



Appeal Decision

Site visit made on 26 September 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal Ref: APP/Z4718/W/22/3300539

Briestfield Road, Briestfield, Dewsbury WF12 0NR

- 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 K Braithwaite against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/93111/E, dated 3 August 2021, was refused by notice dated 18 February 2022.
 - The development proposed was originally described as proposed agricultural storage barn for the storage of hay & straw harvest.
-

Decision

1. The appeal is allowed and planning permission is granted for the proposed agricultural building at Briestfield Road, Briestfield, Dewsbury WF12 0NR in accordance with the terms of the application Ref 2021/62/93111/E, dated 3 August 2021, subject to the attached schedule of conditions.

Preliminary Matters

2. Since the planning application was originally submitted to the Council, the location of the building has been re-positioned. It is clear from the appellant's submission that the appeal relates to the revised scheme. The description of development in the formal decision above has been taken from that given on the decision notice and appeal form as it is a more precise and accurate reflection of the development for which permission is sought.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt; and
 - 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

Whether inappropriate development

4. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. Under section a) of that paragraph a new building for agriculture would not be inappropriate.
5. The appellant sets out that the site is a small agricultural holding and provide the holding number. In addition to the appellant's earthworks business, they have recently embarked on agricultural contracting, initially harvesting and more recently sheep farming. The submission sets out their farming operations and storage requirements to justify the new building, and its size. In addition, they have provided a land map which shows the agricultural land farmed by the appellant.
6. On my site visit I observed that there were sheep within the appeal site and agricultural equipment. I understand that the sheep are a specialist breed with a superior fleece and breed all year round, often producing 2/3 lambs each year.
7. The appellant has set out the rational and justification for the proposed building, and has applied for a building for agricultural use. There is no firm evidence which demonstrates that the building would not be for this use or that the identified parcels of land are not operating as a recognised established agricultural unit. There is concern, particularly amongst local residents, that the building would be used for the appellant's other business. The appellant has confirmed that the building is required solely for agricultural purposes and will not, at any time, be used in connection with their plant hire business.
8. There is no compelling evidence before me to dispute the information submitted by the appellant. Having regard to the description of development and the terms in which the application has been made, there is nothing substantive to indicate that the proposal would not be used other than for agricultural purposes.
9. A planning condition could be attached to ensure that the use of the building shall only be used for agricultural purposes. In addition, as highlighted by the Council, if the building was subsequently used for any other purpose without planning permission it would be open to the Council to pursue enforcement action if it considered it expedient to do so.
10. Policy LP54 of the Kirklees Local Plan Strategy and Policies (2019) (LP) states, amongst other things, that buildings for agriculture will normally be acceptable, provided that the building can be sited in close association with other existing agricultural buildings, subject to the operational requirements of the holding it is intended to serve. Isolated new buildings will only be accepted exceptionally where there are clear and demonstrable reasons for an isolated location.
11. The proposed building would not be sited in close association with other existing agricultural buildings and is unconnected to the other parcels of land referred to by the appellant. However, the appellant's submission sets out reasons to justify the siting of the building. There is not a significant distance between the appeal site and those parcels of land. The proposed building would not be unduly large for a building of this nature and the appellant's case clearly sets out the reasons for the size of the building. I am satisfied that there are clear and demonstrable reasons for the choice of location and there would be no detrimental effect on the landscape.

12. Consequently, on account of the specific evidence submitted and the intended use of the building for agricultural purposes, the proposed development complies with paragraph 149 a) of the Framework and Policy LP54 of the LP. I therefore conclude that the proposal would not be inappropriate development in the Green Belt.

Openness

13. As I have found that the proposed development would not be inappropriate development in the Green Belt, there is no requirement for a subsequent assessment of the effect of the development on the openness of the Green Belt, or the impact on Green Belt purposes.

Other considerations

14. Given that the proposed development would not amount to inappropriate development in the Green Belt, there is no need for me to assess other considerations, and whether very special circumstances exist in order to justify the development.

Other Matters

15. In addition to matters relating to the main issues, I have considered in detail local residents' objections. The concerns relate to a range of matters including previous use of the site (including hens and storage of plant machinery), highway safety, trees removed, wildlife, character of the area, affect neighbours. In addition, alternative development better suited, land ownership, noise pollution, does not create/maintain local jobs, public footpath, fire hazard, views enjoyed by residents and encourage pests.
16. The planning officer did not raise any concerns in relation to these matters. My role is to determine the appeal on the basis of the planning merits and impacts of the proposed development before me. The access already exists and serves an agricultural field. There would be sufficient space within the appeal site and the adjoining highway for agricultural vehicles to manoeuvre. I understand that the trees removed were not subject to a Tree Preservation Order and the appellant recently purchased the land. The Council's Environmental Health Service did not raise any objections relating to noise or odour. Furthermore, given the proposed buildings siting and design, it would not cause harm to the character and appearance of the area. The building would also not have an unacceptable effect on the living conditions of nearby residents due to the distance to nearby dwellings. The other matters raised do not justify withholding planning permission.
17. Consequently, subject to appropriate conditions, there is no credible evidence before me that would lead me to an alternative conclusion to the planning officer on the other matters raised or that could justify the dismissal of the appeal on these grounds.

Conditions

18. The Council did not provide a list of suggested conditions. I have considered the consultee and residents suggested conditions in light of guidance found in the Planning Practice Guidance and where necessary the wording has been amended for clarity and precision. The appellant and Council were given the opportunity to comment on the conditions I consider should be imposed.

19. It is necessary to attach a condition specifying the approved plans as this provides certainty. A condition relating to materials is necessary to ensure they would have an acceptable visual impact. A condition restricting the use of the building is necessary to ensure that the development does not conflict with the purposes of the Green Belt.
20. It is necessary to attach a condition relating to the surfacing of the access and internal service area in the interest of highway safety. Furthermore, a condition relating to coal mining investigations is necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence.
21. Further conditions were recommended by consultees and residents relating to hours of construction and tree planting. A condition relating to hours of construction is not necessary given the location of the site in relation to neighbouring properties and the modest scale of the building. A condition relating to tree planting is not necessary because as outlined above the removed trees were not subject to a Tree Preservation Order and it would be unreasonable to require replacement planting.

Conclusion

22. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

L Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 21099D-01-P07.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 21099D-01-P07.
- 4) The building hereby permitted shall only be used for agriculture and forestry purposes, and for no other purpose.
- 5) No development shall commence until details of the proposed construction of the access and internal service areas have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall commence until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.
- 7) Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.