

Appeal Decisions

Site visit made on 17 August 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2021

Appeal A - Ref: APP/N3020/W/21/3272020

Ramper Covert Woodland next to Lay By, Mansfield Road, Arnold NG5 8PH

- 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 Stuart Mills of Mills Extreme Vehicles Ltd against the decision of Gedling Borough Council.
 - The application Ref 2020/0552, dated 12 June 2020, was refused by notice dated 26 March 2021.
 - The development proposed is described as: 'proposed change of use to 20 pitch campsite, alteration to the existing access, siting of a mobile WC block and a communal Tipi between May and September until 2023'.
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Appeal B - Ref: APP/N3020/W/21/3272871

Ramper Covert Woodland next to Lay By, Mansfield Road, Arnold NG5 8PH

- 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 Stuart Mills of Mills Extreme Vehicles Ltd against the decision of Gedling Borough Council.
 - The application Ref 2020/0549, dated 12 June 2020, was refused by notice dated 26 March 2021.
 - The development proposed is described as: 'change of use to natural burial ground and modifications to the access'.
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Appeal C -Ref: APP/N3020/W/21/3272865

Ramper Covert Woodland next to Lay By, Mansfield Road, Arnold NG5 8PH

- 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 Stuart Mills of Mills Extreme Vehicles Ltd against the decision of Gedling Borough Council.
 - The application Ref 2020/0645, dated 9 July 2020, was refused by notice dated 9 April 2021.
 - The development proposed is described as: 'shed for forestry work and ground maintenance, storage of machinery and equipment and welfare facilities for workers'.
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Appeal D - Ref: APP/N3020/W/21/3276147

Ramper Covert Woodland next to Lay By, Mansfield Road, Arnold NG5 8PH

- 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 Stuart Mills of Mills Extreme Vehicles Ltd against the decision of Gedling Borough Council.
 - The application Ref 2021/0338, dated 28 March 2021, was refused by notice dated 28 May 2021.
 - The development proposed is described as: 'temporary siting of a double tipi and a WC trailer for use under 28 day permitted development rights between May 31st and October 31st.
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Decisions

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is dismissed.
3. Appeal C – The appeal is allowed, and planning permission is granted for the erection of a shed for forestry work and ground maintenance, storage of machinery and equipment and welfare facilities for workers at Ramper Covert Woodland next to Lay By, Mansfield Road, Arnold NG5 8PH in accordance with the terms of the application, Ref 2020/0645, dated 9 July 2020, and the plans with it, subject to the conditions in the attached schedule.
4. Appeal D – The appeal is dismissed.

Procedural Matters

5. For clarity, as there are various versions of the site address contained within the appeal submissions, I have for consistency, as the schemes relate to the same site, used the same address for all 4no. appeals, using the details contained on the appeal and application forms. Whilst there is reference to 'Mills Developments' on the application forms for Appeals B and C, I have used the company details supplied on the appeal form for consistency. I have also used the full version of the company name rather than the abbreviated version for precision as it is contained on the application form for Appeal C.
6. During my visit, the double tipi, the mobile WC block/trailer and various other items and structures were located on the site. However, the proposed access and car parking area were not implemented. I have dealt with Appeals A and C on this basis.
7. Policy LPD 19 of the Council's Local Planning Document, Part 2 Local Plan 2018 (LP) has not been cited on the Council's decision notice in respect of Appeal B. However, it has been provided with the Council's Questionnaire. I will therefore not prejudice any party in taking LP Policy LPD 19 into account in the determination of Appeal B.
8. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of the appeals. The main parties have had an opportunity to comment on the significance of the changes, but no comments have been received. Therefore, I will not prejudice either main party by taking the Framework into account in reaching my decision.
9. These decisions relate to 4no. separate applications for the same site. However, to reduce repetition and for the avoidance of doubt, I have dealt with the 4no. appeals together.

