



Appeal Decision

Site visit made on 7 March 2023

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/P2365/C/22/3305252

Land adjacent to Panorama, Drummersdale Lane, Scarisbrick

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr Michael Williams of Bradley Forestry Solutions against an enforcement notice issued by West Lancashire Borough Council.
 - The notice was issued on 29 June 2022.
 - The breach of planning control as alleged in the notice is erection of a building without planning permission.
 - The requirements of the notice are:
 1. Demolish the building in its entirety.
 2. Remove all the materials resultant from step 1 from the site.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (a) and the deemed planning application

2. 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 development plan policy;
 - the effect of the development on the openness of the Green Belt;
 - the effect of the development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance;
 - if the development is inappropriate, 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

3. Policy GN1 of the West Lancashire Borough Council Local Plan 2012-2027 Development Plan Document (Local Plan) sets out that development proposals

within the Green Belt will be assessed against national policy and any relevant Local Plan policies.

4. Paragraph 149 of the Framework indicates that the construction of new buildings should be regarded as inappropriate in the Green Belt except in a number of defined circumstances. New buildings for forestry, are listed as one of those circumstances.
5. The enforcement notice relates to operational development and not a material change of use. However, to determine whether the proposed building would be for forestry, requires consideration of how the building and land are used, since they form a single planning unit.
6. The use of land and buildings occupied with the land for agriculture and forestry, including afforestation, is excluded from the definition of development under section 55(2)(e) of the Act. However, there is no statutory definition of forestry for planning purposes. This is therefore a matter of planning judgement.
7. It appears that the enforcement notice was issued sometime after the breach was detected, and the appellant contends that the use of the land has changed in this time. However, it is necessary to consider not only what I saw, but also the Council's submitted evidence which formed the basis for the reasons for taking action.
8. The land on which the building is situated extends to around two acres. At my visit I saw a pile of mulch and some log cuttings, with the building used to house machinery and other equipment. On the land to the rear, the appellant had planted saplings which they state will be used as young stock for woodland regeneration.
9. The Council's photographs, taken some time ago, show large piles of logs and mulched material. Based on the Council's submissions and third-party representations, the use of the building and land at that time was more akin to a timber processing operation than a forestry one.
10. There appears to be no dispute that the appellant undertakes forestry work, and this is supported by the submission of the woodland management agreements for land at Woodbottom Wood and Chapel Plantation. Furthermore, there has evidently been a change in the nature of the use of the land.
11. Given its ordinary meaning, forestry comprises the science or practice of planting, managing, and caring for forests. However, whilst the saplings may at some stage require management, it does not seem to me that there is currently any active forestry taking place on the land. The evidence indicates that the building and land primarily comprise a base for the business where machinery, equipment and materials are stored, with the work undertaken on-site elsewhere.
12. Whilst the appellant's business concerns working on trees, that is different from the site being in active forestry use. It is a contractor's yard and is no more a forestry use than an agricultural contractor's yard would be an agricultural use.
13. Consequently, as a matter of fact and degree, the use of the building is not for forestry and therefore it does not accord with the criteria at paragraph 149(a) of the Framework.

Openness

14. The Framework identifies 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 in terms of the Green Belt is the absence of development and has been found by the courts to have a spatial as well as a visual aspect.
15. Although the building's appearance does not look out of place in its predominantly rural surroundings, and whilst not prominent in views, it is nevertheless visible. Moreover, the site was previously devoid of any buildings. Consequently, there is visual and spatial harm to the openness of the Green Belt. Also, the building does not assist with safeguarding the countryside from encroachment which is one of the five purposes of including land within the Green Belt.

Living conditions

16. The land and building are located between two dwellings, one of which the appellant states is within the ownership of their family.
17. The building is open fronted, with the nearest dwelling being, according to the Council, around 22m from the building. The past use of the land for timber processing would undoubtedly have had an adverse impact on the living conditions of the occupiers of that dwelling because of the noise, dust, and odours associated with the use of machinery in the open, along with the comings and goings of large vehicles and heavy machinery. This is supported by third-party comments and the Council who stated that their Environmental Health Officer advised there have been complaints regarding noise.
18. Whilst the timber processing may no longer be ongoing, there is an unacceptable risk that the use of the building and surrounding land for the storage of forestry equipment, would cause harm to the living conditions of the neighbouring occupiers because of noise and disturbance associated with the operation of machinery and comings and goings.
19. The appellant states that they intend to plant additional trees between the site and the closest neighbour. However, in the absence of substantive evidence I am not certain that tree planting would provide adequate protection from noise.
20. Overall, I find there is an unacceptable risk that the use of the building will have a materially harmful impact on the living conditions of occupiers of neighbouring dwellings because of noise and disturbance. This is contrary to Policy GN3 of the Local Plan which requires development to retain reasonable levels of amenity for occupiers of neighbouring properties. It also conflicts with the aims of the Framework to seek a high standard of amenity for existing and future users.

Other considerations

21. I acknowledge the appellant's comments that without the site they could not continue their business, and that they cannot erect a building on the land where forestry activity takes place as they manage these areas of woodland on behalf of others. However, since there is no substantive evidence that the

appeal site is the only location capable of accommodating the development, nor that other sites have been considered, this is a matter of limited weight.

22. The appellant states that the building will not result in any additional traffic movements at the junction of the existing access and Drummersdale Lane. However, since the Council identified no harm in respect of highway safety this is a neutral matter.
23. The appellant refers to the prior approval process. Whilst this is not a matter before me and prior approval cannot be granted retrospectively, there is a requirement that buildings and other works proposed under Part 6 Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) must be reasonably necessary for the purposes of forestry, including afforestation, on that land.
24. The appellant referred to the existence of isolated agricultural buildings but provided no details. In any event, the existence of isolated agricultural buildings does not provide a strong argument to justify inappropriate development in the Green Belt.

Green Belt Balance

25. Paragraph 147 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework goes on at paragraph 148 to require that substantial weight should be given to any harm to the Green Belt and 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.
26. I have found harm to the Green Belt by way of inappropriateness and to its openness and one of its purposes, as well as harm to the living conditions of neighbouring occupiers. The other considerations raised in support of the proposal do not clearly outweigh the harm that I have identified to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the development conflicts with the Green Belt protection aims of Policy GN1 of the Local Plan and the Framework.

Conclusion

27. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR