



Appeal Decision

Site visit made on 27 June 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2022

Appeal Ref: APP/P2365/W/22/3291797

**Units 1 and 2 and adjoining land, Holland Business Park, Spa Lane,
Lathom, Ormskirk L40 6LN**

- 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 H Holland, (H Holland Limited), against the decision of West Lancashire Borough Council.
 - The application Ref 2021/0181/FUL, dated 11 February 2021, was refused by notice dated 21 October 2021.
 - The development proposed is the change of use of Unit 2 and adjacent hardstanding for use within Use Classes E(g)/B2 and/or B8, potential to amalgamate Units 1 and 2 and revised hours of operation.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs is made by Mr H Holland (H Holland Limited) against West Lancashire Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Council has raised no concerns with the change of use of Unit 2 and the internal alterations. I also note that between the planning application being refused and the appeal being submitted, planning permission was granted for the change of use of the premises. As such, there is no need for me to consider the merits of this element of the proposal within this appeal. I also note that the requested hours of operation on a Sunday have been withdrawn from the proposal.
4. The previous appeal decision (the '2018 appeal decision') concerned a different parcel of land to the north of Holland Business Park¹ thus is not of direct relevance to this appeal.

Main Issues

5. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt;

¹ Appeal Ref: APP/P2365/W/18/3203576

- The effect of the proposal on the living conditions of neighbouring residential occupiers, with particular regard to noise and disturbance;
- The effect of the proposal on the character and appearance of the area; and
- If found to be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations and if so, whether this amounts to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. The appeal site comprises two units at the rear of Holland Business Park along with their existing external yard areas and an adjacent parcel of land. It is this adjacent parcel of land, which is located outside of the business park and to the rear of Spa Barn, a grade II listed dwellinghouse, which is the subject of this appeal. The land is currently in agricultural use.
7. Policy GN1 of the West Lancashire Local Plan 2012-2027 (October 2013) (the LP) states that development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies.
8. Paragraph 147 of the National Planning Policy Framework (the Framework) makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There are exceptions to this general restriction and paragraph 150 advises that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. One such exception, at paragraph 150 e), is material changes in the use of land.
9. The proposed development seeks to change the use of the parcel of land from agricultural purposes to a commercial storage use, namely for the storage of agricultural vehicles and equipment associated with the existing business. Therefore, to ascertain whether or not the proposal would be inappropriate development, an assessment of its effect on openness and the purposes of including the site within the Green Belt is required.
10. Paragraph 137 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. When applying the concept of openness to the particular facts of a case, a number of factors are capable of being relevant. For the purposes of this appeal, I have considered both the visual and spatial aspects of openness.
11. At the time of my site visit I observed a clear distinction between the extensive storage of vehicles and ancillary equipment in the yard associated with the existing business, and the very limited amount of other agricultural machinery on the adjacent parcel of land. The latter had a considerably more open and spacious feel whereas the yard appeared cramped and densely packed.
12. I acknowledge that my site visit provided just a snap shot and could have been at a time when vehicles and equipment formerly stored on the land were in use

on the surrounding fields. However, there is no conclusive evidence before me to indicate that the site is typically used considerably more intensively than my observations.

13. Nevertheless, given the generous size of the parcel of land, I acknowledge that it has the capacity to be used intensively for the storage of many agricultural vehicles, equipment and other ancillary products, such as the storage of a large volume of hay, straw or silage. Whilst there is nothing before me to confirm that this level of storage would be practical, even if this were to be the case, the presence of more materials and equipment relating to an agricultural use would not be untypical in this rural location.
14. Moreover, I consider it highly unlikely that the single agricultural holding would result in a comparably high number and concentration of similar vehicles and equipment, namely numerous tractors and machinery, at any one time compared with the existing business. To the contrary, the appellant has indicated that they require additional space for storage purposes and that it has no intention to relocate. I therefore consider it reasonable to assume that several vehicles and equipment would relocate onto this parcel of land, in a similar arrangement to the existing congested yard area.
15. I nevertheless acknowledge that planning permission and the proposed change of use would run with the land, thus the parcel of land could be occupied by a broad range of end users who could utilise it for a variety of commercial purposes. Therefore, similar to the existing business, this would also likely be more intensive than an agricultural use and result in a considerably greater level of storage, irrespective of the final user.
16. The proposal also seeks an increase in the height of a section of the perimeter fence. Above the existing arrangement this increase would be a stark and dominant boundary which would result in an overly urbanised appearance and added sense of enclosure. Accordingly, all the above factors would significantly change the spatial and visual openness of this part of the Green Belt.
17. Furthermore, as the proposed commercial use would extend into a currently agricultural part of the Green Belt, the associated activity and storage of goods would result in encroachment to the countryside, contrary to one of the five purposes of the Green Belt in paragraph 138 of the Framework.
18. Taking all the above into consideration, the proposal would result in harm to the openness of the Green Belt and would conflict with one of its purposes. Therefore, the proposal would be inappropriate development in the Green Belt. In coming to this conclusion, I have also had regard to the Council's Supplementary Planning Document, Development in the Green Belt (October 2015).

Living conditions

19. The concerned parcel of land is within close proximity to the nearest adjacent residential property known as Spa Barn. Both sites are separated by a fence and mature landscaping. Nevertheless, the separation distance is very limited.
20. The submitted Noise Impact Assessment Report² (the NIA) found that there is potential for a significant adverse impact at the nearest noise sensitive

² Holland Business Park, Lathom Noise Impact Assessment Report, 0952021, 23rd August 2021

receptors to the proposed development and therefore suggests mitigation, in the form of a higher fence. However, the NIA does not make it clear how this conclusion was arrived at. It suggests that vehicle movements in the area of hardstanding simulated operations for the proposed development, and that noise levels during this simulation were measured. There is no further detail on the extent of operations which were simulated thus I cannot be certain that the measured levels accurately, as far as reasonably possible, represent predicted noise levels of the proposed use.

21. The NIA also fails to include an assessment of the existing agricultural operations on the parcel of land. As alluded to above, I consider that the movements and noise associated with the agricultural use, whether for storage of machinery, vehicles or other products, would be less than the potential activity associated with a proposed commercial use. Moreover, as the appeal site is located in a rural location, the occupiers of Spa Barn would be familiar and come to expect a degree of noise associated with an agricultural use, including at unsociable hours at certain times of the year.
22. Further to my concerns with the proposed increase in fence height which I have outlined above, the details within the NIA on the proposed fence, as a form of mitigation, are limited thus I cannot determine its effect on the nearest noise sensitive receptors.
23. I acknowledge the representations from neighbouring occupiers, particularly in regard to the existing noise and activity. However, it is not clear whether the noise they have experienced resulted from the agricultural use, the adjacent commercial uses or a combination of both. As such, I cannot be certain that this indicates an existing noise issue with the agricultural use and that the proposal would result in betterment.
24. Accordingly, regardless of the proposed days and hours of operation, given the close relationship of the appeal site and Spa Barn, along with the uncertainty around the evidence before me, I cannot confidently conclude that the proposal would not result in unacceptable levels of noise and disturbance. As the proposal would therefore be likely to significantly harm and be detrimental to the living conditions of nearby residential occupiers it would conflict with Policies EC1 and GN3 of the LP which seek to ensure that developments do not significantly harm the amenities of nearby occupiers.

Character and appearance

25. The existing business park in which the appeal site is located is a contained site, with the areas of hardstanding limited in size with mature landscaping surrounding them. As such, views of the existing storage of vast numbers of vehicles and machinery which already occurs on the yard to the rear of Units 1 and 2 from the wider rural area are limited. The proposal would encroach beyond the footprint of the business park, onto an area of agricultural land. This enclosed area is visible from public vantage points to the south east, albeit it is somewhat read in context with the existing cluster of built form.
26. Nevertheless, the potential for the storage of several large vehicles, machinery and other equipment, which would have a strong commercial appearance, would contrast sharply with the rural characteristics of the wider area and the storage which would be typical of the agricultural use of the parcel of land. It is highly unlikely that a single agricultural holding would have a row of similar

- large vehicles in a comparative manner to a commercial business and as currently experienced at the adjoining yard of Units 1 and 2.
27. The increased fence height may prevent some views of smaller machinery, however I do not consider this sufficient to prevent all views of agricultural vehicles and equipment, which tend to be of a substantial height and overall size. Moreover, I have outlined my concerns with the proposed fence above. Additional landscaping may alleviate any visual concerns however there are no details before me thus I cannot be certain that the introduction of the vegetation needed would also not result in harm to the rural, open character of the area.
28. The vehicles, structures and other paraphernalia present at the adjacent properties are limited in number and scale and appear largely domestic from public vantage points.
29. I note that the nearby strategic employment site is partly visible from the appeal site and that permission was granted for further developments within this site. It is of a substantial scale and has dramatically altered the landscape. However, the appeal site is read in a very different context, as it forms part of a small business park within a strong rural setting. Similarly, the examples at the Warbreck Garden Centre and Taylors Farm are also read in a different context and thus are not directly comparable to the appeal proposal.
30. Taking all the above into consideration, the commercial nature of the proposal would result in harm to the character and appearance of the area. It would therefore conflict with Policies EC1 and GN3 of the LP which seek to ensure that developments have regard to and are compatible with the character of its surroundings.

Other considerations

31. The proposal would allow for the expansion of a rural business which would create new skilled jobs and apprenticeships and would also bring other benefits to the local economy. The nature of these benefits is somewhat limited due to the size of the proposal. Nevertheless, given the importance placed on supporting businesses in local and national planning policy, particularly in rural areas, I collectively afford these economic benefits moderate weight in favour of the proposal.
32. There is no requirement to undertake a comprehensive investigation of alternative sites to accommodate the appeal proposal and do not find that this was implied in the 2018 appeal decision. Rather, had the appellant indicated that a refusal of planning permission would require their business to relocate, this along with the availability of other suitable units in the locality would be factors which would have to be weighed in the balance. This matter has not however been suggested within this appeal.
33. I note that the Council determined that very special circumstances existed at the developments at Warbreck Garden Centre and Taylors Farm. The weight to attach to other considerations is a matter of planning judgement and is determined on a case by case basis. As such, a finding of very special circumstances in other examples is afforded no weight in support of the appeal proposal.

Whether very special circumstances exist

34. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
35. The proposal would constitute inappropriate development in the Green Belt and would cause moderate harm to its openness. I afford this Green Belt harm substantial weight. I have also found that the proposal would harm the living conditions of neighbouring residential occupiers and the character and appearance of the area, which I collectively afford significant weight. There would be moderate benefits resulting from the proposal. Therefore, the advanced considerations in support of the appeal do not clearly outweigh the harm I have identified.
36. Consequently, the very special circumstances necessary to justify the proposal do not exist. As such, the proposal would fail to accord with Policy GN1 of the LP and the Framework.

Other Matters

37. I note the Council's planned loss of Green Belt land in order to meet its development needs however this matter is not of relevance to the appeal proposal, which has been determined on its own merits based on the relevant local and national planning policies and the context of the site.
38. The appellant has raised various concerns with the Council's handling of the planning application. These are not matters for me within the context of this appeal.

Conclusion

39. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, including the Framework, that indicate a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison

INSPECTOR