



Appeal Decision

Site visit made on 16 December 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2023

Appeal Ref: APP/X4725/W/22/3300922

The Boat Yard, Methley Road, Castleford WF10 1PW

- 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 Jeff Dowsett, Chaston Standard Ltd, against the decision of Wakefield Metropolitan District Council.
 - The application Ref 19/01754/FUL, dated 2 August 2019, was refused by notice dated 16 December 2021.
 - The development proposed was originally described as:
 - Demolition of existing club house
 - Proposed extensions to existing sub-station
 - Erection of temporary mooring causeway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above is taken from the application form. The proposal was amended during the course of the application and seeks the installation of a new causeway along the riverbank (measuring 990m in length) and other associated improvement works. The Council dealt with the proposal on this basis and so shall I.

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, including an assessment of the effect on the openness of the Green Belt.
 - The effect of the proposal on flooding and drainage.
 - The effect of the proposal on ecology and biodiversity.
 - The effect of the proposal on the character and appearance of the area.
 - 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. The appeal site relates to an existing boatyard which is located within the Green Belt. The Design and Access Statement sets out the different elements

- of the boatyard, including clubhouse, chandlery, parking, moorings and boat hardstanding spaces.
5. Paragraph 149 and 150 of the Framework set out certain forms of development that are not inappropriate in the Green Belt. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One such exception is b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Another exception is g) 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.
 6. Paragraph 150 of the Framework sets out certain forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Within the list is b) engineering operations and e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
 7. The glossary in the Framework does not define a "building". On the evidence before me, I am satisfied that the proposed causeway would fall within the definition of a building, which includes any structure or erection as set out in section 336 of the Town and Planning Act 1990. As such, it would be reasonable to rely on this definition when applying paragraph 149 of the Framework.
 8. Even if I was to accept that the proposal would comprise one of the forms of developments set out above, the scheme would need to preserve the openness of the Green Belt/ not have a greater impact on the openness of the Green Belt than the existing development. Similarly, in terms of paragraph 149b), 150b) and 150e) the scheme would also need to not conflict with the purposes of including land within it.
 9. Paragraph 137 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
 10. The development proposed would not preserve the openness of the Green Belt and would have a greater impact on the openness of the Green Belt than the existing development. This is because at present the built development is confined to a relatively small area. Furthermore, due to the length of the new causeway, the scheme would significantly increase the spread of development.
 11. Although the existing trees and vegetation would provide some screening, the development would be conspicuous from the surrounding area (including the nearby footpath/cycle path). The scheme would introduce a structure where there is currently no built development. As a result of the length of the causeway, it would appear as a noticeable encroachment into the open countryside rather than a minor enlargement of the existing causeway. Furthermore, the proposal would increase the amount of activity through the

movement of people and riverside moorings in the open countryside where such activity is currently less intensive.

12. Overall, the proposed development would have a limited effect both spatially and visually on the openness of the Green Belt. This is due to the length of the causeway, which its impact would be limited due to it being a relatively lightweight structure and would be sited lower than the footpath/cycle path. Furthermore, there already is some boat activity in the river and movement of people in the locality. Thus, the development would have a limited harmful impact on the openness of the Green Belt.
13. For these reasons, the scheme would conflict with the fundamental aim of Green Belt policy, as stated in the Framework, to keep land permanently open. Furthermore, the proposal would not safeguard the countryside from encroachment, which is one of the five purposes of the Green Belt.
14. Accordingly, based on the evidence presented, the proposal would not fall under any of the exceptions listed in the Framework and would be inappropriate development in the Green Belt having regard to the Framework.

Flooding

15. The appeal site is within an area identified at high risk of flooding (flood zone 3). The Council highlight that Oxbow Lake and a storage reservoir are also nearby. However, the appellant highlights that the adjacent Whitwood Mere is a flood water storage rather than reservoir. A Flood Risk Assessment (FRA) and letter responding to further information requested by the Environment Agency were provided to support the planning application. The FRA shows pictures of the local area flooded, which highlights the importance of ensuring that the development is acceptable in this regard.
16. The Environment Agency previously removed their objection. However, in their most recent comments, the Environment Agency confirm that they object to the proposal. This is because the revised scheme changed the location of the causeway from the previously agreed position and height. The revised scheme lowers and relocates the causeway into the River Calder. The FRA has not been updated since amendments have been made to the scheme.
17. The existing walkway is significantly shorter than that proposed. The new walkway would also be closer to Oxbow Lake than the existing walkway. The revised scheme involves a new in-channel structure of substantial length and therefore cannot be robustly compared to the existing walkway or the previous scheme that the Environment Agency removed their objection to. The FRA does not adequately or appropriately assess the revised, proposed development's flood risks.
18. The appellant states that they refused to undertake a further costly update for an amended report because the revised causeway position would have no change to the FRA. However, no convincing evidence has been submitted to support this assertion. The appellant has also not provided any clear information to demonstrate that the scheme is acceptable in terms of all the seven matters raised in the Environment Agency's objection.
19. For these reasons, insufficient and inadequate information has been provided to enable a full assessment of the development in relation to flood risk and

drainage. It has not been demonstrated that the site is safe from flooding and the development would not increase flooding elsewhere.

20. Consequently, the proposal would conflict with Policies D24 and D25 of the Council's Local Development Framework: Development Policies (2009) (LDF). These seek, amongst other matters, to ensure an appropriate flood risk assessment is submitted and it must be demonstrated that the development can be considered safe over its predicted lifetime, and that it would not increase flooding elsewhere. It would also conflict with chapter 14 of the Framework which states when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Ecology and biodiversity

21. In relation to this main issue, I have considered the consultation responses from the Environment Agency, Yorkshire Wildlife Trust and West Yorkshire Ecology. The appellant highlights net calculations are not compulsory to Wakefield Council and their ecologist confirmed gains regardless of what could be achieved. They have also suggested in the Design and Access Statement that this matter could be conditioned.
22. A preliminary Ecological Appraisal Report was submitted to support the planning application. I observed on my site visit that along the riverbank are trees and extensive vegetation. Adjacent to the riverbank is relatively short grass.
23. The proposed development would result in the installation of a significant number of posts that would extend into the riverbed, as well as bracing channels attached to the riverbank. The Council highlight that it includes the installation of around 330 posts.
24. Paragraph 174 of the Framework sets out that decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. I recognise that there is an existing walkway, but this is limited in size and scale. The proposed causeway is significantly larger in length.
25. The revised scheme includes a long in-channel structure within the river. Along with the potential requirement for channel bed and bank reinforcement, there is a risk that the proposed development will result in a significant loss of riparian semi-natural habitat (e.g. vegetation within the river margin and river bank).
26. The preliminary Ecological Appraisal Report is based on the fact that the majority of the site comprises short, mown grassland which is not reflective of the revised location of the proposed development. Any potential impacts to the existing habitats and species will have not been fully considered in relation to the proposal forming a long in-channel structure within the river.
27. A robust and up to date report has not been provided to allow for a full and comprehensive assessment of the impact of the revised proposed development on ecology and protected species within and around the application site. Considering the evidence submitted and having regard to the characteristics of the site, planning conditions would not be acceptable or an appropriate course of action in this case.

28. For these reasons and based on the evidence submitted, the proposed development would fail to comply with chapter 15 of the Framework which seeks to protect and enhance biodiversity and geodiversity.

Character and appearance

29. The appellant highlights that the final proposal, before me, would be less visually intrusive and they set out reasons for the location of the walkway. However, the proposed development would significantly alter the character and appearance of the area. As previously stated, there is a footpath/cycle path which sits higher than the river and is adjacent to grassland. At present the riverbank, towards the east of the boatyard, reads as a natural area with trees and vegetation along with views of the river and countryside beyond which provide a welcome break from the nearby built development. I observed on my site visit that the footpath and nearby grassland were well used.
30. Although the existing trees and vegetation would provide some screening and the causeway would be lower than the footpath/ cycle path, the scheme is extensive and would be widely visible from the surrounding area. Furthermore, the information provided shows that some of the existing trees would be pruned. The proposed causeway would be substantially longer than the existing causeway. It would include a timber deck with a significant number of posts, as well as bracing channels and a handrail.
31. For these reasons, at the scale proposed, the proposed development would cause harm to the character and appearance of the surrounding area because it would be an unsympathetic addition which would not respect the character of the locality. Consequently, it would conflict with Policy CS10 of the Council's Local Development Framework: Core Strategy (2009) (CS) and Policies D8 and D9 of the LDF. These seek, amongst other matters, to ensure proposals respect, and where appropriate enhance the character of the locality in terms of design, scale, massing, height, materials and colour. It would also conflict with chapter 12 of the Framework which states, amongst other matters, decisions should ensure that developments are sympathetic to local character.

Other considerations

32. I acknowledge the other considerations highlighted, including the benefits of the proposal and that it would support a local business. Based on the evidence submitted and given the scale of the proposal, the benefits would not be substantial, and I give this limited weight.
33. The appellant highlights their frustrations with the Council and have set out an extensive timeline of events (including emails). Such concerns would be a matter to take up with the Council and does not amount to a positive consideration in support of the appeal.

Whether very special circumstances exist

34. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. The proposal would not preserve the openness of the Green Belt. Paragraph 148 of the Framework is clear that substantial weight should be given to any harm to the Green Belt and 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.

35. The benefits of the proposal are given limited weight and the other considerations highlighted are given neutral weight in that they neither weigh in favour or against. When drawing this together, the other considerations advanced in support of the appeal whether taken individually or cumulatively, do not, clearly outweigh the totality of the harm that I have found. Therefore, the very special circumstances necessary to justify the development do not exist. Consequently, the scheme would conflict with chapter 13 of the Framework which seeks to protect the Green Belt and would amount to inappropriate development in the Green Belt.

Conclusion

36. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR