



Appeal Decision

Site visit made on 25 January 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2022

Appeal Ref: APP/Z4718/W/21/3283527

**Land and premises at Old White Lee Colliery (former Metallizers Ltd),
Leeds Road, Heckmondwike WF16 9BH**

- 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 Beaufort Land and Developments Ltd against the decision of Kirklees Council.
 - The application Ref 2021/62/91354/E, dated 31 March 2021, was refused by notice dated 30 July 2021.
 - The development proposed is described on the application form as full planning application for the demolition of existing buildings, erection of 5 no new dwellings, formation of new access and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal documentation, the appellant submitted an amended landscape layout plan. The appellant confirms that the amended plan corrects an error with the design of the proposed access road shown on the plan submitted with the application in terms of surfacing details. The amended plan ties with what is shown on the proposed site access plan. Given that the surfacing details were previously shown on the site access plan submitted with the application, the proposed development would not be so changed that to consider it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. I have therefore taken account of this amended plan in my decision.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the National Planning Policy Framework (the Framework), including the effect on the openness of the Green Belt; and
 - if the proposed development 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 proposal.

Reasons

Inappropriate Development and Openness

4. The appeal site is located to the north of Heckmondwike. There is open countryside to the south, west and north beyond Muffit Lane and the houses opposite. To the immediate east is a dwelling, fields and Leeds Road. To the east of Leeds Road lies a built-up area. The site contains a number of brick and metal clad industrial buildings of varying sizes and heights and areas of hardstanding in its southern section. The northern section includes areas of semi-improved grassland, dense scrub and trees. The main parties agree that the site constitutes previously developed land accordingly.
5. The proposed development would involve the removal of the industrial buildings and the construction of five two storey dwellings laid out in a courtyard formation. Gardens and single storey car ports are also proposed. The northern part of the site would be landscaped with indigenous species. Access would be on to Muffit Lane. The application was supported by a number of documents including a Landscape and Visual Appraisal.
6. Paragraph 147 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. A number of exceptions to this are listed. Exceptions include the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects.
7. Policy LP59 of the Kirklees Local Plan Strategy and Policies, adopted 2019 (the Local Plan) allows for the partial or complete redevelopment of brownfield sites provided that the extent of the existing footprint is not exceeded, and redevelopment does not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for. Importantly, however, the policy also states that regard should be had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.
8. The topography and vegetation to the north, west and south restricts long distance views of the site. In closer views, the existing buildings are visible from most directions, including from Leeds Road and the properties to the south and east, and from Muffit Lane and the properties opposite the site although existing vegetation helps to filter views to an extent from several vantage points.
9. The evidence indicates that the proposed dwellings, including the associated car ports, would have a footprint of 867m², compared to a floor area of the existing industrial buildings of 1056m². The volume of the proposed dwellings would be 3385m³ compared to the volume of the existing buildings of 5024m³, which the appellant calculates as a 33% reduction. Taking account of the existing areas of hardstanding, the appellant highlights that the proposed area of hardstanding including building footprints would reduce from 3204m² to 2674m².