Main Issues

10. The main issues of this appeal are:
 - i. whether the proposed development amounts to inappropriate development in the Green Belt for the purposes of the Framework and the development plan;

- ii. the effect of the proposed development on openness;
- iii. the effect of the proposed development on highway safety, with particular regard to Appeal D;
- iv. the effect of the proposed development on protected trees, with particular regard to Appeals C and D;
- v. if the proposal is inappropriate development, whether 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

11. The appeal site for all 3no. appeals amounts to an area of land totalling some 0.98 hectares which comprises an area woodland with access obtained from Mansfield Road, where the land levels increase towards the rear of the site due to the surrounding topography.
12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 149 of the Framework advises that the construction of new buildings should be regarded as inappropriate development which, by definition, is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 149 and 150 set out various exceptions to this, including paragraph 149 b) 'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it'.
13. Paragraph 150 b) lists engineering operations; and paragraph 150 e) sets out that material changes in the use of land (such as changes for outdoor sport and recreation, or for cemeteries and burial grounds). In both instances, they would not be inappropriate provided they preserve Green Belt openness and do not conflict with the purposes of including land within it. LP Policy LPD 24 defines camping as tourist accommodation and states that planning permission will be granted providing the site is not within the Green Belt or accords with Green Belt policy.
14. The proposals in Appeals A and D are generally similar, as they involve the siting of a communal tipi and mobile WC block/trailer, albeit for slightly different times of the year. In the case of Appeal A, the campsite would be limited to 20no. pitches and would involve the provision of a new access and formalised car parking area, whilst Appeal D is not seeking consent for a campsite as it is relying on permitted development (PD) rights for temporary uses of open land for up to 28 days per year. Appeal D is also proposing to use the existing access and informal parking arrangements within the site.
15. Appeal B differs, in that it proposes a natural burial ground. However, as paragraph 149 relates solely to buildings, the proposal is for a change of use and consequently I consider that paragraph 150 is more applicable. In any

- event, both paragraphs 149 and 150 of the Framework require openness to be preserved.
16. Appeal B has applied a similar approach to the new access and car park arrangements to Appeal A. This comprises operational development within the meaning of Section 55 of the Town and Country Planning Act 1990. As the development also includes the change of use of land, paragraph 150 of the Framework is relevant.
 17. Paragraph 149 a) of the Framework lists a building for agriculture and forestry as an exception, which Appeal C is proposing. The appellant has explained that the building would be used to store a commercial lawn mower, tractor and trailer, shredder, chipper, log splitter, sprayer, hand tools such as spades and post rammer, chain saws, materials, log drying, fuel, personal protective equipment and spare parts. I am also advised to a legal requirement for welfare of workers. It would be used for forestry purposes in association with the forestry use of the site. The Framework does not specify any restrictions relating to the size or location of the building. Thus, the proposal outlined in Appeal C would accord with the exception listed at paragraph 145 a) of the Framework.
 18. Consequently, as I have not found that Green Belt harm would arise in the case of Appeal C, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required to make the proposed development acceptable.
 19. However, the proposals in Appeals A, B and D would not be inappropriate development unless it would have a greater impact on Green Belt openness and purposes. My conclusions on the next issue will, therefore, determine whether or not the development proposed in Appeals A, B and D is inappropriate.

Openness

20. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. The Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a development on Green Belt openness. It states that openness is capable of both spatial and visual aspects.
21. The site in all appeals represents a sizable area with a large portion screened from trees that form the woodland. However, in the case of Appeals A and B, I find the front of the site comprising the new access and formalised car parking areas would be more visible from the road and would represent a notable area. The hard standing would also facilitate the parking of vehicles that, whilst not constituting an act of development in itself, adds to the loss of openness on an intermittent basis when the area of car parking is in use. Additionally, in the case of Appeal A and D, the pitching of tents would also be on an intermittent basis.
22. Appeal D only seeks to facilitate camping on the site through existing PD rights. However, the siting of the tipi, WC block/trailer and other associated features would have a degree of permanence, albeit for only part of the year. This

would have a moderate harmful effect on openness. In the absence of a reliable mechanism, to ensure that camping is only limited to 28 days during the period between 31 May to 31 October, I consider that the appeal scheme could lead to additional camping on the site, in excess of the PD limitation. In this instance a suitably worded condition to ensure that otherwise unacceptable development could be made acceptable is not possible.

23. The appellant has indicated that no headstones would be required for a natural burial ground as proposed in Appeal B, as the land would be returned to its previous condition after the burial. I am not confident that this element of the scheme could be controlled by condition. However, even if some low ground level structures were included with vases and flowers etc, the appeal site would nonetheless remain fundamentally open. Nonetheless, the alterations to the access and car parking areas as proposed in Appeals A and B would have a more permanent and urbanising effect.
24. For the above reasons, I conclude that Appeals A and B would have a substantive detrimental effect on the openness of the Green Belt, whilst Appeal D would result in moderate harm. As such, Appeals A and D would fail to accord with LP Policy LPD 24 and Appeals A, B and D would be contrary to the requirements of the Framework.

Highways

25. Nottingham County Council Highway Authority (the highway authority) have only raised concerns surrounding safety with regards to Appeal D, unlike Appeals A and B, which include a scheme for highways improvements that addresses the concerns of the highway authority. Additionally, there are no objections in respect of Appeal C. My attention has been drawn towards other accesses in the locality of the site. However, I do not consider that the identified existing examples provide the necessary justification to allow otherwise unacceptable development.
26. Whilst the Framework is silent on such matters, permitted development is development for which the principle has already been granted by secondary legislation. However, for the reasons that follow, I do not consider the PD fall-back position to be comparable. Thus, in the absence of substantive evidence to the contrary, the appeal scheme would give significant rise to potential vehicular conflict on the A60, particularly due to the high volume of traffic and the associated speeds, and the lack of any improvements to the existing access, including the provision of a ghost island on the carriageway that are required to provide necessary mitigation. The appellant has specifically chosen not to include a scheme for highways improvements on Appeal D. However, as Appeal D is being dismissed for other reasons, I have not needed to consider this matter further.
27. For the reasons given above, I conclude that the proposed development in Appeal D would significantly harm highway safety with particular regard to potential conflict between vehicles. This would be contrary to the highway safety aims of LP Policy 61 and the requirements of the Framework.

Protected trees

28. The site comprises mixed woodland, with trees within the site protected by Tree Preservation Orders¹ (TPOs). The Council's Arboricultural Officer (AO) has raised concerns only on this issue regarding Appeals C and D. The concern on Appeal D surrounds a lack of information on access improvements and the concerns on Appeal C surround the location of the proposed building.
29. The details surrounding the location of the building in Appeal C has been raised by the AO, particularly regarding its precise location. I accept that there is some ambiguity on the submitted drawings supplied with this submission. However, on the details provided and the findings on my site visit, it is highly likely that the area identified on the submission could accommodate the proposed building. Additionally, I note the suggested condition from the Council, requiring the submission of precise details of the siting of the proposed shed as a pre-commencement condition. In the case of Appeal C, a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.
30. With regards to Appeal D, the appellant has confirmed that the scheme under this appeal would involve no built development. Thus, I find there would be little implications on existing trees. In any event, as Appeal D is being dismissed for other reasons, I have not needed to consider this matter further.
31. For the reasons given above, I conclude that the proposed development in Appeals C and D would not significantly harm protected trees. This would accord with the habitat and visual amenity aims of LP Policy LPD 19 and the requirements of the Framework.

