
Appeal Decisions

Site visit made on 14 January 2022

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an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 February 2022

Appeal A Ref: APP/N4205/W/21/3274951

Pilkingtons Quarry, Georges Lane, Horwich, Bolton

- 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 Armstrong Aggregates Ltd against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 08698/20, dated 15 June 2020, was refused by notice dated 12 May 2021.
 - The development proposed is addition of concrete area, HGV parking area, offices and extension to existing maintenance sheds.
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Appeal B Ref: APP/N4205/C/21/3277897

Pilkingtons Quarry, Georges Lane, Horwich, Bolton

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Armstrong Aggregates Ltd against an enforcement notice issued by Bolton Metropolitan Borough Council.
 - The enforcement notice was issued on 26 May 2021.
 - The breach of planning control as alleged in the notice is i. The erection of a building adjacent to the entrance of Pilkington Quarry (as shown for identification purposes in photograph A attached to this notice); ii. The erection of a hardstanding/forecourt (as shown for identification purposes in photograph D attached to this notice); iii. The erection of stone retaining walls (as shown for identification purposes in photographs E and F attached to this notice); iv. The erection of a parking area along with gas/petrol pumps (as shown for identification purposes in photographs G and H attached to this notice); v. The siting of porta-cabins (as shown for identification purposes in photographs A, B and C attached to this notice); and vi. The creation of an access road linking Montcliffe Quarry to the heavy goods vehicle parking area (as shown for identification purposes in photograph I attached to this notice).
 - The requirements of the notice are i. Demolish the building shown in photograph A attached to this notice; ii. Remove from the land all materials used to create the hardstanding/forecourt shown in photograph D attached to this notice; iii. Demolish the stone retaining walls shown in photographs E and F attached to this notice; iv. Remove from the land all materials used to create the heavy goods vehicle parking area shown in photograph G attached to this notice and remove from the land all materials used to create the gas/petrol pumps shown in photograph H attached to this notice; v. Remove from the land the portacabins shown in photographs A, B and C attached to this notice; vi. Remove all hardcore and materials resulting from the creation of the access road linking Montcliffe Quarry to the HGV parking area between points A and B in photographs I and J attached to this notice; reinstate the land with 6 inches of topsoil and reseed; and vii. Make good any damage caused by compliance with requirements i.-vi. above.
 - The period for compliance with the requirements is 120 days.
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- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

Appeal A Ref: APP/N4205/W/21/3274951

1. The planning appeal is allowed and planning permission is granted for addition of concrete area, HGV parking area, offices and extension to existing maintenance sheds at Pilkington Quarry, Georges Lane, Horwich, Bolton in accordance with the terms of the application Ref 08698/20, dated 15 June 2020, and the plans submitted with it, subject to the conditions in the schedule attached to this decision.

Appeal B Ref: APP/N4205/C/21/3277897

2. The enforcement notice is varied by the deletion of 'a building' in sections 3 i. and 5 i. of the notice and the substitution instead, in both cases, of 'a two storey stone clad office/administration building'.

3. Subject to the variations the appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely i. The erection of a two storey stone clad office/administration building adjacent to the entrance of Pilkington Quarry, ii. The erection of a hardstanding/forecourt, iii. The erection of stone retaining walls, iv. The erection of a parking area along with gas/petrol pumps, v. The siting of porta-cabins, and vi. The creation of an access road linking Montcliffe Quarry to the heavy goods vehicle parking area, on land at Pilkington Quarry, Georges Lane, Horwich, Bolton subject to the conditions in the schedule attached to this decision.

Reasons

The ground (c) appeal in Appeal B

4. Class B of Part 17 of Schedule 2 of The Town and Country (General Permitted Development) Order 2015 (the GPDO) states that certain specified works on ancillary mining land are permitted development. But such development is only permitted if, as stated in a condition, prior approval is obtained from the mineral planning authority. The enforced works have been carried out and prior approval was not obtained from the mineral planning authority so the works that are the subject of the enforcement notice cannot be regarded to be permitted development. The ground (c) appeal thus fails.

The ground (d) appeal in Appeal B

5. The ground (d) appeal was made because the enforcement notice is not clear, in section 3 i., which building the notice relates to. Part of the building shown in photograph A attached to the notice is a maintenance shed that has been in place for in excess of four years and is therefore immune from enforcement action. The Council has made it clear that the notice does not relate to the maintenance shed but to a stone clad two storey office/administration building attached to the maintenance shed. The Appellant accepts that the stone clad building is not immune from enforcement action. The enforcement notice has been varied to make it clear to which building it relates and there is therefore no need to consider the ground (d) appeal.

The ground (a) appeal in Appeal B and Appeal A

6. The planning application that is the subject of Appeal A was submitted retrospectively and the works that have been carried out and that are the subjects of the planning appeal are, mainly, the same as the works that are the subjects of the enforcement notice that is the subject of Appeal B. The difference is 'extension to maintenance sheds', which is a subject of the planning application and therefore the planning appeal but which is not referred to in the enforcement notice.

The site and its surroundings

7. Pilkington Quarry is on high ground to the east of Horwich. To the north-west of the quarry is Montcliffe Quarry. Makinson Lane, off Georges Lane, rises upwards to the entrance to Pilkington Quarry and the works that are the subjects of the appeals are on the north-west side of this lane and occupy a site of about 2.5 hectares. Before the works were carried out the site included a green metal clad maintenance shed, old quarry buildings, storage of quarry plant and equipment and rough gravelled hardstanding in front of the buildings. The west and south parts of the site were rough pastureland. A screening bund has been installed along the south boundary of the site. Public footpaths cross countryside to the south, west and east of the site. The quarries are in the Green Belt.

8. The main parties disagree on how much of the appeal site is ancillary mining land, which is land historically associated with the quarrying operations and which can be regarded to be previously developed land. The Appellant regards the whole of the site to be ancillary mining land whereas the Council maintains that only that part of the site that was included in land that was granted planning permission in 1999 for quarrying operations at Pilkington Quarry can be so regarded. The Council maintains that the refuelling pumps and the majority of the heavy goods vehicle parking area are outside ancillary mining land.

The main issues

9. The main issues are; first, whether the works carried out are inappropriate development in the Green Belt; and second, the effect of the works on the purposes and openness of the Green Belt.

The first issue – inappropriate development

10. Paragraph 149 of the National Planning Policy Framework (NPPF) and policy CG7AP of Bolton's Alterations Plan (BAP) state that the construction of new buildings in the Green Belt is inappropriate development except, amongst other things, where it is the extension of a building provided that it does not result in disproportionate additions over and above the size of the original building, or where it is the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.

11. A former four bay maintenance shed has been extended by the addition of two further maintenance bays on its north-west gable elevation, by the addition of a single storey wing at the rear, and by the addition of a two storey office/administration building on its south-east gable elevation. The Council maintains that the extensions are disproportionate additions over and above the size of the original building or larger than the buildings they replace.

12. The original maintenance shed, for this function, has been increased in size by 50%. But evidence indicates that a building was removed from the land to

facilitate the construction of the additional two bays and the single storey wing. The Appellant indicates that the removed building was about 29 metres long but it is not known what its other dimensions were. However, it is likely, given its length, to have been a significant structure and, taking this factor into account, the additional two bays and the wing can be regarded not to be materially disproportionate additions over and above the size of the original building, or even, materially larger than the building they replaced.

13. The Council accepts that 'two storey stone cottages' were removed to facilitate the construction of the partially built office/administration building. The cottages were used in association with the quarrying operations and the office/administration building is intended also to be so used. The Council maintains that the office/administration building is "...materially larger than the former cottages, in that it is significantly deeper and taller". But this claim is not substantiated by photographs or other documentary evidence. In the context of its surroundings and the historical use of the ancillary mining land the partially built office/administration building is not materially larger than the buildings it replaced.

14. The Council, in consideration of this issue, has referred to their claim that the refuelling pumps and the majority of the heavy goods vehicle parking area are outside the ancillary mining land. They maintain that this constitutes encroachment into the countryside, which is one of the five purposes of including land in the Green Belt set out in paragraph 138 of the NPPF. This is not a matter relevant to consideration of whether the works carried out are inappropriate development and has been considered in the second issue.

15. The extensions to the maintenance shed are neither disproportionate additions over and above the size of the original building or materially larger than the buildings they replaced. The works carried out are not inappropriate development and do not conflict with policy CG7AP of the BAP or the NPPF.

The second issue – the purposes and openness of the Green Belt

16. With regard to the matter mentioned in paragraph 14 it is unclear, from comparing the plan attached to the 1999 planning permission and the plan attached to the planning application that is the subject of the planning appeal, to what extent the heavy goods vehicle parking area extends beyond what is ancillary mining land. Furthermore, the introduction of the refuelling pumps and the majority of the heavy goods vehicles parking area must be considered in the context of the ongoing use of land around the quarries. The ancillary mining land is extensive and, as might be expected, wholly developed. In this context the probably limited part of the heavy goods vehicle parking area that extends beyond the ancillary mining land area is not material and does not constitute encroachment into the countryside. The development that has been carried out does not compromise any of the purposes of including land in the Green Belt.

