



Appeal Decision

Site visit made on 20 October 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Ref: APP/P2365/W/22/3300313

Vicarage Barn, Southport Road, Scarisbrick, L40 8HQ, 338843, 411627

- 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 Cerberus Chemicals Ltd against the decision of West Lancashire Borough Council.
 - The application Ref 2020/1092/FUL, dated 17 November 2020, was refused by notice dated 7 December 2021.
 - The development proposed is the erection of a building to house a cosmetic manufacturing facility.
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Decision

1. The appeal is dismissed.

Main Issues

2. The site is within the Green Belt, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open. The National Planning Policy Framework (the Framework) indicates that inappropriate development is, by definition, harmful to the Green Belt. In this case, the parties agree that the proposed development would constitute inappropriate development, but there is disagreement about the effect on openness.
3. The main issues are therefore:
 - the effect of the proposal on the openness of the Green Belt,
 - the effect on the setting of nearby heritage assets; and
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Effect on openness

4. The proposed cosmetics manufacturing facility would be located on part of an open field on the edge of the small settlement of Pinfold. The site is accessed via a private road off Southport Road (A570), which serves small number of businesses. These include Vicarage Barn, which is the current base of Cerberus Cosmetics, and a caravan park.

5. The Framework identifies that openness is one of the essential characteristics of Green Belts. The courts¹ have confirmed that openness has a spatial as well as a visual aspect, that the concept is open textured, and that a number of factors are capable of being relevant.
6. The appeal site is flat, and provides an open aspect to the countryside beyond. Views across the appeal site are uninterrupted from the private road which forms its north-east boundary. There is built development on three sides of the site, but it is well screened by trees and hedges, so from here, the impression is of a well treed rural landscape.
7. From the surrounding area, screening from trees and hedgerows means that the appeal site is not particularly visible, and longer distance views to the site across the surrounding agricultural land are limited. However, the site can be glimpsed from Southport Road, across the car park associated with Nellie's Restaurant. It can also be seen from within the car park itself. Boundary trees and shrubs filter these views, but nonetheless the green and open aspect of the site can be appreciated through gaps in the vegetation. As such, the existing site makes a positive contribution to the open character of the Green Belt in this location.
8. The proposed building has been designed to resemble an agricultural barn, which would not be unexpected in this location. In scale, it would be comparable to nearby buildings at Vicarage Farm and Nellie's Restaurant. Still, it would be a sizeable building with a large footprint, a ridge height of around 8.3m and an eaves height of 6.1m.
9. The proposed development would not encroach into the countryside any further than the existing built development on either side. Nonetheless, in purely spatial terms, the introduction of such a large building on an area of undeveloped land would result in a notable loss of Green Belt openness.
10. The flat topography of the area, combined with screening from trees, hedges and buildings, would limit views of the proposed building from surrounding public vantage points, including the canal towpath and nearby footpaths. However, whilst its visual impact on the wider landscape would be limited, the proposed development would be highly prominent from the private road, which is used to access the adjacent caravan park. For users of the road, including people staying at the caravan park, it would represent a significant change. The currently open site would be replaced with a large and very obvious building, with minimal screening from existing or proposed vegetation. The development would also be visible from the car park at Nellie's Restaurant through gaps in the hedge, with fleeting, glimpse views from Southport Road.
11. A large area of hardstanding immediately adjacent to the building would be used for car parking and deliveries. Being flat, this would have less of an impact, but the regular use of the land for parking vehicles, some of which are likely to be larger delivery vehicles, would nonetheless contribute further to a loss of openness.

¹ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466;
R (on the application of Samuel Smith Old Brewery (Tadcaster) and others (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

12. Overall, in visual terms the proposal would have a moderate impact on the openness of the Green Belt.
13. Aside from a minor encroachment into the countryside, I agree with the conclusions of the submitted Landscape and Green Belt Assessment and Review, that the proposal would not undermine the 5 Green Belt purposes set out in Framework paragraph 138. Nonetheless, the proposal does not fall within any of the exceptions set out in Framework paragraph 149, which allow for the construction of new buildings in the Green Belt. As such, it constitutes inappropriate development which, according to paragraph 147, should not be allowed except in very special circumstances.
14. Policy GN1 of the West Lancashire Local Plan 2013 confirms that land within the Green Belt will be assessed against national policy, and any relevant Local Plan policies. The policy also allows for development of small-scale employment facilities on areas which are identified as Protected Land. However, from my reading of the policy, Protected Land does not include areas within the Green Belt, and the two are treated differently in policy terms. The provisions relating to Protected Land do not, therefore, apply to the appeal proposal.

Effect on heritage assets

15. The Grade II listed Old Vicarage is accessed from Southport Road and forms one of a cluster of buildings around Old Vicarage Farm. The physical separation between the listed building and the appeal site, and the presence of buildings in between, means that the proposal would not be readily visible from the listed building. The effect of the proposal on the setting of the listed building would be neutral.
16. The Pinfold Conservation Area (CA) incorporates built development on either side of Southport Road, and extends as far as the Leeds and Liverpool Canal to the north. The appeal site lies just outside the boundary of the CA, which includes Nellie's Restaurant and car park, and the former agricultural buildings around Vicarage Farm.
17. The CA is characterised by traditional rural buildings with a distinctive architectural style, which are generally set back from the well-treed Southport Road. The quality of the houses and other buildings indicates that this was a thriving rural service centre in the past, which would have benefitted significantly from its position along the Leeds and Liverpool Canal. Glimpsed views of the open countryside from within the CA reinforce the agricultural roots of the settlement.
18. The proposed development would impact on views towards the CA from the south, but any such views would be over a long distance, and would be screened by trees and hedgerows along field boundaries. The effect of the proposal on views into the CA would, therefore, be limited.
19. From within the CA, the appeal site is currently visible from Southport Road, across the car park associated with Nellie's Restaurant. From here, glimpse views of the appeal site contribute to the rural setting of the CA. The introduction of the proposed large building would reduce this rural aspect, but the views are already limited in extent and filtered by shrubs and trees, so the effect would not be particularly harmful.

20. Overall, the proposal would cause a small amount of harm to the setting of the CA. For the purposes of Framework paragraph 202, the harm would be less than substantial and should be weighed against the public benefits of the proposal.
21. The proposal would support a prosperous rural economy, as promoted in Framework paragraph 84. It would enable an existing business to grow, and there would be wider benefits for the local economy in terms of additional jobs, as well as demand for goods and services as part of the supply chain.
22. Framework paragraph 81 indicates that significant weight should be placed on the need to support economic growth and productivity. Given this, the public benefits of the scheme outweigh the small amount of harm to the setting of the CA, and the associated minor conflict with Local Plan policy EN4, which seeks to preserve and enhance heritage assets.

Other considerations

23. Cerberus Cosmetics is a local, family run business which has been operating since 2012. The business produces high quality skincare and cosmetics products for brand owners and leisure companies, including international hotel chains. The business is small in scale, employing 2 full-time and 2 part-time staff, but manufactures a large variety of products. The company is one of a small number of established manufacturers in this industry operating in the UK.
24. Since its inception, the business has been able to adapt and diversify, and demand for the company's products has increased significantly since the pandemic. The business operates from part of Vicarage Barn, but the current premises are small, with limited production, storage and office space. There is also a lack of parking.
25. Owing to the lack of production space, the business has outsourced part of the process to meet demand, but this has increased transportation costs and means the business is not as competitive as it might otherwise be. In addition, the appellant has explained that potential customers, which include major retailers and 5 star hotel chains, like to see where the products are made, and spend time at the facility testing them. There is currently a lack of space to show people round, which restricts the ability of the company to attract new customers.
26. From the information provided, it is clear that current arrangements are hampering the ability of the business to grow, and that larger and more suitable premises are now needed if the firm is to expand and remain competitive.
27. The appellant has explained that cosmetics manufacturers differ from other industries, in that they must meet specific requirements for space and processes set by governing bodies. The regulatory requirements for specialist equipment and space, in particular those contained in ISO 22716 - Good Manufacturing Procedures, requires significant financial investment. This limits the ability of many small firms in this industry to expand, but the appeal proposal, which involves using land already in their ownership, would enable Cerberus Cosmetics to do so. It would also have the advantage of enabling the business to continue with no disruption during relocation works.

28. The proposed development would provide a bespoke facility which would overcome the existing shortcomings whilst meeting regulatory requirements. The new premises would enable the business to produce additional products in greater quantity, reduce unit costs and develop new areas of the business. It would allow the company to significantly increase turnover and profitability, improve its resilience and retain a competitive edge, including competing with manufacturers overseas. The 'clean' image, which is very important to the brand, would be provided by the proposed scheme.
29. Expansion of the business would lead to the creation of additional jobs, and the submitted information suggests that the proposal would enable ten full-time jobs to be created in a variety of roles, with the potential for further job creation in project management and production/packing. There would be wider benefits for the local economy through additional demand for goods and services through the supply chain, although few details have been provided as to the nature or extent of such impacts.
30. It is clear that the proposal would have significant advantages for the business, with further benefits for the local economy. However, the scheme constitutes inappropriate development in the Green Belt, and there would be harm to openness. As such, it is necessary to consider whether this is the only viable option to enable the company to grow, or whether less harmful alternatives might be available.
31. The appellant has asserted that that a building of this size, in this location, is the only option. Whilst I have no reason to doubt that the proposed floor space is the minimum needed to meet the regulatory requirements, there may be alternative locations in which the business could expand.
32. The appellant's supporting statement refers to other potential locations which have been explored, including premises listed on property websites and sites included in the West Lancashire Strategic Housing Employment Land Assessment 2019. For a variety of reasons, including physical constraints and locational suitability, none of the sites identified were considered appropriate. Other sites allocated for employment use in the Local Plan, which include regeneration of vacant and under used premises on existing industrial estates, were also discounted, but the reasons given are somewhat sketchy and vague.
33. Given the nature of the business and its emphasis on quality and clean image, the appellant's reluctance to consider locations within more traditional industrial estates is understandable. However, there may be locations available within landscaped business parks or former agricultural holdings which would enable the business to grow without harm to the Green Belt, whilst retaining the clean image sought for the business. Such options are largely lacking from the consideration of alternative sites. I appreciate that much of the borough is within the Green Belt, which acts as a constraint, and that employment opportunities within the rural area of the borough are limited, as recognised by Policy EC2. Nonetheless, the site search exercise appears to be narrow in scope, with little evidence provided of any discussions with the Council, or other, more proactive efforts, to find alternative sites.
34. I appreciate that the appeal site has many advantages for the appellant, being in their ownership and adjacent to the existing operation. However, I find the information provided about alternative sites to be unconvincing, and lacking in detail.

35. Relocating the business elsewhere may well involve renting or buying an existing building. The appellant has explained that the cost involved with this, which would involve retrofitting as well as the purchase of specialist equipment, would be untenable for the business, and that a new building is therefore required.
36. Detailed costings for the specialist equipment have been provided, and I appreciate that this represents a significant financial investment for the company. However, this equipment would presumably need to be purchased as part of any expansion plan, including the appeal proposal.
37. The appellant is, of course, best able to understand the costs which would be involved. However, no explanation has been provided as to how the suggested figure of at least £800,000 for retrofitting has been derived. Furthermore, with no comparative information about the cost of the proposed new build, I am unable to conclude that the assertion that the proposed development is the only financially viable option.
38. The proposed development would incorporate solar panels with battery storage, which would provide for much of the electricity needs of the operation, with the potential to export surplus energy to the national grid. Whilst this is an additional benefit of the scheme, such renewable energy generation could be achieved on another building, in another location.

Other Matters

39. A number of objections to the scheme were submitted by interested parties at application and appeal stage. There were also several expressions of support for the proposal, all of which I have taken into account.
40. A variety of concerns were raised by those objecting to the scheme, including, amongst others, the principle of the development; highways; flood risk; ecology and pollution. Some the issues raised in representations have been addressed in this decision, but as I am dismissing the appeal, it is not necessary to consider all of the matters.
41. The proposed building has been designed to resemble an agricultural barn, with red brick facing to the lower sections and timber cladding above to reflect the materials found in the surrounding area. There are a variety of building types and styles in the vicinity, and a building of the style proposed would not be unexpected or particularly out of place in this area. The car park and proposed water feature to the front would indicate a commercial, rather than agricultural use. However, the overall effect on the character and appearance of the area would be acceptable.
42. The site is accessed off Southport Road via a narrow access road, with buildings fronting directly onto it and a sharp bend. The nature of the access road makes it difficult for larger vehicles to negotiate, but the private road already serves a number of commercial developments. The appellant has confirmed that, whilst there would be some increase in traffic from staff, there would be no increase in goods delivery vehicles compared with the existing situation. Furthermore, the additional storage space could result in a reduction in the number of smaller vehicles which currently visit the site on a regular basis.

43. I am satisfied that, subject to appropriate conditions, including a restriction on the size of delivery vehicles, the proposal would be acceptable on highways grounds.
44. The site is near to a number of important wildlife sites, including Martin Mere Special Protection Area (SPA) and Ramsar sites, and the Ribble and Alt Estuaries SPA and Ramsar site. Had I been allowing the appeal, it would have been necessary for me to complete a Habitats Regulation Assessment and Appropriate Assessment for the scheme. This would need to address concerns expressed by Natural England over potential significant impacts which might arise from disturbance to overwintering and passage birds, during construction and operation of the proposed manufacturing facility. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider these matters any further. That said, from the evidence provided as part of this appeal, including comments from Natural England, it appears that these matters are capable of being satisfactorily addressed.
45. Subject to appropriate conditions, the proposal would be acceptable in terms of flood risk, drainage and ecology. These matters, which represent a lack of harm, are neutral in the planning balance.

Green Belt balance and conclusion

46. By overcoming existing shortcomings and providing additional space to allow Cerberus Cosmetics to expand, the proposal would provide significant benefits for the business. There would also be benefits for the local economy through job creation, and demand for goods and services through the wider supply chain. The proposal is supported by Framework paragraph 81, which says that planning decisions should help create the conditions in which businesses can invest, expand and adapt. By enabling the expansion of an existing rural business, it would also be consistent with Framework paragraph 84.
47. I afford significant weight to the economic benefits that would be associated with the scheme, which are sufficient to outweigh the small amount of harm to the setting of the CA.
48. However, the support in the Framework and Local Plan for economic development does not override all other considerations. The proposed development would be inappropriate development which would, by definition, cause harm to the Green Belt. There would also be moderate harm to openness.
49. In paragraph 148, the Framework establishes that substantial weight should be given to any harm to the Green Belt. Taken together, the other considerations do not clearly outweigh this harm. As such, the very special circumstances necessary to justify the scheme do not exist. The proposal therefore conflicts with Local Plan policy GN1, which requires that developments within the Green Belt are determined in accordance with national policy.
50. I appreciate that dismissing the appeal will cause further delay to the appellant's plans to expand the business, and the benefits that would be associated with that. However, based on the information provided, I am not convinced that the proposed development is the only option to grow the business, and that there are no other, less harmful options available.

51. For the reasons given, the proposal conflicts with the development plan and the Framework. Other considerations do not outweigh this finding. The appeal is therefore dismissed.

R Morgan

INSPECTOR