



Appeal Decision

Site visit made on 12 October 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/X4725/W/21/3277413

**Brice Hill, Blacker Lane, Great Cliff, Crigglestone, Wakefield,
West Yorkshire WF4 3EW**

- 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 Mark Chapple, Chapple Haulage against the decision of Wakefield Metropolitan District Council.
 - The application Ref 20/01581/FUL, dated 2 August 2020, was refused by notice dated 23 December 2020.
 - The development proposed is change of use of land from yard & rough pasture, reclamation of former Brice Hill Colliery to a recreational use including siting of four log cabins for accommodation with associated drainage works, installation of bio-package plant and access track.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In reaching my decision I have had regard to the revised Framework.
3. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulations 14(1) and 7(5) of the EIA Regulations, the Secretary of State directed that the development is not EIA development.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the area; and
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, be clearly outweighed

by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

5. The proposed development is for 4 timber clad log cabins and associated infrastructure to facilitate tourist accommodation within the former Crigglestone Colliery. It is located outside any settlement limit boundary and within the Green Belt, it is also identified being within the Shallow Coal Resource Mineral Safeguarding area. Policy CS1 of the Wakefield Local Development Framework, Core Strategy 2009 (CS) seeks to direct all new development to locations where it would accord with the established settlement hierarchy. Criterion (f) sets out that in the Green Belt, development will need to conform to national, regional and LDF policies relating to Green Belt.
6. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 149 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The exceptions which are set out at paragraph 149 of the Framework, include (b) the provision of appropriate facilities (in connection with the existing use of the 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. Paragraph 149 (g) includes the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
8. The Council argues that the log cabins should not be regarded as buildings for planning purposes and that accommodation for tourists is not considered to be an appropriate facility for outdoor sport or recreation as they are not a recreational use but a tourism use. However, the Framework at paragraph 149 relates solely to the construction of new buildings, therefore this exception relates only to 'facilities' which are buildings and not vehicular access, parking or such engineering operations relating to any associated infrastructure.
9. Nonetheless, whilst the Framework does not define 'building', Section 336 of the Town and Country Planning Act 1990 defines the term 'building' as including any structure or erection, and any part of a building, as so defined. Caselaw¹ established that the mere fact that permission for a new building may also involve a material change of use does not mean that it ceases to be not inappropriate development. Therefore, by applying this definition means that the proposed log cabins should be regarded as 'buildings' for the purposes of the Framework.

¹ LB Bromley v SOSCLG [2016] EWHC 595 (Admin)

10. Furthermore, I do not consider that it would be unreasonable that the appeal proposal would not fall within the definition of 'outdoor recreation' for the purposes of Green Belt policy within the Framework. The siting and/or use of the buildings would be to facilitate the site as an outdoor setting for recreation and leisure, albeit the wording used is 'tourism'. Moreover, the Framework does not distinguish that such a use of buildings or a site for outdoor tourism would not be for outdoor recreation. Therefore, the relevant tests to the strands of paragraph 149 (b) would be whether the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, of which I will return to.
11. The appeal site is a former colliery and then an air drift and fan house for Crigglestone Colliery. It has been derelict for some time when the mine infrastructure was abandoned, and the site subsequently sold in 1977, although there appears to be a further reference in the evidence to it being sold in 1973. The appellant, therefore, contends that the appeal site amounts to previously developed land (PDL).
12. The Framework supports development that makes efficient use of land, through the definition of PDL², which includes land occupied by a permanent structure including the curtilage of developed land (although this should not be assumed that the whole of the curtilage should be developed) and any associated fixed infrastructure. However, this does not go without being caveated. It excludes land that is or was last occupied by agricultural buildings, and land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; and land that was previously developed where the remains of the permanent structure or fixed surface structure have blended in into the landscape.
13. The evidence before me and site observations, set out that the land is that of a naturally regenerated site. Some of the site has grassed over albeit there are patches of poor vegetation due to the current use, and spoil remaining with some elements of hard-core, whilst towards the west is the large open field. I have no substantive evidence before me the development management procedures have included restoration and remediation, with the principal aim of following remediation to permit an agricultural after-use or that of a different use and/or development or where the restoration may be less than certain coming forward.
14. It would also appear that Network Rail uses the site for only purposes of gaining access via a trackway to the far west within the blue land than any permanent use of the appeal site. Therefore, the appeal site would not meet the definition of the Framework, and as such I do not consider that the site amounts to PDL.
15. The appeal site is accessed set back off Blacker Lane with a gate leading to an access track. There are existing residential properties nearby, particularly close to the track. Within the site are a number of portable containers and structures, machinery, various building materials, spoil and rubble. The site would not be in an isolated location due to the presence and proximity of nearby dwellings and a public house. The evidence before me indicates there

² Annex 2 of the Framework refers to the definition of previously developed land

- are a number of footpaths that connect the site to the wider area of Blacker Lane and Denby Dale Road, which is also served by public transport.
16. As set out in paragraph 137 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual and spatial element³. I have had regard to the judgements which have been brought to my attention⁴ which are a material consideration. However, how to take account of the visual effects is a matter of planning judgement rather than one of legal principle, and PPG2 was replaced by the Framework and Planning Practice Guidance.
 17. The proposal would result in the erection of sizeable, detached log cabins with increased car parking, hardstanding and associated domestic and commercial paraphernalia. Given the number of cabins and their size, particularly that each one would serve 4 to 6 persons, it would increase built form at the appeal site with their scale, width, floor space and volume. There would be glancing views from the west given the topography of the area and immediate views of the buildings/ site from the access, trackway and bridleway, therefore it would be discernible in those views. Any planting along the site entrance would take considerable time to screen to soften views of the buildings.
 18. Therefore, the proposals would have an adverse impact on openness and would significantly erode the openness of the Green Belt, albeit some of the buildings would be screened to some degree by the trees and woodland.
 19. The entrance and access to the site would be modified, by introducing a wider access which would be hard surfaced to a degree. Large areas would need to be provided, including some 10 car, 4 motorcycle parking spaces plus 1 light goods vehicles/public carrier vehicle. Thus, there would be a large number of cars and vehicles parked on the site for much of the year. There would also need to be areas / additional structures used for the provision of 8 cycle spaces. Furthermore, there would likely to be a requirement for some form of outside lighting as this would be necessary for those unfamiliar with the site to find their way around. Signage may also be needed at the entrance, given this is set back and within the site itself and woodland.
 20. All these features would adversely affect the openness of the land. Whilst the cabins would be of timber clad construction or dark render, and include local building vernacular, those features would not overcome the conflict with a fundamental aim of the Green Belt which is to prevent urban sprawl by keeping land permanently open. I acknowledge the appellant's Landscape and Visual Analysis (LVA), however this appears to set out that the holiday lodges would reduce the area of the Green Belt. As such, for the above reasons, the proposed development would harm the openness of the Green Belt in both visual and spatial terms.
 21. It is also contended that the siting of the log cabins could be achieved by a change of use. The Framework at paragraph 150 (e) also identifies that certain forms of development are not inappropriate development so long as the

³ Practice Guidance- Paragraph: 001 Reference ID: 64-001-20190722

⁴ Samuel Smith Old Brewery (Tadcaster), Oxtou Farm v North Yorkshire CC & Darrington Quarries Ltd [2018] EWCA Civ 489 and Samuel Smith Old Brewery (Tadcaster) and others (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

development preserves openness and does not conflict with the purposes of including land within it. Material changes of use of land (such as changes of use for outdoor sport or recreation or for cemeteries and burial grounds) are included. However, as I have set out the proposal would fail to preserve the openness of the Green Belt, as such it would not accord with paragraph 150.

22. Moreover, it would also not safeguard the countryside from encroachment, which is one of the five purposes of the Green Belt. Particularly as the land provides a distinction in preventing the settlement of Great Cliffe from merging into the ribbon development along Denby Dale Road and the bottom of Blacker Lane. I conclude that by harming openness and encroaching on the countryside, the development would amount to inappropriate development in the countryside. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Whether or not the site would be PDL or in need of restoration, this does not preclude the proposal from conflicting with this purpose.
23. For the reasons given above, the proposed development would be contrary to CS Policy CS1, and it would not meet the exceptions in paragraphs 149 or 150 of the Framework, it would therefore form inappropriate development in the Green Belt.

Character and Appearance

24. The log cabins would be single storey pitched roof buildings in clad and timber. They would have excessive widths that would fill the majority of the eastern part of the site. Despite being within one part of the site and not widely visible in the landscape due to additional planting, albeit outside of the site edged red. The surrounding area is open in nature and the cumulative impact of four cabins with hard surfacing, parking, and general paraphernalia of the use of the site would have a significant and detrimental urbanising effect.
25. Furthermore, the log cabins would appear as an incongruous form detracting from the character of the area, particularly as the local vernacular is of brick/render dwellings. The appellant's LVA also acknowledges that this type of building is not characteristic of the area.
26. Therefore, I conclude that the proposed development would cause harm to the character and appearance of the area. It would be contrary to Policy CS10 of the CS and Policy D9 of the Wakefield Local Development Framework, Development Policies, 2009. Which together amongst other things, requires high quality design and proposals to respect, where appropriate enhance the character of the locality in terms of design, scale, massing, height, density, layout, materials and colour.

Other Considerations

27. The appellant has made reference to the appeal site providing economic benefits to the wider area with tourists coming to the site and also visiting and contributing to other nearby attractions. Policy CS8 of the CS sets out that economic performance of the district will be improved by (i) encouraging new facilities and accommodation of tourists. This is further supported by the Council's Leisure Recreation and Open Space Local Plan, 2017.
28. However, development proposals should be appropriate to its locality and conform to Green Belt policies. It directs most employment development to the

- urban areas and in local service centres, villages, smaller settlements, and in rural areas employment must be of an appropriate scale.
29. In this case, the site is not identified as recreational open land or leisure or any recreational designations. The proposals indicate 3 full time jobs would be provided, which would be minimal to those employment objectives due to the quantum of development proposed. Moreover, although, the proposal would facilitate such tourists, any attraction visits would be a matter of choice for anyone using the log cabins. Therefore, whilst sustainable rural tourism is supported and benefits other businesses in the area, a positive consideration for the scheme. It would not conform to national or local policies relating to the Green Belt.
30. Similarly, any benefits arising from the sustainable construction methods of the log cabins including water and energy efficiency at the site, given the modest scale of the development, such benefits would be minimal, and I attach limited weight to these considerations.
31. Reference has been made to the pandemic, Covid-19 and regulations⁵ which required tighter restrictions at the time of the Council's determination. Although there is still a requirement for the public to self-distance, and at this time there are still restrictions in place. I have no evidence to suggest that tourists are reluctant to stay in hotels or bed and breakfast accommodation in cities or towns or there are any shortages of such accommodation. Neither do these regulations override the need to protect the Green Belt from inappropriate development or national planning policy. Therefore, I have given this little consideration.
32. I understand other developments have been granted by the Council in nearby areas for holiday homes and reference is made to an appeal decision⁶. I have been provided with limited details of those, although there may be some similarities with the appeal scheme being within the Green Belt. The appeal relates to a gypsy pitch which is not comparable to the scheme before me in regard to policy considerations for Gypsy & Traveller sites. The appellant suggests that the Council have been inconsistent and made inaccurate assertions, but these do not affect the precise circumstances of the appeal scheme. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.
33. I acknowledge the appellants assertions that wider benefits are the restoration of the despoiled and degraded land, improvements to the wildlife corridor and woodland areas. Based on the evidence and my own observations, the restoration works would be of overall benefit to the site and therefore, I attach moderate weight to such matters.
34. In consideration of other planning matters, including flood risk/drainage, land quality and contamination, living conditions of nearby residents, security, biodiversity matters. The absence of harm in those matters which could be addressed by conditions, are a neutral factor.

⁵ The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, as amended

⁶ APP/X4725/W/17/3174934

Planning Balance and Conclusion

35. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness, which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
36. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified including the harm to the character and appearance of the area. Consequently, the very special circumstances necessary to justify the development do not exist.
37. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
38. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR