



Appeal Decision

Site visit made on 7 February 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2023

Appeal Ref: APP/N2739/W/22/3300273

**Land to the North of Bilbrough Top Services, Off Tadcaster Road,
Bilbrough YO23 3PP**

Grid Ref Easting: 453649 Grid Ref Northing: 445931

- 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 Harley of Cliff Court (Redcar) Developments Ltd against the decision of Selby District Council.
 - The application Ref 2021/1121/FUL, dated 7 September 2021, was refused by notice dated 18 February 2022.
 - The development proposed is the erection of retail unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form was not completed with a postal address. I have adopted an address which is an amalgamation of the description on the application form and the address on the Council's decision notice, and which accurately describes the location of the appeal site. The postcode has been subsequently confirmed. For completeness, I have included the northing and eastings which appeared on the application form.

Main Issues

3. The appeal site falls within land designated as Green Belt. Therefore, the main issues are:
 - whether or not the proposal is inappropriate development in the Green Belt including its effect on openness;
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of the occupiers of Warren Lodge with particular regard to noise, disturbance and light; and
 - if the development is inappropriate development in the Green Belt, 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

4. The appeal site is located within the Green Belt, adjacent to the west bound carriageway of the A64 trunk road between Tadcaster and York. It forms part of the car park associated with a drive through coffee shop. Adjacent is a fast-food outlet and a petrol filling station (PFS), whilst a short distance further west lies a hotel which together form a roadside services area (RSA). To the rear of the RSA are two car dealerships, a bus depot and a residential dwelling.
5. The majority of the appeal site is currently tarmacked and used as a car park. The proposal would see the erection of a single storey retail unit intended to be occupied by Greggs bakery.

Whether inappropriate development

6. The Framework identifies that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate development in the Green Belt. 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.
7. The construction of new buildings and certain other forms of development should be regarded as inappropriate development in the Green Belt, subject to the exceptions set out in paragraphs 149 and 150 of the Framework, respectively. Although Selby District Core Strategy Local Plan 2013 (Core Strategy) policies SP2 and SP3 predate the Framework, they are consistent with its approach to controlling development in the Green Belt.
8. An exception is provided at Framework paragraph 149 g) for the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.
9. A further exception is provided at Framework paragraph 150 c) for local transport infrastructure which can demonstrate a requirement for a Green Belt location, provided that it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. The Framework does not define 'local transport infrastructure' (LTI). However, it does state a requirement for a Green Belt location to be demonstrated.
10. The PFS within the RSA serves a necessary function for the refuelling along this part of the wider strategic road network. Catering and retail facilities already exist in this location. The appellant states that the proposal would provide additional choice at an existing RSA site, where the facilities are considered to be outdated. I have no evidence to support this claim, or that demonstrates a lack of choice is adversely affecting the viability of the site. In any event, such a claim does not in itself demonstrate a requirement for Green Belt location and, furthermore, I am not persuaded that a roadside retail unit amounts to LTI. Even if I were to accept that the proposal was LTI, the Framework still requires the proposal to demonstrate that it preserves openness and would not conflict with the purposes of including land within the Green Belt.
11. A fundamental aim of Green Belt policy is to prevent sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence. Openness is the absence of development, and it has both spatial and visual aspects.

12. As the appeal site is currently tarmacked and in use as a car park, it is accepted that the proposal would constitute the limited infilling of previously developed land. The relevant assessment for the purposes of Framework paragraph 149 g) is whether the development has a greater impact on the openness of the Green Belt compared to the existing development on the land and for paragraph 150 c) whether it preserves its openness.
13. A Landscape and Visual Appraisal (LVA) demonstrates that the proposal would have limited visibility in the wider area which would be limited to the context of the RSA. Nevertheless, the proposal would have an adverse spatial impact on the openness of the appeal site itself. I accept that the existing use of the site is a car park, but the parking of vehicles is an intermittent use and cannot reasonably be compared with permanent built form. Put another way, the proposed building would have a greater impact on the openness of the Green Belt than use of the appeal site for car parking. The proposed development would result in this part of the Green Belt being less open than it is currently. In visual terms, it would be close to existing development but nonetheless the appeal site does offer some intermittent open visual relief to the otherwise built-up RSA. Overall, I find that the development would have a modest adverse impact on the openness of the Green Belt.
14. A further assessment for the purposes of Framework paragraph 150 c) is whether the proposal conflicts with the purposes of including land within the Green Belt. These are set out at paragraph 138 of the Framework. The appeal site is within a defined area of a wider RSA site and is bounded on all sides by either roads or built development. Its development would therefore not contribute to urban sprawl or lead to countryside encroachment. I do not find that the proposal would conflict with any of the purposes of including land within the Green Belt.
15. For the above reasons, I find that the proposal would neither preserve the openness of the Green Belt and, furthermore, it would have a greater impact on the openness of the Green Belt than the existing development on the land. It would not therefore meet the Green Belt exceptions in paragraphs 149 g) and 150 c). I conclude that the proposal would amount to inappropriate development in the Green Belt and it is, by definition, therefore harmful. I accept that the harm to the openness of the Green Belt would be modest, but nonetheless the Framework requires that substantial weight must be given to any harm to the Green Belt.

Character and Appearance

16. The appeal site is located close to the westbound carriageway of the A64. A part single storey, part two storey coffee shop building and its associated signage stand forward of the appeal site and are prominent features in this location. The neighbouring fast-food outlet, PFS, hotel building, their signage together with considerable expanses of high close boarded fencing which encompass much of the perimeter of the RSA are also prominent features adjacent to the road. The proposed retail unit would be constructed from grey cladding panels with a mono-pitched roof, which the appellant states would be of the highest quality and have been chosen to complement the adjacent coffee shop.
17. Paragraph 130 of the Framework states that development should be sympathetic to local character, including the surrounding built environment. As

set out above, the LVA demonstrates that the proposal would be mostly visible in the context of its surroundings, namely the RSA, which is mixed in appearance. There is no defining character or appearance to the buildings here. To this end, the proposed building would not appear out of place in its surroundings.

18. Accordingly, the proposal would not have any adverse effect on the character and appearance of the area. It would, therefore, comply with saved policy ENV1 of the Selby District Local Plan 2005 (Local Plan) and Core Strategy Policy SP19, which seek, amongst other things, to ensure that new development preserves and enhances the character of the local area.

Living conditions

19. The closest residential property to the proposed development is a two-storey detached property known as Warren Lodge, which lies approximately 35 metres to the south of the appeal site. Planning permission has been granted for the change of use of the property to offices and site security accommodation in connection with the adjacent bus depot¹. I have not been presented with any compelling evidence whether the permission has been fully implemented. Nevertheless, as the proposed use for the building would retain a residential element as accommodation for security staff I have taken the approach that property remains in use as residential dwelling.
20. It is likely that other operations within the RSA are the source of noise which is similar to that which is of concern in relation to the proposal before me. The appeal site is, however, closer to Warren Lodge than any of the existing buildings within the RSA. The officer report states that there is potential for adverse impact from increased noise and light pollution from the proposed use but has not been specific about the sources of the impact other than the outdoor seating area proposed.
21. On my site visit, I observed high levels of background noise from traffic on the busy A64 dual carriageway which would mean that noise from customers sitting at the small outdoor seating area would be unlikely to be particularly audible at Warren Lodge. Furthermore, the bus depot between the proposal and the dwelling is likely to be the source of some noise. The proposed opening hours stated on the application form mean that patrons would be unlikely to be using the outdoor facilities at the site when either background road traffic noise levels or noise from within the bus depot are likely to be lower. The proposed retail unit itself and the distance of the proposal from Warren Lodge would mean that noise from additional vehicular movements created by customers of the proposed unit would be unlikely to cause any adverse impact on the occupiers of the dwelling to the extent which would cause the proposal to be unacceptable.
22. Moreover, deliveries to the proposed unit could reasonably be controlled by condition to ensure that they do not occur at times which would be likely to cause disturbance to the occupiers of Warren Lodge. Whilst there is no guarantee that the unit would be occupied by Greggs and this may change in the future, the appellant suggests that a management plan could be imposed by condition which would apply to any future occupier of the unit. I would

¹ LPA Reference 2018/1331/FUL

agree that this would be a reasonable requirement for any planning permission for the proposal.

23. No illuminated signage on the unit is proposed. Therefore, the only source of light from the proposed development would be from within the unit itself. Openings are proposed on the northwest and southwest facing elevations. As a result, it is unlikely that illumination from within the building would be the source of nuisance to the occupiers of Warren Lodge given the distance and intervening uses, development and vegetation between the proposal and Warren Lodge.
24. Accordingly, the proposal would not have an adverse impact on the living conditions of the occupiers of Warren Lodge with regard to noise, disturbance and light. I conclude that there would therefore be no conflict with Local Plan saved policy ENV1 and Core Strategy Policy SP19 which seek, amongst other things, to protect the amenity of adjoining occupiers and ensure that development does not create unacceptable risks from light or noise pollution.

Other Considerations

25. The site's location within an existing RSA presents an opportunity to expand what is claimed to be a limited offer of facilities, and the proposal may relieve pressure at other nearby RSA's. The appellant suggests that the retail offer at the RSA is outdated in comparison to other locations along trunk roads. However, I have no evidence that updating of the facilities across the wider site is dependent on the proposal before me.
26. The economic benefits of the proposal would include capital investment, job creation, through both the construction and the subsequent operation of the unit and through business rates generated. These matters weigh moderately in favour of the proposal. However, the weight that I afford these benefits is tempered to an extent owing to the identified Green Belt harm and hence the conflict with Core Strategy policy SP13 which seeks, amongst other things, to ensure that economic growth is appropriate to its location.

Planning Balance and Conclusion

27. I find that the proposal would amount to inappropriate development in the Green Belt. I afford this harm substantial weight in the planning balance. Moderate harm would be caused to openness of the Green Belt. There would be no conflict with the purposes of the Green Belt. There would be some conflict with Core Strategy policy SP13. Subject to conditional control, there would be no harm caused to the living conditions of surrounding residents. Furthermore, the proposal would not cause harm to the character and appearance of the area.
28. Overall, I conclude that the harm to the Green Belt by reason of inappropriateness, and the other identified harm, is not clearly outweighed by the identified other considerations so as to amount to the very special circumstances necessary to justify development. Consequently, the appeal should be dismissed.

K L Robbie

INSPECTOR