



Appeal Decision

Site visit made on 3 November 2021

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2021

Appeal Ref: APP/Z4718/W/21/3278973

Land east of Hillock Farm, Dean Road, Holmfirth HD9 3XB

- 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 Charlie Batten, Down to Earth Tree Management, against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/91367 is dated 31 March 2021.
 - The development proposed is change of use from agricultural to storage and processing of timber, including improvement of field access, formation of access track and hardstanding and a purpose timber-built wood store.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is against the non-determination of a planning application. The Council's Committee Report and statement sets out that they would have refused planning permission for reasons relating to the Green Belt.
3. I have used the address provided on the appeal form and the Council's Committee Report in the heading above as this more clearly describes the site location than that provided on the application form.
4. During the course of the appeal, the appellant submitted a Review of Alternative Sites document. The appellant was not in a position to submit this information when the appeal was lodged because they submitted their statement of case before the Committee Report was prepared and the planning application was considered by the Planning Committee. The Council have had an opportunity to comment on this document. With this in mind, I do not consider that any party would be prejudiced by my acceptance of this evidence.

Background and Main Issues

5. The appellant previously operated their company from two sites. The appeal site was purchased on the understanding that the scheme would be permitted development as a forestry operation.
6. Following enforcement action, a planning application Ref 2019/93124 was submitted and refused due to the development's impact on the Green Belt. An enforcement notice was then served by the Council which was appealed. The appeal was dismissed, and the enforcement notice was upheld without

variation¹. In contrast to the previously refused planning application, the scheme proposes to remove the existing structures and erect a 'barn' structure.

7. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
- The effect of the proposal on the openness of the Green Belt; and
- Whether any harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

8. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. I agree with the main parties that the proposal does not fall under any of the exceptions listed in the Framework and would be inappropriate development in the Green Belt.

Openness

9. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
10. My attention has been drawn to the Council's Green Belt study in this regard. The appeal site was previously open agricultural land. I observed on my site visit that the site currently contains temporary containers and mounds of timber.
11. The proposal would have a visual and spatial impact upon the Green Belt as it would result in built development where there was previously none. The proposal including the large building along with the associated processing activities, access track and hardstanding would have a significant adverse spatial impact upon the Green Belt. This is because it would substantially increase the level of built development on a site which was formerly agricultural land.
12. In terms of the proposal's visual impact on the Green Belt, the access track is visible from Dean Road. The proposal would also be visible from wider distance views, for example from Bradshaw Road. The main bulk of the development would be located where there is a dip in the landscape and the existing belt of trees would help to screen the development. The recently planted trees and hedgerows would also help to reduce the proposal's visual impact upon the Green Belt, but they would take a number of years to fully mature. Therefore, the proposal would not be widely conspicuous from the surrounding area and would have a limited visual impact upon the Green Belt.

¹ APP/Z4718/C/21/3269672

13. Consequently, the development would result in the erosion of space where there was previously no built development. The scheme would have a significant adverse impact on the openness of the Green Belt, particularly spatially. As such, the proposal would conflict with the fundamental aim of Green Belt policy, as stated in the Framework, to keep land permanently open.

Other considerations

14. The appellant has set out other considerations which they consider amount to the very special circumstances required to justify the proposal.
15. Policy LP10 of the Kirklees Local Plan: Strategy and Policies (2019) (LP) and the Framework supports a prosperous rural economy. The appellant highlights that the Council's Green Belt assessment (2017) does not consider needs of rural businesses and the Council has not allocated land for such uses. I acknowledge that the ownership of the site provides future security to the business. In addition, most of the land in the appellant's ownership would remain in use for agricultural purposes and the land outside the planning application area would be used to graze sheep. I sympathise with the appellant's situation and accept that the business cannot offer its services without a suitable site which could result in unemployment for the company's staff. Nonetheless, based on the evidence before me, the development would not significantly result in an increase in jobs, and having regard to paragraph 84 of the Framework, the scheme would make limited contribution to the rural economy given its scale. I attach limited weight to these considerations.
16. I have considered the review of alternative sites which was based on a five-mile radius from the appeal site. Even in the context of the business's customer base location, as well as the desire to reduce the amount of transport of wood and employees live locally, the search area is extremely limited. Furthermore, no robust evidence has been submitted to demonstrate that transport costs dictate that a site further afield would undermine the viability of the business. I have not been provided with any detailed evidence showing the location of the customer base. Nonetheless, I recognise that other buildings may not be suitable or available given the nature of the business, including the associated noise, and the need for an open, vented barn. I give these considerations limited weight.
17. The appellant states that the operations proposed for the site provide an important contribution to broader sustainability objectives. In this regard my attention has been drawn to paragraphs 145, 152 and 158 of the Framework, as well as a legal judgement² and that the Council has declared a climate emergency.
18. The previously refused application proposed containers whereas this application proposes a large building. Nonetheless, I understand that this is in response to new legislation which is gradually phasing out the sale of 'wet wood'. This legislation seeks to encourage the use of cleaner fuels in the home which is partly aimed at ensuring a low carbon approach. The proposed building would allow the wood to be stored and dried before sale to comply with new legislation and would include solar panels to allow the site to operate largely off-grid. Furthermore, I acknowledge the beneficial uses accompanying the scheme including extensive tree and hedge planting which bring landscape and