10. The proposed development would have a lesser footprint and volume than the existing buildings. However, the assessment of impact on openness, in both a spatial and visual sense, is about more than a straightforward calculation of volume or footprint. In my view it does not automatically follow that a reduction in overall size would inherently preserve openness within the terms of Framework paragraph 149g) or the Green Belt setting with reference to Policy LP59.
11. Whilst there would be a reduction in footprint and volume in spatial terms, the reduction would not be as noticeable in visual terms as the figures may suggest. This is mainly due to the location and orientation of the existing buildings, in particular building C as defined on the submitted plans, which would be viewed in conjunction with building A to the north west and the buildings to the south east from several vantage points. This reduces the visual extent of the existing built development when viewed from several vantage points. In addition, the garage to the east of the site sits at a lower level than the proposed dwellings would. Furthermore, the ridge height of the dwellings would generally be higher than the existing buildings.
12. I note the appellant's point that the proposed dwellings would not extend further outwards than the existing buildings if a straight line is drawn between their outer edges. However, the proposal would result in a greater spread of development across the south east and north west of the site. This would extend built development across the land in between building E and the garage and would extend it further to the north east than building A and the office/house. The effect of this layout, together with the higher ridge height of the dwellings, would be a closing of the gap through the site that is apparent in views from the east, thus truncating views of the open countryside to the west. The same effect would be apparent in views from the west.
13. In addition, the garden areas of a number of the properties would extend further outwards towards the fringes of the site. Whilst parts of these gardens would be on areas of current hardstanding, the nature of residential gardens, with the associated boundary treatment and domestic activities and paraphernalia, would, in all likelihood have a greater effect on openness.
14. The effect on openness from the south and north would be less discernible in terms of layout. However, the proposed dwellings, with their generally greater ridge height, would be more apparent.
15. The proposed access would make use of an existing small, gated opening along Muffit Lane. Whilst noting the appellant's statement that this is a historic existing access to the site, extensive vegetation is present. The proposal would involve the widening of this opening to around 5.5m so that it could accommodate two vehicle widths, the creation of an approximate 6m radius kerb and surfacing a length of around 20m from the junction with Muffit Lane, which would then change to resin bound gravel with a grass strip along the middle. A bin store would also be located near to the site entrance.
16. The proposed access would result in more open views into the site. Moreover, widening the access point and the hard surfacing proposed would have something of an encroaching urbanising effect on this part of Muffit Lane rather than providing a comfortable transition into the countryside, as is the case with the existing opening and this part of the lane at present.

17. The landscape boundary planting would partially screen views of the proposed development. Nevertheless, the dwellings, the gardens with associated domestic paraphernalia and car parking would still be visible from the surrounding area, including during times of the year when trees are not in leaf and overnight, when domestic lighting would be conspicuous.
18. I acknowledge that the appellant has sought to address the Council's concerns about the previous scheme. However, notwithstanding the reductions in footprint area, building volume and hardstanding across the site as a whole, the proposal would diminish the openness of the Green Belt. Consequently, the proposal would be inappropriate development. In line with paragraph 147 of the Framework, the proposed development would be inherently harmful to the Green Belt. Whilst the harm to openness would be moderate, I give this substantial weight, in line with paragraph 148 of the Framework.

Other Considerations

19. The proposed development would make a small contribution to the supply of housing, which would be consistent with the Government's objective to significantly boost the supply of homes including from small sites, in a location that is on the edge of the urban area and reasonably well related to services and facilities. The proposed development would also create employment during construction and the additional residents would support local shops, businesses and community facilities. However, given that the proposed development is for five dwellings, these benefits would be relatively limited and as such have limited weight.
20. The proposed landscaping of the northern part of the site would be sympathetic to the surrounding landscape context. The scheme would enhance the biodiversity value of the site, providing a biodiversity net gain of more than 10%, which would be a moderate benefit. However, there is nothing to indicate that similar benefits could not be achieved via an alternative, less harmful scheme.
21. The appellant has identified a number of Local Plan policies and Framework paragraphs relating to matters including the living conditions of neighbouring occupiers, flood risk, heritage assets and highway safety that it is contended the proposed development would accord with. Whilst this may be the case, a lack of harm in other respects is effectively neutral in establishing whether very special circumstances exist.
22. I note the appellant's comments regarding the determination of the planning application. However, in determining this appeal, I am only able to have regard to the planning merits of the case.

Conclusion

23. The scale, layout and design of the proposed development would harm the openness of the Green Belt and therefore the Green Belt setting of the site. Consequently, the proposed development would conflict with Policies LP24, LP32 and LP59 of the Local Plan.
24. The proposed development would also conflict with the requirements of chapter 13 of the Framework which have been summarised above and the design objectives of chapter 12.

25. The proposed development would be inappropriate development in the Green Belt by virtue of its effect on openness, which is by definition harmful. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
26. I have had regard to the other considerations. However, inherent in my reasoning above in terms of 'other considerations' these do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
27. The proposed development would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision otherwise than in accordance with it. The appeal should therefore be dismissed.

F Wilkinson

INSPECTOR