



Appeal Decision

Site Visit made on 3 August 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 27th August 2021

Appeal Ref: APP/R2330/W/21/3274074

18 Haslingden Old Road, Blackburn, Lancashire BB1 2DY

- 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 T Jamieson (Tailwaggers) against the decision of Hyndburn Borough Council.
 - The application Ref 11/20/0472, dated 23 December 2020, was refused by notice dated 27 April 2021.
 - The development proposed is erection of replacement kennels building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published in July 2021. As this pre-dated the appeal decision, the parties have been provided with the opportunity to comment on the implications of the revisions to their cases and I have taken account of the revised Framework in my determination of the appeal.

Main Issues

3. The main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt; and
 - iii) If the proposal is inappropriate development, whether the harm by reason of inappropriateness or any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate development

4. No 18 is a semi-detached property that forms part of a linear ribbon of development with dwellings sited close to the road, and long plots extending away and sloping down into the undeveloped Knuzden Brook corridor. The appeal site is in use as a kennels and cattery business. It is in the Green Belt.

5. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. Policy DM34 of Hyndburn Borough Council Local Plan Development Management DPD Adopted January 2019 (the DMPDP) sets out the types of new buildings that may be permitted in the Green Belt and the countryside in certain circumstances. This is reasonably consistent with Paragraph 149 of the Framework, which states that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of listed exceptions. These include 149 d) the replacement of a building, and 149 g) limited infilling or the partial or complete redevelopment of previously developed land. I will deal with these in turn.

a) The replacement of a building

6. Framework Paragraph 149 d) relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. There is no definition of 'materially larger' in the Framework or the local plan, such that this will be a matter of judgement depending upon the circumstances of the case.
7. In this case, both the existing and the proposed building would be used as dog kennels. There is no dispute that the new building would be in the same use as the one it would replace. Therefore, subject to it not being materially larger, it would not be inappropriate development.
8. Based on the footprints of the existing and proposed buildings, the proposal would be more than double the floor area of the existing building. The proposal would be a tall building with eaves height of 4m and roughly 6.6m to the pitched roof ridge. Neither the eaves nor the ridge height of the existing building is specified. However, based on the evidence and what I saw, the proposal would apparently be at least twice as tall as the existing building. Taking account of its much greater footprint and height, the proposal would be significantly larger than the existing building including in terms of its dimensions, scale and volume.
9. Therefore, while the proposed building would be in the same use as the building it would replace, it would be materially larger. It would not meet the exception in Paragraph 149 d) of the Framework.

b) Previously developed land (PDL), including effects on openness

10. Framework Paragraph 149 g) relates to the limited infilling or the partial or complete redevelopment of PDL, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. The Framework defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the developed land. Dog kennels and catteries are not excluded from the definition. Thus, the proposal would be the redevelopment of PDL.
11. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both a spatial and a visual aspect.
12. The appeal building is part way along the plot to the rear of several other buildings, including kennels, constructed to either side of a long central hard surfaced driveway and yard area. There is also car parking for several vehicles. The existing building is low single storey and it is at a lower ground level than

- the nearby kennel buildings. Nevertheless, when looking from the road, it is prominently located and it is visible between the buildings in the foreground.
13. The proposal would be nearly twice as long as, and it would extend beyond the rear of, the existing building into an area of grassland used to exercise dogs. The larger footprint of the proposal would result in a small spatial loss of openness.
 14. The proposal would have a plastic coated corrugated steel roof and smooth plastic coated steel walls. The gable end facing the road would have a large central entrance over 4m in height with windows to either side at ground and first floor levels. There would be a large roller shutter door, over 4m in height, in the opposite gable end. It would be bulky and industrial in appearance and it would not relate well to more modest buildings nearby or to its rural surroundings.
 15. Viewed from the front of the site, the bulky proposed building would be prominent and conspicuous, interrupting views across the undeveloped and wooded brook valley and countryside. There are buildings and hardstanding areas to the rear of other dwellings along the road. However, the proposal would protrude beyond the nearest neighbouring buildings and, taking account of the visual openness to either side, the proposal would not be screened or assimilated by built development. It would be conspicuous when viewed from locations elsewhere in the area including to the rear. There would be a significant visual impact as a result of the increased quantum of development and the incongruous appearance of the proposal. Consequently, there would be a small loss of openness of the Green Belt in this location.
 16. Therefore, notwithstanding its status as PDL, there would be both a spatial and visual loss of openness, albeit it relatively small, of the Green Belt. The proposal would have a greater impact on the openness of the Green Belt than the existing development.

c) Findings

17. I have found that the proposed building would be inappropriate development in the Green Belt. It would not be the replacement of a building in the same use and that would not be materially larger than the one it replaces. It would not be the redevelopment of PDL which would not have a greater impact on the openness of the Green Belt than the existing development. Consequently, it would conflict with Policy BD1 of the Hyndburn Borough Council Core Strategy Adopted January 2012 (the CS) and DMDPD Policy DM34. It would conflict with the policies in the Framework that protect the Green Belt.

Other Considerations

18. The appeal site is a well established commercial kennels and cattery. Animals are housed individually in kennels with small runs. The proposal would allow dogs to be supervised communally in a larger indoor environment, including for purposes of day care and longer-term kennelling. This would enable the business to respond and adapt to changing requirements of pet owners. In this regard, there is policy support for existing business including, at paragraph 84 of the Framework, the sustainable growth and expansion of all types of business in rural area. There would also be welfare benefits for dogs from socialisation and activity, thereby reducing the boredom and anxiety associated

with long periods of time spent alone in kennels. However, there is little to demonstrate that similar benefits could not be delivered by alternative schemes without the harm that I have found. Therefore, the business and welfare benefits weigh in favour of the proposal to a limited degree.

19. Similar proposals have been granted planning permission elsewhere in the area, although not in the Green Belt. No details of these schemes have been provided. It has not been demonstrated that they have adversely affected the appellant's business or that it would not be viable in the absence of the proposal. His desire to adapt and remain competitive is understandable, but there is little compelling evidence that schemes elsewhere are directly comparable to the proposal or that they provide a justification for it. Therefore, they do not weigh in favour of the scheme.
20. Concerns have been raised in relation to the impact of the existing business on the living conditions of neighbouring residential occupiers, with particular regard to noise, disturbance and odour. Dogs inevitably do bark in kennelled environments and certainly barking dogs were clearly audible at the time of my visit. Although I am not aware of complaints or investigations by the Council's Environmental Health Officer in this regard, I have no reason to dispute that the noise of the dogs disturbs the neighbours. However, the proposal would not increase the number of dogs and it would be likely to reduce the level of noise since dogs would spend less time in isolation. At the time of my visit, the site was clean and it did not smell and I see no reason why the proposal would create significant adverse odours. The third party concerns are neutral factors.

Green Belt Balance

21. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would result in a small loss of openness. The Framework advises that substantial weight must be given to any harm to the Green Belt.
22. The Framework states that inappropriate development should not be approved except in very special circumstances. In this case there are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and loss of openness. Consequently, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

23. For the reasons set out above, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR