



Appeal Decision

Site visit made on 14 July 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2022

Appeal Ref: APP/P1940/W/21/3280115

Land to north east of Long Ridge, Loudwater Lane, Loudwater WD3 4AW

- 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 Peter Charlton against the decision of Three Rivers District Council.
 - The application Ref 20/2796/FUL, dated 22 December 2020, was refused by notice dated 17 February 2021.
 - The development proposed is demolition of existing buildings and replacement with new barn in association with lawful tree surgery use of the site.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council's second reason for refusal relates to the effect of the development on The Outer Loudwater Conservation Area (CA). However, in light of a previously dismissed appeal Ref APP/P1940/W/21/3274401, for a larger building at the appeal site, the Council is no longer pursuing that reason for refusal. Nevertheless, I shall return to this in my decision.
3. Accordingly, the main issues are:
 1. Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies.
 2. The effect on the openness of the Green Belt.
 3. Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. The proposal is for the demolition of a number of smaller buildings including a glasshouse and the replacement of these with a single building. These existing buildings are located in a yard with an established mixed use for agriculture, tree surgery and landscaping. The appellant advises that the two timber buildings are currently used for storage of equipment

associated with the lawful use of the property. The new building would be primarily used for the applicant's tree surgery business.

5. Policy DM2 of the Development Management Policies Local Development Document, adopted July 2013 ('LDD') relates to development in the Green Belt and relies on national policy in terms of determining if a development is inappropriate or not. Policy CP11 of the Core Strategy, adopted October 2011 ('CS') sets out that there is a presumption against inappropriate development, that fails to preserve openness of the Green Belt.
6. Paragraph 149 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. However, Paragraph 149 of the Framework does set out a number of exceptions to this, including part d) which supports the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
7. The size 'test' is based on a comparison between the building as it exists (in this case buildings) and what is proposed. This does not include the consolidation of existing storage on site or a comparison to a building refused under a previous application.
8. The new building would occupy an appreciably larger footprint than the extant buildings, its height would be nearly double that of the existing buildings. Consequently, it would also have a substantially greater volume and mass. As such, the proposed building would be materially larger than the buildings to be replaced in the same use. Therefore, the proposed building fails the size test and does not meet the exception under part (d) of Paragraph 149 of the Framework.
9. Whilst the appellant asserts that the tree surgery business also manages woodland areas, the requirement for the building would not be exclusively for forestry purposes and therefore does not benefit from the exception under part a) of Paragraph 149, which specifically relates to buildings for agriculture and forestry.
10. As the proposed development does not meet any of the other exceptions under Paragraph 149 of the Framework, it constitutes inappropriate development within the Green Belt.

Effect on openness

11. Paragraph 137 of the Framework, states that the essential characteristics of Green Belts are their openness and their permanence. The extent to which a proposal may cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications.
12. The replacement building would be materially larger than those being replaced and whilst there was some open storage evident at the site, this does not have the permanency and significance associated with a building. Consequently, the proposal would reduce the spatial openness of the yard and Green Belt. In terms of visual openness, in part, the yard is screened by established landscaping. Despite this, given its overall scale, there would be some filtered views of the building available and this would result in some reduction in visual openness. Even if such views would be confined from nearby land.
13. I have also taken account of the appellant's offer to provide some additional landscaping. However, in the absence of a detailed scheme I cannot conclude on the efficacy of this.

14. For the above reasons, the proposal would result in harm to the openness of the Green Belt.
15. Given the previously developed nature of the site and its location, I have no reason to conclude that the proposal would conflict with any of the purposes of the Green Belt, as identified under Paragraph 138 of the Framework.

Other considerations

16. Paragraph 148 of the Framework is clear that 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
17. Despite their poor condition, the buildings to be replaced are of a modest scale, contained within a limited area and largely enclosed by landscaping. Therefore, the existing buildings do not have any unacceptable visual effect on the wider area. Whilst open storage is taking place at the site, my recent and previous visit in association with another appeal only represent snapshots in time and therefore I have no substantive evidence in relation to the extent of this. Moreover, I cannot be certain that even if the proposed building were to be allowed, to what extent this would reduce external storage and how this would be secured and enforced in perpetuity. As such, the removal of the extant buildings and the consolidation of storage in a single building attracts limited weight.
18. I have noted the appellant's requirement to keep machinery and equipment secure and dry. The machinery includes chippers, stump grinders, log splitters, and various other tree surgery plant. Most of the identified machinery is intended for outdoor use. Nevertheless, I accept that some machinery with electrical and hydraulic components would be less prone to faults in a dry environment and that it would be easier to check and maintain these in a building.
19. The appellant advises that annually the business produces a minimum of 100m³ of firewood, as a by-product of the tree surgery business. Adding that, once the felled trees have been seasoned, cut and split, the logs are stored in 1m³ bags on stacked pallets, four high. The appellant also states that the pallets would be handled by a telehandler and that these factors dictate the height of the proposed building. Furthermore, I have been advised that as a consequence of new legislation, the logs must be allowed to dry out to the required moisture content before they can be sold.
20. Nevertheless, there is limited evidence to substantiate the volume of logs produced by the business. Moreover, the volume of logs that would be stored at any given time in the new building along with how much space these would occupy, along with the floor area required for the telehandler to manoeuvre safely within the building is unclear. It is also unclear how much space would be required for the other equipment and machinery, including that which is kept in garages.
21. Given that there is a particularly high bar for allowing new buildings in the Green Belt, the need for a replacement building of the scale proposed has not been clearly substantiated.
22. In light of the above and because the Green Belt provisions do support replacement buildings, there is insufficient evidence before me to suggest that such requirements could not be met through a replacement building which is not materially larger. Accordingly, I attach limited weight to the requirement for the

proposed building to provide, secure and dry storage in association with the tree surgery business.

23. I have taken account of the appellant's concerns about faulty machinery and the implications of this on his business and the health and safety of staff and customers. In this respect, it is important that the equipment is in good order. Nevertheless, on the information before me there have been no significant cases of machinery failing.
24. Although the appellant has referred to the theft of a log splitter and provided crime numbers, these offer insufficient information to assess the appellant's security concerns. Based on these, I cannot be certain that the only solution to address the security concerns is a building. In particular, given that the site is already secured by a gate, covered by CCTV and some of the more valuable items are securely stored. Whilst I understand that a building could be alarmed and intrusion immediately detected, there is nothing to suggest that the yard could not be protected in a similar way. Therefore, these health and safety and security factors attract limited weight.
25. There would be economic benefits associated with the construction of the proposed building and possibly economic prosperity for the existing business along with social benefits associated with any job creation. Nonetheless, these and the environmental gains suggested by the appellant arising from a single replacement building would be modest. Furthermore, on the information before me, I cannot be certain that similar benefits could not be derived from a replacement building which is not materially larger. Therefore, such benefits attract limited weight.
26. The appeal site serves an established business in a rural location and the Framework lends support to the sustainable growth and expansion of all types of business in such areas. The proposal also represents an investment into existing business. Nonetheless, other than some information to support the need for a replacement building, including making the business more efficient and effective, there are no clear reasons to suggest that without this, the existing business would not be functional or sustainable. As such, the existing business and proposed investment do not justify inappropriate development in the Green Belt.
27. The appellant has obtained approval for an agricultural barn near the appeal site. This is for a different use and has been approved under the prior approval provisions. Therefore, this does not lend any weight to the scheme before me.

Other Matters

28. The appeal site lies within the Outer Loudwater CA, forming part of the Loudwater Lane North sub area. This area is characterised by rolling arable farming land. The appeal site is also located to the rear of Long Ridge, a detached period property which makes a positive contribution to the Outer Loudwater CA.
29. Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act requires that special attention in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 195 of the Framework also requires me to assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset).
30. The appeal site is adjacent to farmland and there are other barns nearby. Moreover, the appeal site forms a yard area, which is in part occupied by buildings

and some open storage and therefore is uncharacteristic of the Loudwater Lane North sub area and the wider CA.

31. The proposal would introduce a sizeable building. However, this would have the form, design and appearance of a modern agricultural building and would not be inconsistent with the wider farmland setting. The proposed building would also be separated from Long Ridge by an intervening orchard and set back from the adjacent highway and as already stated to some extent would be screened by existing landscaping. These, and surrounding intervening landscaping would therefore limit the visual effect of the proposed building in views from Long Ridge and within and into the Outer Loudwater CA. Therefore, despite having found that the proposal harms the Green Belt, for the above reasons, it would preserve the character and appearance of the Outer Loudwater CA.

The Green Belt balance

32. The proposal would harm the Green Belt by way of inappropriateness and loss of openness. The Framework requires substantial weight to be given to any harm to the Green Belt.
33. Having taken account of all matters raised in support of the proposal, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the proposal conflicts with Policy DM2 of the LDD, Policy CP11 of the CS, and the Green Belt provisions of the Framework.

Conclusion

34. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR