the purposes of agriculture within a unit of less than 5 hectares. Therefore, the appeal on ground (c) fails.

The appeal on ground (a)

5. The ground of appeal is that planning permission should be granted. The appeal site is in the Green Belt and therefore main issues are:
 - whether the development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
 - the effect on the openness of the Green Belt and the purposes of including within it;
 - the effect on the character and appearance of the area; and
 - if the development 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 it.

Inappropriate Development

6. The Framework attaches great importance to the Green Belt and inappropriate development is, by definition, harmful to the Green Belt and should not be approved except where there are very special circumstances. When determining applications substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt by way of inappropriateness, and any other harm, is clearly outweighed by other considerations.
7. The Framework states that engineering operations are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The creation of the areas of hardstanding would constitute engineering operations. My conclusions on the next issues, their effect on Green Belt openness and purposes and the effect on the character and appearance of the area, will determine whether or not the development is inappropriate.

Green Belt Openness and Purposes

8. The hardstanding areas have a pale gravel surface which contrasts with the grass surroundings. In addition, one of the hardstanding areas is used for

storing trailers, vehicles and other paraphernalia and the other for a helipad. In these respects I conclude that the development would not preserve the openness of the Green Belt.

9. Furthermore, the development impacts on the purpose of safeguarding the countryside from encroachment. Although the effects are moderate, on the basis that the fundamental aim of Green Belt policy, as set out in the Framework, is to keep land permanently open, they would be sufficient to result in the development being inappropriate development in the Green Belt.

Character and Appearance

10. The appeal site is located within the Settlement Valley Pastures Landscape Character Area according to the Council's adopted Landscape Character Supplementary Planning Document SPD5 March 2006 (the SPD). In this area the landscape is noted for its small nucleated settlements and scattered stone farmsteads with stone slate roofs which are generally dark in colour. The SPD advises that the impact of hardstanding on the landscape should be considered including colour, brightness and reflectivity and how it would appear from a distance. The hardstanding areas contrast greatly with the relatively dull and dark tones of the adjacent fields and other built development in the vicinity.
11. Furthermore, as a consequence of its colour and encroachment into the field in a relatively uniform way, the development draws visual attention from along the nearby public right of way. It contrasts with the remaining undeveloped field and wider countryside area, appearing as a visually prominent and intrusive development, incongruous within its immediate and wider surroundings.
12. Therefore, on this issue I conclude that the development is harmful to the character and appearance of the area, contrary to Policies EQ2 and EQ3 of the High Peak Local Plan Adopted April 2016, the SPD and the Framework. Among other objectives these seek to protect, enhance and restore the landscape character for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the area and ensure that new development is strictly controlled.

Other Considerations

13. The appellant's main argument in support of the development is that very special circumstances exist that outweigh the harm to the Green Belt. In this case it is argued that both areas of hardstanding are used for the appellant's helicopter refuelling business which provides a service to a number of different users, including Mountain Rescue, Police and Air Ambulance. The appellant considers this is important to the region, providing vital support to the emergency services.
14. The creation of a helipad is not identified as a facility required to facilitate sustainable rural community needs according to Policy EQ3 of the LP. Furthermore, whilst the policy does support development associated with agriculture, there is insufficient evidence before me that there is an agricultural enterprise to support which requires a large hardstanding area.
15. The evidence before me shows that the helipad is used for commercial operations, but there is insufficient clear evidence that the facility is required for emergency purposes and indeed there is contradictory evidence in this

regard. Therefore, it is unclear to me whether the emergency services requested use of the helipad or whether it has the potential to be used for emergency or training purposes. In the absence of more compelling evidence I conclude on this issue that very special circumstances have not been satisfactorily demonstrated.

Conclusions

16. With respect to the appeal on ground (a) the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Although in this case the effects on openness and the Green Belt purpose of safeguarding the countryside from encroachment would be moderate substantial weight should still be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm identified is clearly outweighed by other considerations.
17. I give limited weight to the argument advanced by the appellant with regard to the need for and use of the helipad. I have also found harm to the openness of the Green Belt and character and appearance of the area to which I give significant weight. Therefore, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
18. For the reasons given above the development is contrary to Policy EQ4 of the LP and the Framework and appeal on ground (a) fails.

The appeal on ground (g)

19. The ground of appeal is that the time given to comply with the requirements is too short. The periods specified in the Notice would be sufficient to remove the hardstanding and materials and reseed the ground with grass seed. Given the nature of the works required to remove the hardstanding it is unlikely that particularly detailed planning or using specialist workers or machinery will be required. Therefore, given the continuing harm caused by the development I find no reason to change this compliance period to remove the hardstanding and materials.
20. However, re-seeding the ground with grass seed would most effectively take place during the first available planting season which in the case of grass land is September to mid-November. Consequently, in this case it is suitable to vary the requirements of the enforcement notice with respect to the reseeded of the ground.

Formal Decision

21. The enforcement notice is varied by the deletion from paragraph 6.2 of the words "within 1 month of the compliance with paragraph 6.1" and the substitution therefore of the words "during the first planting season following compliance with paragraph 6.1."
22. Subject to this variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips INSPECTOR