17. Paragraph 137 of the NPPF states that the fundamental aim of Green Belt policy is to keep land permanently open and that the essential characteristics of Green Belts are their permanence and openness. The development, particularly the additions to the maintenance shed, has resulted in some loss of spatial openness but, given the conclusions reached above on the extent to which the additions are not disproportionate, this loss of openness must be regarded to be not material. The extended maintenance shed is seen, in principal views from the south and west against a backdrop of land around the quarries. These views from public footpaths, furthermore, are limited by the bund that has been introduced

and will be further limited by planting that would be required by an agreed landscaping condition. Given also the large scale lawful activities associated with operations at the site there has been no material loss of visual openness.

18. The development already carried out, in particular the additions to the maintenance shed but also including the parking of heavy goods vehicles, has not resulted in any material loss of openness and has not compromised any of the purposes of including land in the Green Belt.

Other matters

19. Residents of dwellings on Makinson Lane and Georges Lane and further afield in Horwich have raised a variety of concerns, but many of these can be overcome by imposition of conditions that have been agreed by the main parties. Conditions will control hours of operation at the site, hours and numbers of heavy goods vehicle movements, external lighting and light pollution, noise and emissions, and will require the prior approval and implementation of a landscaping scheme, a surface water drainage scheme, and a restoration scheme for the site once the quarrying and other operations have ceased. It is the Council's responsibility to ensure that the operator of the site complies with the requirements and limitations of the conditions. All other matters mentioned in opposition to the development have been taken into account but they do not, either individually or collectively, alter the overall conclusion to be reached.

Conditions

20. As previously stated a list of 17 conditions has been agreed by the main parties. All of the conditions are necessary and satisfy the tests set out in the National Planning Practice Guidance but they will be amended, where necessary, in the interests of clarity, consistency and precision. Condition 1 is for the avoidance of doubt and in the interests of proper planning, condition 2 will ensure that the development is removed and the land is restored once quarrying operations have ceased, condition 3 is required to ensure that the site is satisfactorily drained, condition 4 is necessary to ensure the safety of footpath users, and conditions 5-11 are required to protect residential amenity. Condition 12 is required to screen the development, condition 13 will ensure that the site is restored, condition 14 is for the avoidance of doubt, condition 15 is in the interests of highway safety, condition 16 is in the interests of air quality, and condition 17 is in the interests of the character and appearance of the area.

Conclusion

21. The works that have been carried out are not inappropriate development, do not compromise any of the purposes of including land in the Green Belt, do not materially affect the openness of the Green Belt, and do not conflict with policies in the BAP. The ground (a) appeal and the planning appeal thus succeed, and the ground (f) and (g) enforcement appeals do not need to be considered. Planning permission has been granted subject to conditions in an attached schedule.

John Braithwaite

Inspector

Schedule of conditions

1. The development hereby permitted shall be carried out in accordance with drawing nos. 200/271/1-1 Rev 1.1 'Masterplan Location (dated 11/12/2019), 200/271/1-2 Rev 2.3 'Masterplan Layout – Zoom' (dated 28/01/2020), 1008 'Existing Site Layout and Ground Floor Plan' (dated June 2020), and 1018 'Existing Elevations' (dated June 2020).
2. The development hereby permitted shall cease to be used upon cessation of the permitted quarrying operations and restoration works at Montcliffe and Pilkington Quarries and all buildings, structures, hardsurfacing, access tracks, machinery, equipment and plant shall be fully removed from the site. The site shall then be fully restored, within a period of two years after cessation of all quarry operations, in accordance with a restoration/landscape scheme which shall be submitted to and approved in writing by the Mineral Planning Authority.
3. Within 3 months of the date of this decision details of an amended surface water drainage scheme shall be submitted in writing to the Mineral Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, and the results of the assessment shall be included in the submitted scheme. Where a sustainable drainage system is to be provided, the submitted details shall provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, measures to be taken to prevent pollution of the receiving groundwater and/or surface waters, and a management and maintenance plan for the lifetime of the development which shall include arrangements to secure the operation of the scheme throughout its lifetime. The approved drainage scheme shall be implemented within a timeframe to be agreed with the Mineral Planning Authority.
4. Within 3 months of the date of this decision an application for the temporary diversion of public right of way Horwich 056 shall be made under section 257 of the Town and Country Planning Act 1990. The public right of way is to be diverted and new signage erected in compliance with details which shall be submitted to and approved in writing by the Mineral Planning Authority. The diverted public right of way shall be created within a timeframe to be agreed with the Mineral Planning Authority and shall remain available to the public at all times thereafter and must not be closed, diverted or altered.
5. Within 3 months of the date of this decision a dust impact assessment, to establish whether any dust control measures are required/necessary for the permitted development, shall be submitted in writing to the Mineral Planning Authority. Any dust control measures found to be necessary shall be implemented in full, in a timeframe to be agreed with the Mineral Planning Authority, and retained thereafter until the development has been removed from the site.
6. Within 3 months of the date of this decision a scheme shall be submitted in writing to the Mineral Planning Authority for all external lighting within the development (including on the buildings and within the parking area). The lighting shall be designed to an illumination value of 0 lux at the nearest residential property. The beam angle of any light directed towards any potential observer shall be kept below 70 degrees and spill shields shall be fitted. The approved scheme

shall be implemented in full, in a timeframe to be agreed with the Mineral Planning Authority, and shall be retained thereafter.

7. No HGVs shall enter or leave the site and no work or operations on the site (including the repair of plant machinery and the movement of such machinery) shall be carried out on the site outside the hours of 0700 to 1800 hours on Mondays to Fridays and 0730 to 1300 on Saturdays. No HGVs shall enter or leave the site and no work or operations on the site (including the repair of plant machinery and the movement of such machinery) shall be carried out on the site on Sundays or Bank Holidays. Maintenance, servicing and testing of vehicles shall only be carried out between the hours of 0700 to 2000 on Mondays to Fridays and not at all on Saturdays, Sundays and Bank Holidays.

8. In line with the Unilateral Planning Obligation dated 11 January 2012 between Armstrongs Aggregates Limited and Bolton MBC (section 5.1.2 for the combined movements for both Montcliffe and Pilkington Quarries), not more than 170 heavy goods vehicle (HGV) movements to and 170 HGV movements from the site (including those to enable the full restoration of the whole areas of the site subject to quarrying) shall take place during any single day Monday to Friday and no more than 50 HGV movements to and 50 from the site on Saturdays. There shall be no HGV vehicle movements on Sundays and Bank Holidays.

9. Noise from any activity within the site shall not exceed the equivalent free field continuous sound level (LAeq, 1h), measured over a 1 hour period, of 55 dB(A) at points 3 metres from the facades of dwellings at Grundy Cottages, Rocky Mount and Hill Crest, Georges Lane, and at Heather Hall.

10. The roller shutter doors to the loading bays in the maintenance building shall be kept closed when maintenance activities are occurring within the building.

11. All plant, equipment and other machinery used in connection with the development, operation, maintenance and restoration of the site shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturers original specification and maintained in such conditions at all times.

12. Within 3 months of the date of this decision, a landscape scheme for the southern boundary screening bund and for the bund/land to the south of the access track/link road shall be submitted in writing to the Mineral Planning Authority. The scheme shall be implemented in full within the first planting season following approval by the Authority. Any trees and shrubs that die or are removed within five years of planting shall be replaced in the next available planting season with others of similar size and species.

13. A five year aftercare scheme for the restored site shall be submitted for the approval of the Mineral Planning Authority not later than one year after the date of this permission and shall specify the steps to be taken and the periods during which they are to be taken. The aftercare plan shall provide for an annual review between the mineral operator and the Mineral Planning Authority at which time such a scheme may be varied as necessary and thereafter implemented in accordance with the approved scheme.

14. Within one month of first occupation of the offices hereby permitted the temporary portable buildings on site (sited to the front of the office building) shall be removed from the site.
15. All vehicles carrying waste or recycled materials leaving the site shall be suitably netted or sheeted to ensure materials are secure and are not deposited on the highway.
16. The site operator shall ensure that at least 50% of all HGVs entering the site in any calendar month shall meet the Euro 6 emission standard or better. The remainder of vehicles entering the site shall be Euro 5 compliant or better. The site operator shall maintain a detailed record of all HGVs entering the site. As a minimum this must include the vehicle registration plate and copies of any emission retrofit certification relevant to any individual vehicle. The record shall be made available for inspection on request by the Mineral Planning Authority.
17. The southern boundary screening bund shall be retained as approved until the approved restoration scheme has commenced.