



Appeal Decision

Site visit made on 20 December 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/J4423/W/22/3303139

Warehouse and Office 80 metres West of Fern Glen, Hathersage Road, Sheffield S17 3AB

- 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 Simon Russell of Redcar Brook Company Limited against the decision of Sheffield City Council.
 - The application Ref 21/03947/FUL, dated 2 September 2021, was refused by notice dated 4 February 2022.
 - The development proposed is the construction of additional storage bays to existing barn storage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Appellant has included amended plans within the appeal documentation. Such changes materially alter the scheme that was before the Council when it made its decision and the acceptance of them at this stage would potentially prejudice the interests of interested parties. The appellant has not requested that I take such amended plans into consideration. Nonetheless I confirm, for the avoidance of doubt, that I have not had regard to the amended plans provided and have determined the appeal having regard to the plans upon which the Council made its decision.

Main Issues

3. The main issues are:
 - Whether or not 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; and
 - Whether the 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 within the open countryside, the Green Belt and an Area of High Landscape Value as defined by the Sheffield Unitary Development Plan (UDP). It comprises a parcel of land containing a warehouse with an attached

single storey office and associated hard surfaced areas. It is accessed via a long drive.

5. Policies GE1 and GE3 of the UDP set out the circumstances whereby development in the Green Belt will and will not be permitted. UDP Policy GE2 seeks the protection and improvement of the Green Belt landscape and Policy GE8 requires that development must protect, and wherever appropriate enhance, the character and appearance of Areas of High Landscape Value (AHLV). The AHLV is defined as an area of countryside which is 'very attractive and which has special character'. Policy CS71 of the Sheffield Development Framework Core Strategy (2009) (CS) primarily aims to protect the Green Belt by maintaining its boundaries but does provide some support to reuse of previously developed land.
6. With respect to the approach to Green Belt, the Framework post-dates the adoption of the UDP and CS and at paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate development unless it falls within one of the exceptions listed, two of which are relevant to the case, which I will address below.
7. Exception (c), as set out in paragraph 149 of the Framework, confirms that an extension or alteration of an existing building is not inappropriate development provided 'it does not result in disproportionate additions over and above the size of the original building'. A specific definition of what would constitute a disproportionate addition is not given in the Framework, the UDP or the CS, it is therefore a matter of judgement for the decision maker.
8. The appellant accepts that the warehouse building as it exists today has been extended since its initial construction, the date of which is unknown. The appellant, however, considers that for the purposes of this exercise the original building is the building as it existed at the time it came to be recognised as lawful through the issuing of a Lawful Development Certificate (LDC). Annex 2 of the Framework, however, defines 'original building' as a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally. There is nothing within the Framework's definition that suggests it also includes any building as it existed at a time that its use becomes lawful in planning terms.
9. Notwithstanding the clear definition of 'original building' as set out in the current and previous iterations of the Framework, the appellant has presented a number of matters in support of the different interpretation adopted.
10. My attention has been drawn to the Inspector's findings in respect of the Windmill Cottage, Finwood Road, Rowington¹ appeal (Rowington). The Inspector, in that case, was dealing with the extension of a building which had formed ancillary accommodation to the main dwelling but had subsequently become a separate dwellinghouse and planning unit. The Inspector considered that the original building was that which existed when the separate planning unit was formed. However, whilst a new planning chapter began upon the issuing of the LDC in respect of the appeal site before me, I am not persuaded that a new planning unit was formed at that time. As such the circumstances are not sufficiently similar between the two cases for the Rowington appeal to be material to the determination of this appeal.

¹ Appeal Ref: APP/T3725/A/12/2185711

11. I do not consider that the appeal decision at The Cottage, Tipper's Hill Lane, Fillongley² is directly comparable to the appeal before me as the appeal proposal does not involve extensions to a replacement dwelling. Furthermore, whilst reference has been made to the appellants' interpretation of 'original building' being supported by case law no specific details of any relevant court judgements have been provided which post-date the publication of the Framework and specifically address this matter.
12. Overall, based on the available information, the appeal decisions and case law referred to by the appellant do not provide sufficient justification to enable me to depart from the Framework's definition of 'original building'. Based on the evidence before me and my observations on site I find that the warehouse building was built after 1 July 1948. As such, the starting point for the consideration of whether the proposal amounts to a disproportionate addition is the warehouse as it existed prior to the addition of the office extension. The proposed extension, together with the existing extension would approximately double the footprint of the original building. Such a substantial increase would be a disproportionate addition over and above the size of the original building. Consequently, the proposal would not meet the exception under paragraph 149(c) of the Framework.
13. Exception (g)(i) of paragraph 149 of the Framework relates to limited infilling or the partial or complete redevelopment of Previously Developed Land (PDL) 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. Annex 2 to the Framework defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the development land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. Both parties accept that the site falls within the definition of PDL and I find no reason to conclude otherwise.
14. The Framework, at paragraph 137, sets out 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. Openness has both spatial and visual aspects.
15. The proposal involves a covered storage area to the front of the building and a further covered storage area attached to the building to the rear. The proposed development, overall, would be materially larger than the existing warehouse and office resulting in a significant increase in the proportion of the site covered by building. This would collectively represent a substantial increase in the bulk of development at the site.
16. In reaching the above view, I observed the development would be some distance away and screened from some public vantage points along Hathersage Road. However, the significant increase in massing of built form arising from the proposal, when compared with the more modest proportions of the current building, would be discernible from open views towards the site available between existing hedges and trees.
17. Even if additional landscaping were to be provided within the site to the northern boundary, as suggested by the appellant, openness has both a spatial

² Appeal Ref: APP/R3705/D/12/2176351

and visual aspect. Therefore, visual containment of a site would not of itself remove the harmful loss of openness of the Green Belt that I have identified.

18. I acknowledge that open storage of materials is taking place on the site which itself affects the openness of the Green Belt. The aerial, and other photographs, of the site and what I saw on site shows that the extent of open storage varies and is transient in nature. The proposed storage buildings would, however, be permanent and their impact on openness would not vary irrespective of the amount of materials stored within them. I do not consider therefore, on the available evidence, that the existing open storage has the same impact on the openness of the Green Belt as the proposed buildings.
19. In reaching this conclusion I have had regard to the case law³ that the appellant has drawn to my attention. Whilst I acknowledge that where development alters the openness of the Green Belt it does not follow that the effects will be harmful. Nevertheless, the circumstance of the case before me is that the proposal would erode the openness of the Green Belt. Therefore, whilst localised in respect of the resultant harm identified, in spatial and visual terms the proposal would result in a greater impact on the openness of the Green Belt than the existing development. The proposed development therefore does not fall within the exception that is set out at paragraph 149(g)(i) of the Framework.
20. I have also had regard to the information provided in respect of the appeal decision relating to Fern Glen Farm, Hathersage Road, Sheffield⁴. Unlike the Inspector in that case, I have concluded that the proposal before me would have a greater impact on the openness of the Green Belt and therefore it does not fall within exception (g)(i).
21. A further exception at paragraph 149(g)(ii) relates to proposals to re-use PDL to meet affordable housing needs in the area. That exception does not apply in that the appeal proposal does not relate to affordable housing.
22. For the reasons set out above, the appeal proposal is inappropriate development in the Green Belt and adversely affects its openness. As such it would conflict with Policies GE1, GE2, GE3 and GE8, Policy CS71 of the CS, and the Framework.

Other Considerations

23. The design of the proposal would reflect the character and built form which currently exists and there would be some improvement to the appearance of the site arising from the cessation of open storage on the site, which is located close to the Peak Park. However, this is tempered by the greater, and more harmful, impact on the openness of the Green Belt arising from the proposal when compared to the open storage that is currently taking place. Such greater harm would not be offset through the carrying out of additional landscaping. The potential benefits to the character and appearance of the site and associated additional landscaping screening, therefore, only carry limited weight in favour of the proposal.
24. The proposal would consolidate business operations at a single site, avoiding the need for further alternative premises that otherwise could result in

³ Euro Garages Limited v The Secretary of State for Communities and Local Government (2018)

⁴ Appeal Ref: APP/J4423/A/13/2191301

increased vehicle movements between sites and associated increases CO² emissions. The appellant also submits that it would be unrealistic and unsustainable for the business to move to another site and that the use of another site for storage, as well as continued use of the appeal site, is not appropriate for several reasons. Such matters carry moderate weight in favour of the proposal.

25. I acknowledge the economic benefits of investing in a business following the Covid-19 pandemic and Brexit, and the additional local employment opportunities that would arise both directly and indirectly. The proposal would also result in investment in a business, and there would be environmental benefits arising from any increase in the recycling of materials. However, whilst the Framework includes support for a strong and prosperous rural economy and seeks to minimise waste, and in that regard offer some support for the proposal, this does not override its fundamental Green Belt policy objectives. Nonetheless, such matters carry moderate weight in favour of the proposal.
26. I have had regard to the Norfolk Arms Public House planning permission referred to by the appellant. Whilst this is also a business within the Green Belt and in that regard is comparable to the proposal before me, it is a Grade II Listed Building. As such there is a statutory duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving heritage assets and their setting or any features of special architectural or historic interests which they possess. The circumstances in that case therefore materially differ from the case before me, which does not involve a heritage asset.
27. Reference has been made by the appellant to the Rivelin Hotel, Tofts Lane, Sheffield and Dyson Refractories, Baslow Road, Sheffield as other examples where existing businesses have been allowed, by the Council, to expand within the Green Belt. However, I do not have full details of these other schemes and therefore I cannot be certain that there is any direct comparison with the proposal before me. Whilst consistency of decision making is important, from the evidence before me I have not found that these comparisons alter my findings.
28. I note that there have been no formal objections from third parties or statutory consultees, however, this is a neutral factor weighing neither for nor against the proposal.

Whether there would be Very Special Circumstances

29. Paragraph 147 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
30. I have previously concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In so doing I have found harm to the openness of the Green Belt. The other considerations I have identified are of limited to moderate weight in favour of the proposal. Consequently, these considerations, along with all other matters identified in the evidence, do not clearly outweigh the substantial weight to be given to

identified harm to the Green Belt, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.

Conclusion

31. The development conflicts with the development plan when considered as a whole and there are no other considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
32. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR