



Appeal Decision

Site visit made on 24 January 2023

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/Z4718/W/22/3304932

Land at Penistone Road, Fenay Bridge, Huddersfield HD8 0AS

- 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 C Smith against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/62/90494/W, dated 10 February 2022, was refused by notice dated 22 July 2022.
 - The development proposed is the erection of stables.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of stables at Land at Penistone Road, Fenay Bridge, Huddersfield HD8 0AS in accordance with the terms of the application, Ref 2022/62/90494/W, dated 22 July 2022, subject to the conditions in the attached schedule:

Preliminary Matters

2. I have used the address provided in the Council's decision notice in the banner heading and decision as this appears to be more accurate than that provided in the application form. The development applied for has already been carried out, however, I have omitted the word 'retrospective' from the description of the development as it is superfluous and not an act of development.

Main Issue

3. The main issue is whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

4. The appeal relates to a roughly rectangular shaped piece of land that is located adjacent to Penistone Road and within the Green Belt. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. Exception b) permits the provision of appropriate facilities (in connection with the existing use of the 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.
5. Policy LP56 of the Kirklees Local Plan Strategy and Policies, 2019, (the Local Plan) includes a similar exception. In addition, it requires that the scale of the facility is no more than is reasonably required for the proper functioning of the

enterprise or the use of the land to which it is associated; and that the facility is unobtrusively located and designed so as not to introduce a prominent urban element into a countryside location, including the impact of any new or improved access and car parking areas.

6. It is common ground that the development is for the provision of facilities for outdoor sport or recreation, and I have no reason to disagree. My site observations also confirmed that the scale of the development is not more than what is reasonably required to stable 3 horses. The hard surfaced yard area to the front of this building, which is not uncommon for stables, did also not appear to be unduly excessive for this number of horses, which were in the development at the time of my visit.
7. Paragraph 137 of the Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is the absence of development and has both spatial and visual dimensions. Nonetheless, preserving Green Belt openness is not a preclusion on new buildings. New built development that sits comfortably within the rural landscape and contributes to the beneficial functioning of the countryside, which includes the provision of opportunities for outdoor sport and recreation, can preserve openness.
8. In this case, the development is of a modest size and scale, proportionate to the amount of land associated with it, and constructed out of materials typically found on stable buildings, thereby being appropriate to a rural location. In addition, the hardstanding area remains closely associated with the stable complex, both visually and functionally.
9. The topography of the area is also such, that the appeal site sits at a considerably lower level than the busy Penistone Road highway from which it is accessed. On my site visit I saw that the mature trees and vegetation along the eastern boundary of the site, combined with the difference in levels and the proximity of the development to Penistone Road prevent long range views of the development from this highway. I accept that this screening diminishes with leaf fall in winter months, however, even without their leaves the presence of these trees and vegetation help to significantly filter the majority of views of the development. It is also seen against the backdrop of the embankment, trees, and houses situated on the opposite side of Penistone Road from the western direction, thereby not appearing isolated in the open countryside.
10. Furthermore, appropriately worded planning conditions, similar to those suggested by the Council, and accepted by the appellant, would ensure the removal of an existing stable building and boxcar from the site, along with securing ecological improvements and further soft landscaping. The Council accepts that the existing stable building is immune from enforcement action and I have no substantive reason to disagree. Although the evidence submitted in respect of whether the boxcar is lawful is inconclusive, its removal along with the existing stable would further benefit the openness of the Green Belt.
11. The Council's calculations in respect of the increase in volume of the development when compared to these structures are noted. Nonetheless, I consider raising the stabling capacity from 2 to 3, along with the modest hard surfaced area and the increase in on-site activity amounts to no more than a limited expansion of the use, and one of a scale that accords with the approach to facilities for outdoor sport, outdoor recreation and cemeteries as set out in

Local Plan Policy LP56. Taken as a whole, I am therefore satisfied that all of the factors above would serve to ensure that the development is unobtrusive and would avoid any undue impact on Green Belt openness in both spatial and visual terms. Given its nature, scale and location, the development would also not represent encroachment into the countryside, or conflict with any of the other purposes of including land within the Green Belt.

12. Accordingly, I find that the development falls within the exception at Paragraph 149 (b) of the Framework. For these reasons, it does not represent inappropriate development in the Green Belt and is not in conflict with Local Plan Policy LP56. In addition, conflict does not arise with Local Plan Policies LP24 and LP32, which promote good quality design, having regard to landscape character. It also accords with the design objectives of Section 12 of the Framework in these respects.

Other Matters

13. Local residents have raised a number of other concerns, including the lack of compliance with a previous enforcement notice and other works that have been carried out on the site without planning permission. These include the felling of trees, removal of a drystone wall, erection of fencing and ramps and other engineering operations. Nonetheless, these factors have not had any bearing on my decision as I have only had regard to the planning merits of the appeal scheme that is before me.
14. The Council considers the scheme to be intentionally unauthorised development (IUD) in the Green Belt. However, part of the underlying rationale for seeking to deter IUD is to avoid prejudicing the opportunity to mitigate the impact of the development through the use of planning conditions. I am also mindful that S73A of the Act makes provision for a grant of planning permission for development already carried out. In light of these considerations, and my findings above, this has not been a decisive factor in reaching my decision.
15. The Council's Highway Authority has not raised any objections in regard to sight lines and the number of vehicular movements to or from the existing access on the public highway. As such there is little substantive evidence before me to conclude that the development has resulted in a highway safety risk.
16. I have also considered the argument that the grant of planning permission would set an undesirable precedent for other similar developments. However, each application and appeal must be determined on its own individual merits, and I have found the development to be acceptable for its own specific reasons. As such a generalised concern of this nature does not justify withholding planning permission in this case.

Conditions

17. I have considered the conditions suggested by the Council against the tests of paragraph 56 of the National Planning Policy Framework and advice in the Planning Practice Guidance: *Use of planning conditions*. Where necessary and in the interests of precision and enforceability, I have reworded the suggested conditions.
18. A condition specifying the relevant plans is necessary to provide certainty. I have also attached a condition requiring the removal of the existing stable

and box car in the interests of the continued preservation of the openness of the Green Belt. Since the development has already been carried out, but the removal of these buildings is necessary to make the development acceptable, the condition sets out a timetable for compliance – and a sanction that the approved development must be demolished if this is not complied with.

19. In the interests of highway safety and openness of the Green Belt, I regard a condition to ensure against any commercial use of the development to be both necessary and reasonable. A condition requiring the submission of an ecological design strategy is also justified in the interests of biodiversity and visual amenity. However, I have extended the timeframe for the submission and approval of these details to 3 months so that it is not overly onerous.
20. I also do not consider a condition to restrict the installation of floodlighting to be necessary as this is not what has been proposed and would require another grant of planning permission.

Conclusion

21. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be allowed.

Mark Caine

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 01 Revision B.
- 2) The building hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 3 months of the date of failure to meet the following requirement set out below:
 - i) Within 3 months of the date of this decision the existing buildings (pre-existing stable and box car) located within the red line boundary identified as B and C in drawing reference 'Drawing No. 01 Revision B', shall be fully demolished and the spoil/debris removed from the site.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 3) The development hereby permitted shall be used by the owner of the building for their private use only as an equestrian facility and shall not be used for any commercial purposes.
- 4) Within 3 months of the date of this decision, an Ecological Design Strategy (EDS) addressing the ecological enhancement of the site, proposed compensatory tree planting and soft landscape screening of the stable and hardstanding hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The EDS shall include, but not be limited to:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type, numbers, density, planting height and source of materials to be used which shall include native hedging and compensatory tree planting e.g., native species of local provenance.
- f) Timetable for implementation which shall relate to the first planting season (October-March) following the date of the permission.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance.
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The approved EDS shall be implemented in accordance with the approved details and all features shall be retained thereafter.

END OF SCHEDULE