Other considerations

32. The Framework² seeks to support a prosperous rural economy, including the development of tourism in suitable locations that respect countryside character. The tourist accommodation would be provided in an attractive countryside location and relatively close to surrounding settlements. There is no good reason to take the view that the appeal site would not be successful in attracting visitors. I also acknowledge the possibility for tree planting on land outside the site, but in the appellant's ownership.
33. Furthermore, the proposed tourist site in Appeal A and D would bring trade to local businesses from visitors, helping to support the local economy. Additionally, the provision of a natural burial ground as proposed in Appeal B could provide similar economic benefits to associated local businesses. I also acknowledge that the development proposed in Appeals A, B and D would bring some social and economic benefits to the area through a number of associated jobs that would be created.
34. My attention has been drawn towards 2no planning applications³, although there is little detail surrounding the planning merits before this appeal. I have also had regard to the 2no previous appeals for the site⁴, but these are for

¹ TPOs: 000129 (Ramper Covert); N0005 and N0028 (Sherwood Estate/Kighill Road)

² Paragraph 84 of the Framework

³ 14/00637/CHU (Sheffield City Council) and 14/00637/CHU (Sunderland City Council)

⁴ APP/N3020/W/19/3243100 and APP/N3020/W/19/3234649

different forms of development to the cases before me. In all instances, they do not alter my conclusions on the main issues on this appeal.

35. With the exception of the harm to the Green Belt and highways safety in respect of Appeal D, the proposed developments in Appeals A, B and D would not have any other adverse impacts. However, this would only attract neutral weight in the overall determination of Appeals A, B and D.
36. Although, reference has been made to PD rights for temporary uses of open land for up to 28 days per year, with particular regard to Appeals A and D, there would be a need to erect the tipi, site the WC block/trailer and/or other associated structures the day before the camping and then take them down the following day. The proposal outlined in Appeal D would not be able to provide the camping element through PD rights and is therefore not comparable. I acknowledge the desire and impracticalities of erecting and dismantling the tipi on a regular basis, but this does not provide sufficient reason to allow its siting for the period applied for, in the face of the harm identified.

Other Matters

37. The appellant has raised concerns about the way the Council handled the applications, but this does not go to the planning merits of the case. I have considered these appeals on their own merits and concluded that the proposed development in Appeals A, B and D would be unacceptable for the reasons set out above.

Green Belt Balance

38. I have considered each development on its own merits and concluded that the schemes in Appeals A, B and D have harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt, albeit moderate in the case of Appeal D, and the conflict with the purpose of including land within it. Furthermore, the proposed development in Appeal D would have harmful implications regarding highway safety. Accordingly, there is conflict with local and national planning policy.
39. Having carefully considered the benefits of the proposals in Appeals A, B and D and all other considerations, I find that individually and cumulatively, they would not clearly outweigh the substantial weight given to Green Belt harm and other identified harm. As such, the very special circumstances needed to justify the respective schemes in the Green Belt do not exist. Therefore, the proposed development in Appeals A, B and D fails to comply with the Green Belt requirements in the Framework.

Conditions for Appeal C

40. The Council has suggested conditions which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within paragraph 56 of the Framework and the PPG. A condition surrounding the approved plans is required for certainty.
41. It is reasonable and necessary to attach pre-commencement conditions requiring the precise location of the building within the site and the submission of a tree survey/statement to ensure that no trees, particularly protected trees

are harmed by the development. It is also reasonable and necessary to define the use of the building to ensure that is used for its intended purpose.

Conclusion

42. For the reasons given above, I conclude that Appeals A, B and D should be dismissed, and Appeal C should succeed.

W Johnson

INSPECTOR

Schedule of Conditions for Appeal C

- 1) The development must be begun not later than three years beginning with the date of this permission.
- 2) The development shall be undertaken in accordance with the following list of approved plans: Site Plan; Location Plan (Location of building) and Proposed Elevations.
- 3) Prior to commencement of development precise details of the siting of the proposed shed shall be submitted and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No site clearance, preparatory work or development shall take place until a tree survey including tree protection measures and methodology statement has been submitted to the Local Planning Authority and has been approved in writing. The scheme for the protection of the trees shall be carried out in accordance with the approved details.
- 5) The shed hereby approved shall only be used for the purposes of maintenance of the Ramper Covert site only and for no other purpose.

**** End of Schedule****