² R (McLennan) v Medway Council 2019 EWHC 1738 (Admin)

biodiversity benefits. Compliance with local and national planning policy would be expected of any new development. Nonetheless, I recognise the need to comply with legislation as well as the above benefits and I attach limited weight to these considerations.

19. The design of the building would not be dissimilar to an agricultural barn and it would not look out of place in this location. However, the appeal site was previously a large open field which was absent of any built form. A sympathetically designed building which is in keeping with the character and appearance of the area would be expected of any new development and I give this consideration neutral weight.
20. Planning conditions have been suggested to limit the use of the site to the processing and storage of wood, to limit the extent of wood processing, and to remove built structures. These conditions seek to restrict the future use of the site, and protect the amenity of neighbouring properties. It would also be expected that the unauthorised built structures would be removed. The conditions do not amount to a positive factor in favour of the development, and I attach neutral weight to them.
21. I have taken into account the comments submitted by local residents. In addition to the considerations set out above, supportive comments have highlighted the appellant's personal qualities, acceptable levels of noise, and have drawn my attention to nearby developments and a planning application permitted by Guildford Borough Council. I have limited information regarding those developments so cannot compare them to the scheme before me. In any event, I have determined the appeal on its individual planning merits. The proposed development would have an acceptable impact on the amenity of nearby residential properties and highway safety. The absence of harm and compliance with local and national planning policy in these respects are not matters which amount to a positive factor in favour of the development. These considerations are given neutral weight.
22. The main parties have drawn my attention to the Holme Valley Neighbourhood Development Plan (HVNP). I understand that it has reached an advanced stage of preparation and the independent Examiner's Report has been received. Having regard to Paragraph 48 of the Framework and the Planning Practice Guidance³ in respect of the stage of the preparation of an emerging plan, I give policies within the HVNP significant weight. The scheme would conflict with Policy 7 of the emerging HVNP because it would not be acceptable in terms of national Green Belt policy. Taking into account the evidence before me, the proposal complies with other policies within the HVNP⁴ but that does not amount to a positive factor in favour of the development.
23. A Grade II listed building, Hillock Farm, is located close to the appeal site. Based on the evidence presented, the two-storey listed building dates back to the mid-18th century with later alterations. The listed building has a rural agricultural setting. There is an existing half round corrugated agricultural building to the northern end of Hillock Farm which obscures views of the listed building. The scheme would not unduly interrupt views of the listed building nor would it have any notable impact on how the heritage asset is experienced. This is due to the distance between the appeal site and the listed building, the

³ Paragraph: 007 Reference ID: 41-007-20190509

⁴ Including Policies 1, 2, 12 and 13

existing agricultural building, and the dip in the landscape. Furthermore, the design of the proposed development would be in keeping with the rural character of the area and comply with Policy LP35 of the LP. As such, I am satisfied that the development would have a neutral effect on the heritage asset and would preserve the special interest of the listed building. My finding in this respect is a neutral factor which does not serve to weigh either for or against the proposal.

Whether very special circumstances exist

24. The appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. It would also have a significant adverse impact on the openness of the Green Belt. The Framework is clear that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
25. I have given limited weight to the consideration relating to the rural economy, business needs and sustainability objectives. The other considerations, including the development's design, impact on highway safety and residential amenity as well as the conditions and impact upon the listed building are given neutral weight in that they neither weigh in favour or against.
26. When drawing this together, the other considerations advanced results in a finely balanced decision. However, the other considerations would need to clearly outweigh the substantial harm to the Green Belt. Accordingly, the advanced considerations in support of the appeal whether taken individually or cumulatively, do not, on balance clearly outweigh the totality of the harm that I have found. Therefore, the very special circumstances necessary to justify the development do not exist.

Conclusion

27. I conclude that the proposal would amount to 'inappropriate development' in the Green Belt. It would also have a significant adverse impact on the openness of the Green Belt. Despite the merits of the proposal, there are no very special circumstances to outweigh this harm. Consequently, the scheme would conflict with the Framework and Policy 7 of the emerging HVNP which seek to protect the Green Belt.
28. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

L M Wilson

INSPECTOR