



Appeal Decisions

Site visit made on 9 June 2022

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2022

Appeal A: APP/X4725/C/22/3293589

Atkinson Brown Storage Limited, Shay Lane, Crofton, Wakefield WF4 1NX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Atkinson Brown Storage Ltd against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 21 January 2022.
 - The breach of planning control as alleged in the notice is the material change of use of land from mineral extraction to vehicular storage together with the siting of a mobile office and associated operational development comprising the erection of a 2.4m high fence and security gates, 11 no. lighting columns and a totem advertisement and the laying of a hard surface on the land .
 - The requirements of the notice are:
 - i) Cease the use of the land for the storage of vehicles and mobile site office;
 - ii) Remove all vehicles and mobile site office stored on the land;
 - iii) Remove the 2.4m high fence and security gates surrounding the land;
 - iv) Remove the 11no. lighting columns;
 - v) Remove the totem advertisement hoarding;
 - vi) Remove the hard standing; and
 - vii) Restore the land to its condition prior to the development above taking place.
 - The period for compliance with the requirements is 15 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B: APP/X4725/W/22/3293587

Atkinson Brown Storage Limited, Shay Lane, Crofton, Wakefield WF4 1NX

- 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 Atkinson Brown Storage Ltd against the decision of Wakefield Metropolitan District Council.
 - The application Ref 21/01960/FUL, dated 29 July 2021, was refused by notice dated 4 November 2021.
 - The development proposed is described as 'Retrospective planning application for the retention of caravan storage facility for a temporary period of 10 years'.
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Decisions

Appeal A

1. It is directed that the enforcement notice is corrected and varied by:
 - Deleting the words 'vehicular storage' from section 3 (The matters which appear to constitute the breach of planning control) and replacing them with, 'use for the storage of caravans and other vehicles'.

- Deleting the requirements at section 5 (What you are required to do) and replacing them with the following:
 - i) Cease the use of the land for the storage of caravans and other vehicles;
 - ii) Remove all caravans and other vehicles stored on the land;
 - iii) Remove the mobile site office, the 2.4m high fence and security gates from the land;
 - iv) Remove the 11no. lighting columns from the land;
 - v) Remove the totem advertisement from the land;
 - vi) Remove the hard standing; and
 - vii) Restore the land to its condition prior to the development described above taking place.
2. Subject to those corrections and variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B:

3. The appeal is dismissed.

Preliminary Matters

4. The enforcement notice refers to 'vehicular storage'. In fact, the land is primarily used for storing caravans, as reflected in the Appeal B proposal. While a caravan might be regarded as a type of vehicle, the allegation would be clearer if it is amended to refer to 'use for the storage of caravans and other vehicles'. Given the evident agreement regarding the matter targeted by the notice, no injustice arises from this change. There is a need for consequential changes to the requirements at section 5 of the notice.
5. The requirements of the notice refer to the site office being 'stored' on the land. This implies a use which is not consistent with the allegation. There is also reference to a 'totem advertisement hoarding'. In my view it would be better described as a 'totem advertisement', which would reflect the wording in the allegation. Both of these minor issues can be corrected without changing the effect of the notice or causing injustice to either party.
6. The appellant has submitted a planning obligation under s106 of the Act. I have had regard to this in relation to both appeals.
7. Although described in slightly different ways, the two appeals deal with the same development. Consequently, I have dealt with them together below.
8. The appellant proposes a temporary planning permission for 10 years, something that could be controlled with a planning condition. I have borne this in mind in assessing the development.

Reasons

Main Issues

9. The site falls within the Green Belt. With that in mind, the main issues are:

- Whether the development is inappropriate within the Green Belt, having regard to the National Planning Policy Framework ('the Framework') and any relevant development plan policies.
- The effect of the development on the openness of the Green Belt;
- The effect of the development on the character and appearance of the area; and
- If the development is inappropriate, whether the harm arising from this, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the development is inappropriate within the Green Belt

10. The site is part of a wider area of land which formerly accommodated a railway junction and depot. It has been used for mineral (clay) extraction over a period of decades since the railway use ceased. An extant planning permission granted in 2003¹, allows the continued use of the site for mineral extraction until 2042.
11. Policy CS1 of the Council's Core Strategy requires development in the Green Belt to conform to national policy. The Framework establishes which forms of development are inappropriate within the Green Belt
12. The appellant argues that the development falls to be considered under paragraph 149(g) of the Framework. However, paragraph 149 is concerned with the construction of new buildings. While the development here includes built elements, it fundamentally concerns a use of land. Thus, even if individual built elements were found to fall within the exceptions identified at paragraph 149, the development as a whole could not be regarded as 'not inappropriate' on that basis.
13. In any event, 149(g) relates to limited infilling or the partial or complete redevelopment of previously developed land. The definition of previously developed land in the Framework glossary specifically excludes land that has been developed for mineral extraction, where provision for restoration has been made through development management procedures. This site has an extant planning permission for mineral extraction, which is the pre-existing use cited in the enforcement notice. I have been provided with a copy of the planning permission for the extraction of minerals at the site and the conditions make provision for the restoration of the site. There is nothing before me to show why the site should be regarded as previously developed land in these circumstances.
14. Moreover, development falling within paragraph 149(g) is only 'not inappropriate' if it preserves the openness of the Green Belt. Given my findings on openness below, this is not development of the kind contemplated by paragraph 149(g), regardless of whether the site is previously developed land or not.
15. The material change of use of land is addressed at Paragraph 150. This establishes at 150 e) that 'material changes in the use of land (such as

¹ Ref 1/99/13048/H

changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) is not inappropriate if it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. There is no claim that the development is a change of use of a kind contemplated by 150 e) and, given my findings on openness below, it is clear that it is not.

16. For these reasons I conclude that the development as a whole is inappropriate development within the Green Belt. The Framework advises at Paragraph 147 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

17. The development results in rows of caravans and vehicles on the land. This clearly harms the openness of the site. The tall wire fencing around the perimeter of the site, the gates and the small portable site office detract further from the openness of the site.
18. In considering openness it is relevant to take account of the previous (lawful) use of the site, which is for mineral extraction and which could apparently resume. The appellant argues that vehicle movements associated with the extraction of clay at the site, which it puts at 200 HGV movements per day plus 10 staff car movements during operational periods, would have a greater impact on the openness of the site than the storage use. However, even if the appellant's traffic figures are correct, I am not persuaded that the movement of vehicles is comparable to the more permanent impression created by caravans and other vehicles stored on the site in terms of the impact on openness.
19. Mineral extraction would also necessitate stockpiling and the siting of plant and machinery on the land. Moreover, the minerals site includes additional land, adding to its impact. However, the information before me does not demonstrate what the actual effect of this would be. The Council's assessment of the impact of the minerals use based on photographs from 2004 suggests that the use was low-key. Furthermore, any requirement for additional structures in connection with mineral extraction would be subject to normal planning controls. Consequently, I am not persuaded that the lawful use of the site would be as harmful to openness as the storage use before me. While the appellant suggests that the minerals use could expand further in the future, that would be subject to normal planning control.
20. I conclude that the development has harmed the openness of the Green Belt. The Framework establishes at paragraph 137 that openness is one of the essential characteristics of Green Belts.

Character and appearance

21. The area is distinctly rural in character, albeit only a short distance from the built up area of Crofton. The caravans and vehicles, densely stored in long rows on the site, appear out of place in this setting. Existing greenery along the site boundary reduces the impact of the caravans. However, they are in clear view from the site entrance on Shay Lane. Gaps in the greenery means that they are also seen from the access road that runs along the south-western boundary of the site, and from Shay Lane on the approach from the southwest. The mainly white caravans contrast starkly with the surrounding greenery and the fencing,

gates, site office and signage all add to the impression of an urban activity on an extensive site within this rural area.

22. I agree that further landscaping along the site boundaries could significantly reduce the visual impact of the scheme. However, it would take some time for such a scheme to be implemented and mature to the extent that it would be fully effective. This is particularly significant in a case where only a 10 year planning permission is sought. From the information before me it does not appear that landscaping would prevent views into the site at the entrance from Shay Lane.
23. While caravan sites are a feature of rural areas, the density of the storage use means that the site is very different, and more urban in character than a caravan site. Accordingly, the development harms the character and appearance of the area. This brings the development into conflict with policies D8 (landscape character) and D9 (design) of the Council's Local Development Framework Development Policies Document.

Other considerations

24. I have considered the matters raised by the appellant in support of the development.
25. The extant planning permission for mineral extraction would have some effect on the site in terms of openness and its appearance, but I have already concluded that it would be unlikely to be as harmful as the current storage use in those respects. Accordingly, this consideration weighs only lightly in favour of the development.
26. The current storage use provides a service that is valued by customers. This is illustrated by the letters of support for the scheme. I accept that keeping caravans on a storage site can be beneficial by providing an alternative to storing them on domestic driveways. I have no reason to doubt the appellant's claim that caravan ownership has increased in recent years.
27. Moreover, the appellant claims a shortage of urban sites suitable for such storage uses in the area. The appellant also states that all of the employment land newly allocated in the Council's emerging local plan is within the Green Belt. The appellant has not provided details of any search for alternative sites and the Council maintains that suitable vacant industrial land is available. On the other hand, the Council has not identified any specific suitable alternative sites. Overall, bearing in mind the desirability of providing storage facilities within reasonable travelling distance for customers, I attach some weight to the benefit of the storage use on this site.
28. As I have already indicated, new landscaping could reduce, but not fully address, the visual harm arising from the development. The information before me does not show in any detail what the effect of new landscaping would be in terms of biodiversity. Even if the planting were to have biodiversity benefits, any assessment of biodiversity would need to consider the scheme as a whole, including any effects arising from hard surfacing, floodlighting and other works within the site. The submitted preliminary ecological appraisal does not do this, having been carried out after the works on the site had taken place. The study notes that no pre-development baseline information was available and considers the implication of ecological impacts for the operational phase of the

- development only. Overall, it has not been demonstrated that there are net biodiversity benefits that weigh in favour of the development.
29. Although the site is close to Crofton, it is a sufficient distance from the built up area to be distinct from it and is clearly within the countryside. Consequently, the relationship to Crofton does not weigh in favour of the development.
30. I appreciate that the number of caravans at the site will vary as their owners take them away and use them, but the use will remain obvious and its fundamental character will not change. Consequently, seasonal variation does not weigh in favour of the development.
31. As I have already stated, it has not been demonstrated that the site should be regarded as previously developed land in accordance with the definition in the Framework. Accordingly, there is no valid argument for the development based on making efficient use of brownfield land.
32. The unilateral undertaking submitted by the appellant is said to have the effect of surrendering the extant planning permissions for mineral extraction². However, the trigger for that, as set out in clause 2.3, is 'the grant of planning permission in terms acceptable to the Owner for the Continued Use'. The 'Continued Use' relates to the storage of caravans, as defined in clause 1.1 of the undertaking. However, the phrase 'in terms acceptable to the Owner' is not explained. Indeed, it is so vague that I cannot be sure whether or not the planning obligation would take effect in the event that I granted planning permission. Clause 5 has similar wording and also indicates that planning permission must be granted 'by the Council' if the deed is to have effect, which causes further uncertainty regarding its effect if permission were to be granted on appeal.
33. But even if it were effective, it does not strike me as a beneficial proposal. Mineral extraction is not inappropriate development in the Green Belt and the Council has not given any indication that it would wish to bring about the end of it on this site. Nor has it expressed any dissatisfaction with the current planning permission and its conditions. Indeed, it suggests that relinquishing the current planning permission would frustrate the aim of safeguarding existing mineral reserves. In these circumstances, I see little benefit in the suggestion that the current planning permission could be relinquished and possibly replaced with a new one at some point in the future.
34. Overall, I am not persuaded that the planning obligation would give rise to any significant benefits and it does not weigh in favour of the development.
35. I appreciate that a return to mineral extraction in the event of the appeals failing could have local impacts, but there can be no certainty that mineral extraction would resume or, if it did, how intensely it would be carried out. In any event, planning permission has been granted for that use and nothing before me suggests it is at odds with current policies.

Conclusion

36. I attach substantial weight to the harm to the Green Belt. There is additional harm to the character and appearance of the area. The proposal for a

² 77/99/13048 and 01/99/13048/H

temporary planning permission means that those harms would cease after 10 years.

37. Having considered all matters raised in support of the development I conclude that, collectively, they do not clearly outweigh the totality of the harm I have identified. Accordingly, very special circumstances do not exist, and the development is at odds with the Green Belt policy set out in the Framework and with Core Strategy Policy CS1. I have found conflict with other policies as well and conclude that there is conflict with the development plan as a whole.
38. For these reasons I conclude that neither appeal should succeed. On Appeal A, I shall uphold the enforcement notice as amended and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended. Appeal B is dismissed.

Peter Willows

INSPECTOR