



Appeal Decision

Site visit made on 20 June 2022

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/H4505/W/22/3297141

Middle Hedgefield Farm, Stella Road, Ryton, Tyne and Wear NE21 4NN

- 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 Miss Jo Stanton of Jack & Jo's Nursery against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/21/00916/FUL, dated 9 July 2021, was refused by notice dated 28 February 2022.
 - The development proposed is erection of timber building to provide café with associated raised deck and creation of additional parking (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, the café and decking had been constructed and was in operation. I have dealt with the appeal accordingly.
3. For the sake of brevity and clarity I have taken the description of development from the Council's decision notice.

Main Issues

4. The main issues are:
 - i) Whether the proposal is inappropriate development in the Green Belt;
 - ii) The effect of the proposal on highway safety with regards to access; and
 - iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the proposals.

Reasons

Whether inappropriate development

5. Policy CS19 of the Local Plan Document for Gateshead 2011 (LPD) relates to protection of the Green Belt. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless the development falls within the exceptions list. This list includes limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing

development. The parties disagree on whether the appeal site constitutes previously developed land. Even if the appeal site was found to be previously developed land, the proposal would not have to have a greater impact on the openness of the Green Belt than the existing development. As the proposal has been constructed then the 'existing development' would be the polytunnel that was previously situated at the site as shown on the submitted plans.

6. Visual and spatial impacts form part of the concept of openness of the Green Belt. From the plans submitted, it is clear that in spatial terms the café and decking area is larger in floor area and volume compared with the previous polytunnel structure. I also witnessed a smoking area structure attached to the café which is not shown on the submitted plans. The café and decking area, in spatial terms, does have a greater impact on the openness of the Green Belt than the previous arrangement.
7. In visual terms, it is noted that the proposal is screened to an extent by existing buildings and the woodland to the south. The external appearance of the café has been described as rural and soft with there being no adverse landscape issues. However, the café and decking are visible from the main road through the existing access point as well as from windows of neighbouring properties. Given the scale of the café and decking, these structures are visually prominent and do have a more intense visual impact on the openness of the area in comparison to the previous arrangement of the polytunnel structure.
8. I find that in both spatial and visual terms, the proposal has a greater impact on the openness of the Green Belt than the previous situation which included a polytunnel structure. The proposal is inappropriate development in the Green Belt, and as such conflicts with Policy CS19 of the LPD and paragraph 149 of the Framework which seeks to preserve the openness of the Green Belt.
9. The appellant states that the proposal would not affect the five purposes of the Green Belt as stated in paragraph 138 of the Framework. The Framework does state however that the essential characteristics of Green Belts are their openness and their permanence; and as previously stated the proposal does have a greater impact on openness being contrary to paragraph 149 of the Framework.
10. My attention is also drawn to the number points in Policy CS19 of the LPD and that the development does not compromise any of these numbered points. Policy CS19 does state that the Green Belt will be protected in accordance with national policy. Given that I have found that the proposal is contrary to the Framework, I am satisfied that the proposal is therefore contrary to Policy CS19 also.

Highway safety

11. At my site visit, I witnessed two access points from the B6317 highway, one directly north of the café and the other to the west adjacent to The Castle building. The access adjacent to The Castle has good visibility in both directions along the B6317 highway.
12. The access to the north of the cafe is narrow and visibility is restricted onto the B6317 highway in both east and west directions by existing buildings that are tight to the access lane. Given the width of the access to the north, it is

unlikely that two vehicles could pass each other. This may result in vehicles having to become stationary on the highway to allow other vehicles to exit. Vehicles may also have to make unusual manoeuvres should two vehicles meet each other on the narrow access, potentially requiring vehicles to reverse back towards the café or onto the highway.

13. There is parking on the site and given the use as a café there is an intensification of vehicles visiting the site. This intensification of use would increase the number of vehicles using the access to the north of the café and the narrow access lane. The number of vehicle movements to and from the site, in particular the increased use of the access to the north of the café, would have a detrimental effect on highway safety with regards to access onto the B6317 highway. The appellant suggests that parking on the site could be reduced which would also encourage people to use other methods of travel. There is no parking alternative scheme before me and I have made my assessment on the submitted plans and observations at my site visit.
14. A one-way system or stopping up of an access, sought through a planning condition has been suggested by the appellant. Due to the number of buildings surrounding the site and the potential for other users requiring access, there is uncertainty as to whether a one-way system or stopping up of an access would be achievable. I therefore do not consider that a planning condition, as suggested by the appellant, would be reasonable. The appellant indicates that there is no record of accidents or incidents, this however, does not alter my findings above and the harm to highway safety.
15. Accordingly, the proposal would have a harmful effect on highway safety with regards to access. The proposal would be contrary to Policies CS13 and MSGP15 of the LPD which seeks development to require secure safe access and connects safely to existing transport networks. The proposal would also be contrary to paragraph 111 of the Framework which indicates that development should be refused on highway grounds if there would be unacceptable impact on highway safety.

Other considerations

16. The café and decking have been described as not being in open countryside and being an efficient, effective and attractive use of the site which increases trade, creates employment and helps the economy. It is noted that the proposal would not have an adverse effect on the character and appearance of the surrounding area.
17. Reference is made to a lawful use of the site as a scrap yard, described by the appellant as being unrestricted. There was little evidence of scrap being stored on the site with the café and polytunnels making up the majority of the appeal site. From the evidence before me, there is no certainty that this lawful use as a scrap yard would return to an extent that would compromise the openness of the Green Belt more than the café and decking proposal.
18. I have had regard to the appellant's statement of case including the personal statement providing background to the scheme and the wider site. The appellant has referred to family members as well as staff and customers with specific needs. From the evidence before me, the failure of this appeal would not result in the appellant's family members' homes being directly affected. It is recognised that the failure of this appeal would result in workers and

customers with specific needs unable to visit or be employed at the café. However, there is no clear distinction that the café provides special requirements for those with specific needs that other businesses cannot provide. The loss of the café would not prevent workers from obtaining employment elsewhere nor would it affect customers' ability to visit other establishments.

19. I recognise the failure of this appeal could affect arrangements for the appellant's family, as well as workers and customers of the café, particularly people identified with specific needs. Having regard to the circumstances drawn to my attention, this could represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established development plan policies and the Framework which aim to protect the openness of the Green Belt, in this case I consider greater weight is attached to these. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant, the appellant's family or workers and customers of the café.
20. The appellant has listed a number of Policies from the LPD which the proposal is considered to accord with, some of which are not disputed by the Council. This matter does not alter the findings above and that the proposal remains contrary to Policies CS19, CS13 and MSGP15 of the LPD.

Conclusion

21. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. From the evidence submitted, I am also not satisfied that the proposal would not harm highway safety with regards to access. There are no other considerations that would clearly outweigh the harm that the scheme would cause. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
22. For the reasons set out above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR