



Appeal Decision

Site visit made on 2 August 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal Ref: APP/C2741/W/21/3275099

Country Park, Pottery Lane, Strensall, York, North Yorkshire YO32 5TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Miss Raquel Nelson against City of York Council.
 - The application Ref 21/00343/FUL is dated 2 February 2021.
 - The application sought planning permission for removal of conditions 7 and 8 of permitted application 12/03270/FUL to allow year round opening without complying with conditions attached to planning permission Ref 12/03270/FUL, dated 12 April 2013.
 - The conditions in dispute are Nos 7 and 8 which state that:
 - (7) *"No caravan on the site shall be occupied between 31 October in any one year and 1 March the succeeding year"*.
 - (8) *"No caravan shall be stored on the site between 31 October in any one year and 1 March in the succeeding"*.
 - The reasons given for the conditions are:
 - (7) *"To avoid the use of the caravans as permanent residences, which would not be acceptable to the Local Planning Authority in this location, and to protect the open character of the Green Belt"*.
 - (8) *"It is considered that such a use would constitute an unacceptable visual intrusion within the Green Belt"*.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. Apart from changes to paragraph numbering and one minor amendment, no major changes have been made to the Framework in relation to national Green Belt policy. As a result, given the nature of the refusal reasons and the main issue, on this occasion I consider that the publication of the revised Framework does not directly alter the assessment of this appeal. The relevant updated paragraph numbers have been used in the reasoning below.
3. There is no development plan for York, except for the saved policies YH9(C) and Y1(C1 and C2) of the Yorkshire and Humber Regional Spatial Strategy (RSS)¹. The saved policies relate to York's Green Belt.

¹ Saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013

4. The Council approved the Development Control Local Plan (DCLP) for development management purposes in April 2005. This document and its policies do not form part of a statutory development plan for the purposes of S38(6) of the Planning and Compulsory Purchase Act 2004, but can form material considerations, albeit of limited weight. In their evidence the Council refer to policies GB1 and V5 of the DCLP to which I afford limited weight.
5. In addition, the Council refers to policies EC4, EC5 and GB1 of the City of York Publication Draft Local Plan 2018 (PDLP), which was submitted for examination on 25 May 2018. Given its stage of preparation, I also afford limited weight to these emerging policies.

Main Issue

6. The main issue is whether the disputed condition is reasonable and necessary, having regard to the openness of the Green Belt and the purposes of including land within it.

Reasons

7. The appeal site is currently used as a caravan site with approximately 40 pitches between the months of March and October. The disputed conditions require the site to be closed from the October in one year until the March in the following year. Therefore, the removal of the disputed conditions would allow the caravan site to be open all year round. Consequently, the primary concern of the Council is that the removal of these conditions would have a more harmful impact on the openness of the Green Belt both in spatial and visual terms than the current arrangement.
8. National Planning Policy attaches great importance to Green Belts. As set out in paragraph 137 of the National Planning Policy Framework (the Framework), the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm and has both spatial and visual aspects.
9. In terms of the proposal's spatial impact, it is clear that given the increased likelihood of a greater number of caravans using the site that if it was open all year round that there would potentially be a greater spatial impact on the openness of the Green Belt than the existing development. While I note that the caravan site would not be full all of the time this does not necessarily mean that the proposal would not have an adverse spatial impact on openness at all. Consequently, I find that the proposal would potentially further reduce the openness of the Green Belt in spatial terms.
10. I also note the appellant's point that there are already several buildings on the site and that the pitching spaces are laid out with permanent hard surfacing with the relevant access roads also being paved or having a tarmac surface. However, even so, given that currently empty space would potentially be filled with additional caravans during the extra months, I find that the opening of the caravan site all year round would still be likely to have a greater spatial impact on the openness of the Green Belt, nonetheless.

11. For similar reasons I also consider that the proposal would lead to an encroachment of development into the open countryside albeit to a limited degree.
12. In relation to the visual impact of the proposal, given the site's location and the fact that it is bounded on all sides by high mature trees and vegetation, I consider it to be relatively self-enclosed and well screened from public view.
13. I note the Council's point that it would be more visible from Sheriff Hutton Road during winter months. However, given the distance of the appeal site from this vantage point, the fact that there is other development and high vegetation/trees between the site and the road, the presence of trees and hedgerows abutting the road, as well as the fact that many of the mature trees bounding the appeal site appear to be evergreens, I consider it highly unlikely that the site would be fully visible, even during winter months. As a result, I find that the proposal would have a neutral impact on the openness of the Green Belt in visual terms.
14. Even though the proposal would have a neutral visual impact on the openness of the Green Belt, it would cause harm to openness by spatially reducing it, nonetheless. It would also be at odds with the Green Belt purpose of safeguarding the countryside from encroachment. Consequently, the proposal would not preserve the openness of the Green Belt in conflict with paragraph 137 of the Framework. I therefore conclude that the proposal would represent inappropriate development in the Green Belt in conflict with the aims of the Framework. It would also conflict with the aims of policies GB1 and V5 of the DCLP and Policy GB1 of the PDLP.

Other considerations

15. The appellant has stated that the proposal would support a sustainable rural tourism business in accordance with the aims of paragraphs 81 and 84 of the Framework. They have also highlighted that given its location, that the proposal would provide an economic benefit to the village of Strensall. As a result, the proposal would also meet the aims of policies EC4 and EC5 of the PDLP. I therefore afford these considerations moderate weight in favour of the proposal.
16. The appellant has also stated that due to the COVID-19 pandemic there has been a significant increase in the demand for UK-based domestic holiday accommodation. However, even so, it would still be unlikely that this increase in demand would be concentrated solely during winter months. Furthermore, the appellant has not submitted any substantive evidence showing how their business has been affected and indeed whether there has been a significant increase in demand since lockdown ended.
17. I also note the written ministerial statement dated 14 July 2020. However, this refers to the temporary relaxation of such restrictions via a more discretionary approach to the enforcement of such conditions by the local planning authority. Moreover, no substantive evidence has been submitted to show how the appellant's business has been negatively affected by the pandemic. In any event, enforcement matters are not for me to consider as part of this s78 appeal. As a result, I afford this consideration limited weight.

Planning Balance and Conclusion

18. Paragraphs 147 and 149 of the Framework indicate that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework also sets out that any harm to the Green Belt should be afforded substantial weight.
19. In this context, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm. I have given limited or moderate weight to the other considerations cited in favour of the development. In my view, these would not clearly outweigh the substantial harm to the Green Belt. The very special circumstances necessary to justify the development do not therefore exist.
20. Accordingly, the proposal would conflict with paragraphs 147 and 149 of the Framework. As a result, I conclude that the disputed conditions are reasonable and necessary, having regard to the openness of the Green Belt and the purposes of including land within it.
21. For these reasons and having regard to all relevant matters I also conclude that the appeal should be dismissed.

C Coyne

INSPECTOR