



Appeal Decision

Site visit made on 25 October 2022

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/Z4718/W/22/3299410

40 Clough Lane, Hightown, Liversedge, WF15 8AD

- 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 Max Rathmell against the decision of Kirklees Council.
 - The application Ref 2021/62/94234/E, dated 31 October 2021, was refused by notice dated 9 March 2022.
 - The development proposed is 5kw solar panel array.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form, although I have removed some superfluous wording relating to the location of the solar array. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have based the description on the one given on the original application.

Main Issues

3. The main issues are:
 - Whether the development amounts to inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effects of the development upon the character and appearance of the area; and
 - Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development amounts to inappropriate development in the Green Belt

4. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are

their openness and their permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. The Framework sets out that the construction of new buildings (which for planning purposes includes structures such as the solar panel array) in the Green Belt should be regarded as inappropriate, other than for a number of exceptions as set out in paragraph 149. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, and these are listed at paragraph 150. Paragraph 151 of the Framework further explains that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development.
6. The proposal would not comprise any of those forms of exceptional development listed at paragraphs 149 and 150 of the Framework and in turn the development is inappropriate in the Green Belt.

Openness

7. 40 Clough Lane is at one end of a short row of terraced properties. The properties are served by rear gardens which are delineated by hedgerows and fencing. Some trees are contained within these gardens. Behind these gardens there is a field containing some trees bordered by hedgerow and woodland, within which, there is a beck. The effect is that in this part of Clough Lane, the backs of the properties provide an edge to existing built development beyond which land is more open in nature.
8. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The proposal would introduce development into a location where previously there was none. Situated within the field, and to the rear of the terraced properties, the solar array would intrude into land which is currently open in nature rather than be well related to existing development. The solar array would also be quite a significant feature both in terms of its land take and height. I therefore find that the array would cause a harmful effect upon the openness of the Green Belt.

Character and appearance

9. The open field containing some trees and bordered by woodland and hedgerows provides for a verdant character. A public footpath crosses through the field. When walking through the field and toward the beck, the undeveloped and heavily wooded character before the viewer provides for a sense that the built-up areas of Clough Lane and Hightown have been left and the countryside has been entered. When walking in the opposite direction, back toward Clough Lane, the hedgerow, fencing and trees within the gardens of the terraced houses all contribute to providing a softened edge to the properties.
10. I accept that solar arrays can be located within the countryside and are not features which are only found in urban environments. Nevertheless, the solar array proposed would be utilitarian in appearance. Its siting, beyond the existing edge of built development, would represent an intrusion into the countryside. It would harmfully erode the open and verdant character which presently exists and detract from that sense that the countryside has been

entered. The degree to which the array would be visible from the public footpath within the field would vary but it would be visible at certain points.

11. Therefore, the combination of the appearance of the solar array coupled with its siting beyond the edge of built development I find would be harmful to the character and appearance of the area. As a result, the development would be contrary to Policies LP24 and LP26 of the Kirklees Local Plan, 2019 (KLP). In summary, and amongst other matters, those policies require the form, scale, layout and details of all development to respect and enhance the character of both the townscape and landscape and to cause no unacceptable impacts on landscape character and the visual appearance of the local area. I also find that the development would be contrary to the content of paragraphs 130 and 158 of the Framework which state that development should be sympathetic to local character, add to the overall quality of an area whilst a renewable energy proposal should be approved if its impacts have been found to be, or can be made, acceptable.

Other considerations

12. Paragraph 158 of the Framework states that even small-scale renewable energy projects provide a valuable contribution to cutting greenhouse gas emissions. The proposal would make a contribution to tackling climate change within the district. Therefore, although the energy derived from the solar array may only serve the host property, I nevertheless find that this would constitute a wider environmental benefit to which I give substantial weight.
13. I note the submissions made by the appellant in respect of the reasons why alternative siting options have been discounted and the why the design of array proposed has been sought. I have no substantive evidence before me which contradicts many of the siting complications presented by the appellant. I also appreciate how important the enjoyment of their garden is to the appellant and why they may not want to pursue the array within it. Although this would appear, at least in part, down to personal preference as opposed to wholly due to siting complexities. Irrespective, I have considered this proposal on its own merits and on the basis of the plans submitted.
14. The appellant highlights that neighbouring property occupiers have not objected to the proposals. Whilst this may be the case the absence of objection does not in itself render the scheme appropriate, and I attribute this little weight as a result.
15. I also note the appellants offer of additional planting and replacement of the steps close to the beck. However, I do not have full details of precisely what is proposed or, in particular regard to the steps, confirmation on land ownership and in turn assurances that they could be delivered. This limits the amount of weight I can attribute to these offerings.

Conclusion

16. The Framework, at paragraph 147, states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 explains that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm arising from the proposal, is clearly outweighed by other considerations.

17. As set out above, the development constitutes inappropriate development and, furthermore, would cause harm to the openness of the Green Belt. This harm receives substantial weight. Further harm would be caused by the development to the character and appearance of the area. Even though I do attribute a substantial amount of weight to the contribution to tackling climate change that the proposal would make, in this case it does not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
18. I have given consideration to the appellant's submission that planning permission could be granted for a temporary period only. Temporary permissions can be effective in certain circumstances, such as, where a trial period is necessary to assess the effects of a development further. However, in this instance and where the development would constitute inappropriate development with harm to the openness of the Green Belt, I find that a temporary permission would neither effectively mitigate the harm nor be a suitable approach.
19. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, I conclude that the appeal is dismissed.

H Jones

INSPECTOR