



Appeal Decision

Site visit made on 29 March 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 11 May 2022

Appeal Ref: APP/X4725/W/21/3283721

50 New Hall Approach, Flockton, Wakefield WF4 4AX

- 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 Garry Slade against the decision of Wakefield Metropolitan District Council.
 - The application Ref 21/00223/FUL, dated 28 January 2021, was refused by notice dated 14 May 2021.
 - The development proposed is described as 'Change of use, Residential and Mixed to Residential and Business. Sighting of Porta Cabin in curtilage'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address provided in the application form is different to that listed in the appeal form and the Council's decision notice. In the absence of any conclusive information, I have used the address provided in the Council's decision notice as this appears to be more accurate.
3. The development applied for has been carried out. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details before me that the development comprises the erection of a porta cabin for use as part physiotherapy and part home gym with storage. The Council has dealt with it on this basis and so shall I.

Main Issues

4. The main issues are:
 - (i) Whether the development is inappropriate development in the Green Belt;
 - (ii) The effect of the development on the openness of the Green Belt,
 - (iii) The effect of the development on the character and appearance of the surrounding area;
 - (iv) Whether the development provides adequate safeguarding of the nearby protected trees;
 - (v) If the development is inappropriate development, whether any 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 it.

Reasons

Inappropriate Development

5. The appeal relates to a light blue coloured porta cabin that is sited within the side garden area of 50 New Hall Approach, on a prominent corner location adjacent to the junction of New Hall Approach and New Hall Lane. This side garden area contains a number of mature trees that are protected by a Tree Preservation Order. The appeal site lies within the Green Belt.
6. Policy CS1 of the Wakefield Local Development Framework Core Strategy 2009 (Core Strategy), and Policy D23 of the Wakefield Local Development Framework Development Policies Document 2009 (DPD) both reflect and require conformity with national policy when assessing development proposals in the Green Belt. Paragraph 147 of the National Planning Policy Framework 2021 (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149.
7. Despite the original temporary nature of the development, the appellant has not disputed that it constitutes a building and I have no reason to disagree. The development does not fall within any of the exceptions stated in paragraph 149 of the Framework and is therefore regarded as inappropriate development which is, by definition, harmful to the Green Belt.

Openness

8. Paragraph 137 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is the absence of development and has both spatial and visual dimensions.
9. The footprint and volume of the development give rise to a spatial loss of openness on the site as it results in development where there was previously none. Whilst some views of it from the public domain are filtered by mature trees and a garage and shrubbery, its form, bulk and massing are still readily apparent from the New Hall Approach and New Hall Lane highways. This is visually harmful to the openness of this part of the site. The development has therefore reduced the openness of the Green Belt in both visual and spatial terms.

Character and Appearance

10. No 50 is located within a small settlement of brick-built dwellings that have been washed over by Green Belt. Whilst there is also a prison complex within this area, the nearby agricultural fields, grassed highway verges, prevailing open plan garden frontages and mature trees combine to provide a pleasant and spacious verdant character.
11. The development's prominent siting in close proximity to the New Hall Approach and New Hall Lane highways, in combination with its size and

prefabricated box-like profile has resulted in the introduction of a conspicuous utilitarian feature that appears out of context with the spacious layout and character of the immediate surroundings. This impact is compounded by the development's bright blue colour, which draws the eye, and further accentuates its visual prominence. The discordant effect of the development, as previously noted, is visible from a number of public vantage points.

12. Painting the development green would not overcome the concerns that I have identified above. I also do not have any details of a suitable combination of vegetation, fencing, and the panelling of the existing gate before me so cannot be certain that it would provide effective mitigation. Nonetheless, it seems to me that this would be likely to add to the prominence of the development, and further intrude upon the spacious character of the area, rather than provide sympathetic screening.
13. I am aware that there are other temporary buildings within the prison grounds, however these were not visible from either New Hall Approach or New Hall Lane, due to the intervening dense mature tree coverage. The previous overgrown state of the site and the difficulties in managing it are also noted. Nonetheless, this, in itself does not overcome or negate the harm that I have identified or is a reason for justifying further harm to the character and appearance of the area.
14. As such I find that the development causes significant harm to the character and appearance of the area. It thereby conflicts with Core Strategy Policy CS10 and DPD Policy D9, which amongst other matters seeks high quality design and to raise the quality of the built environment, having regard to their distinctive local characteristics. It also does not accord with the design objectives of the Framework, as advised in Section 12.

Safeguarding of Protected Trees

15. DPD Policy D7 states that where the Council considers that trees or woodland may be affected by a development proposal, it will require an appropriate tree survey to be submitted with the planning application.
16. My site observations confirmed that whilst the development is supported by four legs and is raised off the ground, it is in very close proximity to one of the protected trees. I have had regard to the estimated weight measurements for the development, and I acknowledge that the trees appeared to be in fair condition at the time of my site visit. I also understand the appellant's financial reasons for not commissioning a tree survey in light of the advice that he received from the Council indicating that planning permission would be refused regardless.
17. Nonetheless, I have little substantive evidence to adequately demonstrate that this important tree's roots would not be seriously harmed through soil compaction and root compression. In the absence of this information, including site investigation works to identify the tree roots, I cannot be certain that the siting of the development would not harm the future health of this important mature tree.
18. In the absence of any substantive evidence on this matter, it has therefore not been demonstrated that the development provides adequate safeguarding of the nearby protected trees. As such it conflicts with Core Strategy Policy CS10

and DPD Policy D7. These seek, amongst other things, to protect trees and green infrastructure. It also does not conserve and enhance the natural environment as advised in Section 15 of the Framework.

19. In its decision notice, the Council has also referred to Policy CS1 of the Core Strategy, but that is concerned primarily with the spatial development strategy for the district rather than trees so is not directly applicable to this main issue.

Other Considerations

20. It has been put to me that the development is a non-profit venture that provides an essential service, with the aim of creating a covid safe environment for physiotherapy assessments and treatments, away from the home setting. I have been made aware that this was erected as a temporary measure at a time when most physios had closed, including the appellant's own main business in Huddersfield, particularly in leisure centres, and when there was a lack of face-to-face treatments due to the restrictions of the pandemic. The appellant contends that he has contracts in place to provide services to national physiotherapy organisations who had contracts with education/NHS keyworkers. He has also put forward that the development allowed his Wakefield client base to access these services during this time, and that there is still a demand by vulnerable patients for this service to continue. However, there is little supporting evidence from any physiotherapy organisations or vulnerable patients to substantiate these needs before me. As such, these benefits only attract modest weight in my assessment of the scheme.
21. It has also been put forward that the development is not overlooked by any houses, would not cause any more harm than a caravan, and would not have a negative impact on wildlife. However, the absence of harm in these respects is not a factor in the scheme's favour. Furthermore, the reduction in travel times is a factor that would only attract limited positive weight.
22. I have been referred to the 'new-time permitted development rights' to support health service bodies and local authorities' immediate response to coronavirus. This right enabled development including modular buildings. Nonetheless, the time limit for this right was until 31 December 2021 and has now expired. It is therefore not relevant to my determination of this appeal.
23. The appellant's frustration in respect of their request for the Council's Arboricultural Officer to visit the site are also noted. However, this is a matter that would need to be pursued with the Council in the first instance. It has therefore not had any bearing on my decision as I have only had regard to the planning merits of the scheme that is before me.

Green Belt Balance

24. The development is inappropriate development in the terms set out by the Framework and results in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. In addition, it causes significant harm to the character and appearance of the area, and it has not been demonstrated that the development would not cause harm to the protected trees. Even when taken together, the benefits of the scheme carry only modest weight. These other considerations do therefore not clearly outweigh the substantial harm I have identified due to inappropriateness and loss of openness, and the other harms

to the character and appearance of the area and the protected trees. Consequently, the very special circumstances required to justify the development have not been demonstrated. As a result, the development conflicts with Core Strategy Policy CS1 and DPD Policy D23 as set out above, and with Section 13 of the Framework which both seek to protect Green Belt land.

Conclusion

25. The appeal scheme consequently conflicts with the development plan and there are no material considerations worthy of sufficient weight, including the approach of the Framework, which would indicate a decision otherwise in accordance with it. The appeal should therefore be dismissed.

Mark Caine

INSPECTOR