



Appeal Decision

Site visit made on 10 January 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20th February 2023

Appeal Ref: APP/R0660/W/22/3306124

Sutton Post Office, 1 Tunncliffe Road, Sutton SK11 0EB

- 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 Alan Bolshaw against the decision of Cheshire East Council.
 - The application Ref 21/5252M, dated 12 October 2021, was refused by notice dated 16 June 2022.
 - The development is a temporary vegetable stall.
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Decision

1. The appeal is allowed and planning permission is granted for a temporary vegetable stall at Sutton Post Office, 1 Tunncliffe Road, Sutton SK11 0EB in accordance with the terms of the application, Ref 21/5252M, dated 12 October 2021, and the plans submitted with it, subject to the following condition:
 - 1) The development hereby approved comprising the temporary vegetable stall shall be maintained in good order and in accordance with the details shown on the approved plans listed as follows:
 - Site Location Plan 23328 000 dated September 2021.
 - Site Location Plan 23328 001 dated September 2021.
 - Retrospective Planning Application for Temporary Vegetable Stall: Indicative Plan of Stall dated October 2021.
 - 2) The use hereby permitted shall be for a limited period being the period of 12 years from the date of this decision. At the end of this period the use hereby permitted shall cease and the building shall be removed, and the land restored to its former condition before the development took place.

Preliminary Matters

2. The development has already taken place and this appeal relates to a refusal for retrospective planning permission.
3. The Cheshire East Site Allocations and Development Policies Document (SADPD) was adopted in December 2022, replacing the Macclesfield Borough Local Plan. This change is reflected in the Council's appeal statement, and the reasons for refusal have also been updated. The appellant has acknowledged the adoption of the SADPD. I have considered this appeal taking account of these changes.

4. A Very Special Circumstances (VSC) case was presented as part of the appellant's appeal statement upon which the Council have been able to comment. I have considered the appeal on this basis.
5. Although the development is described as 'temporary', the original planning statement clarified that planning permission was being sought for the permanent retention of the structure. However, during the determination of the application, the applicant stated that they were seeking retention of the structure for a period of 3-5 years, with a requirement to renew if required. Within the appellant's appeal statement, a 12-year temporary time limit is sought. I have therefore considered the development based on this most recently submitted 12-year timescale.
6. The Council has referred to a log store in its reasons for refusal, but this does not form part of the applicant's description of development and although reference is made to 'logs and fuel' on the Indicative Plan of Stall, it is not described in the application. Consequently, my decision solely focusses on the development for which permission is sought.

Main Issues

7. The main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area; and
 - If inappropriate development, 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 the development.

Reasons

Whether inappropriate development in the Green Belt

8. The appeal site is within the settlement of Sutton which is washed over by the Green Belt. National Policy on development in the Green Belt is set out in the Framework, which advises that the essential characteristics of Green Belts are their openness and permanence. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved unless very special circumstances exist. It further establishes that most new buildings should be regarded as inappropriate, but for certain defined exceptions.
9. Paragraph 149 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. Exception e) refers to limited infilling in villages. Policy PG3 of the Cheshire East Local Plan Strategy (CELP) 2017 sets out the Council's approach to development in the Green Belt and is consistent with the requirements of the Framework; accordingly, I give it full weight in the overall planning balance.

10. There is no definition of 'temporary' with regards to the presence of a building on a site in the development plan or in the Framework. Also, I note that the exceptions in Paragraph 149 make no reference to any difference between permanent and temporary development.
11. Under the SADPD the appeal site falls within the Village Infill Boundary of Sutton Lane Ends (known locally as Sutton). Policy PG10 allows limited infilling within village infill boundaries. Although the Framework does not define 'infilling', Policy PG10 defines this as the development of a relatively small gap between existing buildings. It further explains that limited infilling will only be permitted where it is in keeping with the scale, character and appearance of its surroundings, does not give rise to unacceptable impacts and does not involve the loss of undeveloped land that makes a positive contribution to the character of the area.
12. Sutton General Stores, formerly Sutton Post Office, is located on the corner of Walker Lane and Tunncliffe Road within a residential area. Walker Lane is a main route through the settlement and is characterised by buildings of mixed age and character which are predominantly set back behind wide grassy verges and several mature trees. Tunncliffe Road leads to a residential estate and at the point where it leaves Walker Lane the wide verges and set back of buildings creates an open and generous junction, contributing to the attractive, open character of the area.
13. The vegetable stall subject to this appeal is located on the front corner of the plot associated with Sutton General Store. It is a single storey, detached building sited forward of the main building as it faces both Walker Lane and Tunncliffe Road.
14. It is a matter of planning judgement as to whether the development represents 'limited infilling' and more specifically, 'the development of a relatively small gap between existing buildings', having regard to factors such as the nature and size of the development, the location of the site and its relationship to other existing development adjoining and adjacent to it. Given the junction with Tunncliffe Road, it is my view that the appeal building cannot be sited within a small gap because of the presence of the road junction, and the distance between the buildings on Walker Lane is in itself quite substantial. In addition, because the structure stands forward of the buildings to either side of it on Walker Lane, it is not actually sited within the gap. It therefore cannot be 'limited infilling'. As I have found that the development is not 'limited infilling' it is not necessary for me to consider the other criteria in SADPD Policy PG10 linked to infilling. However, the impact on the character and appearance of the area will be considered later in this decision.
15. The development would, therefore, not meet Paragraph 149(e) of the Framework and is inappropriate development. By definition, inappropriate development is harmful to the Green Belt and substantial weight must be given to that harm in the decision-making process.

Effect on openness

16. The Framework advises that openness is an essential characteristic of Green Belt policy and has a spatial as well as a visual dimension. Before the building was erected, the land was a grassed area, enclosed by boundary fencing without buildings or other structures.

17. The footprint, height and volume of the building has affected the openness of the Green Belt when compared to the previous undeveloped nature of the land. However, it is a relatively small building in relation to the adjoining General Stores and its plot size, and it is viewed in conjunction with other surrounding built development within the settlement. The existing fencing, constructed from concrete posts and gravel boards with solid timber panels, surrounding the plot also diminishes the building's effect on openness. Consequently therefore, the building has resulted in a small reduction in openness and has marginally harmed the Green Belt.

Character and appearance

18. The building is constructed from shiplap timber cladding, stained black, with a bitumen felt roof. It has shuttered window apertures on two sides and door openings facing Sutton General Stores. The site of the building was formerly a part of the front, grassed area to the property. It was installed in January 2021 during the Covid pandemic. On the site of the Sutton General Stores is a shop, incorporating a post office, a florist, a café with outdoor seating area and a small parking area fronting Tunncliffe Road.
19. The appeal building is visible from Walker Lane. However, because of the wide grassy verge fronting the lane, which widens at the road junction, even though the building stands forward of Sutton General Stores, it is not dominant in the streetscape. Attractive, key views are still afforded up and down this lane with no obtrusive views of the development. When viewed from Tunncliffe Road, the building is more prominent as it is located within an area formerly free of buildings to the side of the junction. However, taking account of the height and scale of the building, combined with its materials and colour, the building assimilates well with the existing extension which wraps around the front and side of Sutton General Stores. Although the development has the appearance of a more rustic, temporary structure, the fact that it is so close to and reflective of parts of the existing building, means that to a large extent it is absorbed into the wider streetscape and does not look out of place. The trees on the road junction also help to filter and soften the appearance of the building. These factors have minimised its visual impact on the character and appearance of the area to the extent that it is not harmful.
20. I therefore find that the development does not have a harmful effect on the character and appearance of the area. Consequently, it is in accordance with CELP Policies MP1, SD1, SD2 and SE1 and SADPD Policies PG10, GEN1, ENV5 and RET 4 and the Cheshire East Design Guide (2017). These policies seek to ensure that development is commensurate with the character of the area. It also accords with the Framework which seeks to achieve well-designed places.

Other considerations

21. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It states that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
22. There are several other considerations that have the potential to weigh for or against the appeal scheme thereby having an influence on the assessment of

whether or not the weight of the other considerations clearly outweighs the totality of the harm and in turn whether very special circumstances exist in this case.

23. Following the determination of the application, a significant number of public comments were made in support of the development, including those expressed through an opinion poll questionnaire. Most comments focus on the importance of the village store to the community in terms of the services that it offers and items for sale, and that it is an important meeting place. It is accessible by sustainable methods of transport and is the only retail store serving the ward. It is also valued for its delivery service and is regarded as especially important to elderly people and parents with young children living in the village. There is evidently a considerable strength of feeling amongst the community that the development is an important and established part of the retail facility.
24. The appellant contends that the development is an important addition to the village store and allows customers to regularly buy fresh produce, which cannot be accommodated in the main store, and thus, increasing the range of goods maintains the store's viability and popularity. The appellant also states that the store also serves tourists visiting the nearby Peak District National Park. In this regard, I consider that the strength of community support, its contribution to rural tourism, and the needs of the appellant to maintain a viable and commercially attractive business are considered to attract considerable positive weight weighing in favour of the development.
25. The Council acknowledges that the development supports the existing operations of Sutton General Stores. In this respect, CELP Policies EG2 (rural economy) and EG4 (tourism) and SADPD Policy REC5 (community support) offer policy support and provide positive weight. Positive weight is also afforded to the employment opportunities and although these are stated to remain unchanged, the development will clearly help to ensure the viability of the store. Arguments put forward regarding climate change and a carbon neutral development present limited positive weight in favour of the development.
26. I must also consider the 'temporary' nature of the development. Although ultimately the appellant intends to remove the structure, the suggested 12 years would be a significant amount of time, and the harm arising to the Green Belt from it would be long-term. This reduces therefore the weight in favour of the development.

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 the development

27. Taken as a whole, I have identified that the development is inappropriate development in the Green Belt as defined by the Framework. I have also found a small reduction in openness which has marginally harmed the Green Belt. Whilst, by definition, the Framework indicates that any harm to the Green Belt should be given substantial weight, the limited harm by way of openness reduces the overall harm. I have also found no harm to the character and appearance of the area.
28. I have given weight to each of the other considerations cited in support of the proposal. It is considered that the benefits taken together carry considerable

weight collectively and therefore these other considerations in this case clearly outweigh the harm identified to the Green Belt. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

29. It is my view, following careful consideration of the evidence, that although the development is inappropriate development and causes some harm to openness it has passed the Framework Green Belt test of very special circumstances. It would therefore accord with CELP Policies MP1 and PG3 and SADPD Policies PG9 and PG10.

Conditions

30. I have considered the conditions proposed by both parties. I do not consider that a landscaping condition is necessary as I have found no harm to character and appearance as the development currently stands. Whether the structure is fixed to the ground would make no difference to my assessment of the development.
31. The plans condition is necessary for the avoidance of doubt and to specify the plans to which the permission relates and in the interests of the character and appearance of the area.
32. I have attached a condition limiting the permission to 12 years in accordance with the appellant's suggestion, to meet the expectations of the Parish Council and to reflect the durability of the structure. This will allow time for a longer-term replacement to be discussed with the Council if necessary. The condition also requires the removal of the permitted structure at the end of the period.
33. I have considered the conditions in the light of Government guidance on the use of conditions in planning permissions and made amendments accordingly. I have removed reference to the log store as previously outlined.

Conclusion

34. I conclude that the development would accord with the adopted development plan when considered as a whole and that there are no material considerations, including the Framework, which indicate that a decision should be made otherwise than in accordance with it. The appeal is therefore allowed.

G Bayliss

INSPECTOR