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# Appeal Decision

Site visit made on 14 June 2022

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 July 2022**

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**Appeal Ref: APP/C2741/W/22/3295867**

**125 Temple Lane, Copmanthorpe, York YO23 3TE**

- 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 & Mrs J & K Johnson against the decision of City of York Council.
  - The application Ref 21/01650/FUL, dated 6 July 2021, was refused by notice dated 8 September 2021.
  - The development proposed is the conversion of buildings to form two units of holiday letting accommodation and alteration to existing vehicular access.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Council has referred to policies of the emerging City of York Local Plan - Publication Draft (2018) (Emerging Plan) in its reasons for refusal. However, this is not adopted and I am not aware of the extent of any unresolved objections. Having regard to the advice in paragraph 48 of the National Planning Policy Framework (the Framework), I have given them limited weight.

## Main Issues

3. The appeal site lies in the Green Belt. The main issues are:
  - (i) Whether the proposal would be inappropriate development in the Green Belt;
  - (ii) The effect of the proposal on the openness of the Green Belt, and flood risk.
  - (iii) If the proposal would be 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*

4. The appeal relates to a long irregular shaped piece of predominantly grassed land to the rear of 125 Temple Lane. Two small disused detached stable buildings with a small area of hardstanding in between them are located to the north western corner of the site. Despite the presence of these buildings and

residential properties nearby, the overall character of the area is dominated by open fields and agricultural land. Given that the appeal site comprises mainly undeveloped grassland I consider it to have more affinity with and to read very much as part of the adjacent open agricultural landform.

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 150 lists forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include at b) engineering operations and d) the re-use of buildings, provided that the buildings are of permanent and substantial construction.
6. The Council has raised some concerns about the alterations and reconstruction required for the conversion of the small stables to holiday accommodation. However, I saw little on my site visit to substantiate these concerns and they have not been supported by any technical assessment or survey on the Council's part. Thus, I have not been presented with any further detailed evidence to support the Council's conclusion that the buildings are not capable of 're-use'.
7. Nonetheless, the proposal would include the provision of an approximate 3 metre wide access track that would run along the majority of the length of the appeal site. This would adjoin an additional proposed area of hardstanding for car parking and a turning area to the northern end of the site. Whilst I note that it is proposed to use a ground reinforcement grid for these areas, the submitted plans indicate that they would be filled with limestone.
8. These large exposed, hard surfaced areas would be engineering operations that would cover the majority of the appeal site and be situated adjacent to the shared boundary with the large open field. The stark appearance of these would sharply contrast with and erode the verdant character of the site and surrounding area. Furthermore, when in use, parked cars would also occupy this area during certain times of the day. These factors would give rise to a spatial loss of openness on the site. The surfacing of these areas, along with activity associated with vehicle movements into and out of the site, would be readily apparent from the windows of neighbouring properties and would therefore reduce the visual openness of the Green Belt. The lack of any additional fencing would not overcome this harm.
9. Given the failure to preserve the openness of the Green Belt in visual and spatial terms, it follows that the proposal would impact on the Green Belt purpose of safeguarding the countryside from encroachment as set out at paragraph 138 of the Framework. Accordingly, the proposal does not fall within the exceptions at paragraph 150 of the Framework. It would therefore be inappropriate development which is, by definition, harmful to the Green Belt. The proposal would also be contrary to Emerging Plan Policy GB1 as it would detract from the openness of the Green Belt and represent inappropriate development.

### *Flood Risk*

10. The main parties do not dispute that part of the appeal site falls within Flood Zone 3, which is the zone that is at the highest risk of flooding. In areas at risk of flooding paragraph 167 of the Framework makes clear that development should only be allowed where a site-specific flood-risk assessment (SFRA) can demonstrate that the development is appropriately flood resistant and resilient, that any residual risk can be safely managed and that safe access and escape routes are included as part of an emergency access plan.
11. The Framework states at paragraph 168 that minor development and changes of use applications should not be subject to the Sequential or Exception Tests, unless falling within certain types of development. Given the nature of the appeal scheme, I find that neither the sequential or exception test is required in this case.
12. The Council has not raised any objections in respect of the design measures within the SFRA to ensure that the buildings would be flood resilient and resistant. The appellant has been in discussions with the Council's Front Line Flood Risk Management Authority and I note that they have received an email from them to effectively conclude that the ground conditions are suitable to accommodate soakaway drainage from the proposed development. I am therefore satisfied that the full details of a drainage scheme could be secured via a suitably worded planning condition.
13. It has been put to me that the Environment Agency's (EA) modelling work would appear to show that the appeal site is not expected to flood, that there are large areas of neighbouring land that are within Flood Zone 1 and that nearby residential development already benefits from a warning system provided by the Council. Nonetheless, the EA's modelling plans show part of the proposed vehicular access to lie in an area highlighted yellow, which relates to flooding. It is unclear, on the basis of the evidence before me, whether this would allow for the safe access and egress to and from the proposal and the voluntary and free movement of people during a flooding event. Even if the buildings themselves did not flood, the proposal needs to ensure that the evacuation procedures and the measures that would enable residents to remain in the building for an extended time are acceptable.
14. However, there is little detail in regard to what the emergency plan may include before me. In addition to the adequacy of evacuation routes, identified places that people could be evacuated to are also required to be specified. I have also not been provided with the details of the current warning system so am unsure of the extent to which advanced warning can be given in a flood event.
15. I am therefore unable to be certain that safe access and escape routes and an emergency plan could be achieved over the lifetime of the development, and that a planning condition would be able to provide sufficient mitigation in this respect. As such, I am not satisfied that the development proposed would be acceptable with respect to flood risk, having regard to the provisions set out in Emerging Plan Policy ENV4. This states that where flood risk is present, development will only be permitted when the local planning authority is satisfied that any flood risk within the catchment will be successfully managed and there are details of the proposed mitigation measures. It would also be inconsistent with paragraph 167 of The Framework which seeks to ensure that

any residual risk can be safely managed, and that safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

### *Other Considerations*

16. The Framework explicitly seeks to support a prosperous rural economy, the promotion of other land based rural business and growth in existing businesses. This, and other Emerging Plan policies, also support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. However, I have found that the proposal would cause harm to the character of the countryside and as it is only for two additional holiday lets any economic and social benefits in these respects would only be attributed limited weight.
17. The sympathetic design of the buildings proposed for conversion, and the lack of harm in respect of the living conditions of neighbouring properties, traffic movements and highway safety are also noted. However, these matters did not appear to be contentious in the application and the absence of harm in these respects would be neutral in the overall Green Belt balance.

### **Conclusion**

18. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have identified that the proposal would be inappropriate development in the Green Belt as defined by the Framework. The Framework establishes that substantial weight should be given to any harm in the Green Belt. In addition, it has not been demonstrated that the proposal would not cause harm in respect to flood risk. As such, even when taken together, the other considerations reviewed above do not clearly outweigh the harm that the proposal would cause. Consequently, the very special circumstances required to justify the development have not been demonstrated. As a result, the proposal would conflict with Emerging Plan Policy GB1 as set out above, and with Section 13 of the Framework which seeks to protect Green Belt land.
19. For the reasons given above, the appeal is therefore dismissed.

*Mark Caine*

INSPECTOR