



Appeal Decision

Site visit made on 21 March 2023

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2023

Appeal Ref: APP/Q3115/W/22/3307594

St Andrews Field, Holton OX33 1PZ

- 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 S Longthorp (St Andrews Residential Care Home Ltd) against the decision of South Oxfordshire District Council.
 - The application Ref P22/S2407/FUL, dated 28 June 2022, was refused by notice dated 14 September 2022.
 - The development proposed is a change of use of agricultural land to agricultural and leisure use; and the erection of two sheds and two storage containers; and the erection of boundary fencing above the existing stone wall; and associated operational works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit I observed that the development had commenced and was substantially complete. I have determined the appeal on that basis.
3. Reference is made to children's play equipment within the Council's report and decision notice. However, this does not form part of the proposal. I have determined the appeal on that basis.
4. The appellant comments that 2 of the buildings and the turning area are immune from enforcement action due to the passage of time. However, it is not for me to make a finding upon this matter within the context of this appeal which includes these buildings and associated operational works within the description of development in any case.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, including the effect on openness of the Green Belt and the purposes of including land within it, having regard to the Framework and any relevant development plan policies;
 - the effect on the character and appearance of the surrounding area;
 - the effect of the proposal on protected species;
 - whether the land is contaminated and, if so its effect on the site users; 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

Whether inappropriate development

6. The appeal site is located in the Green Belt. Development within the Green Belt is inappropriate with the exception of the types of development listed in paragraphs 149 and 150 of the National Planning Policy Framework (the Framework). The appellant states that the proposal comprises a change in the use of land to a mixed agricultural and leisure use and is located within a settlement. Thus, it is stated that it comprises a material change in the use of land, the provision of appropriate facilities for outdoor recreation and limited infilling in villages and would therefore meet the exceptions set out in criteria b and e of paragraph 149 and criteria e of paragraph 150 of the Framework.
7. The site is part of a large field which is bordered by residential development and a school. The main parties disagree on whether the site forms part of the village of Holton. Based on my observations on site including the relationship and intervisibility between the site and neighbouring built form, the site appears to be physically and spatially associated with the village which nevertheless lies in the countryside. However, there is a considerable separation distance between the development on either side of the plot and the site does not represent a gap in an otherwise developed frontage. This is a widely-held definition of limited infilling. Therefore, and notwithstanding the relatively small scale of the proposal, the development of the appeal site would go beyond what could reasonably be considered as "limited infilling" and the proposal does not therefore comprise limited infilling in a village.
8. Notwithstanding this, the proposal would comprise a material change of use to a mixed agricultural and outdoor recreation use. It is stated that the buildings are used for storage and as a respite area in association with, amongst other things, the growing of vegetables. Based on the information before me the sheds, storage containers and hardstandings appear to be appropriate facilities in connection with this material change of use. Criterion b of paragraph 149 of the Framework sets out that such facilities in the Green Belt are not inappropriate as long as they preserve the openness of the Green Belt and Paragraph 150 goes on to state that material changes in the use of land are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. I consider the impact on openness below.
9. Paragraph 133 of the Framework indicates that openness is an essential characteristic of the Green Belt. Openness is capable of having both a spatial and a visual dimension. The structures are sited close to existing buildings on neighbouring land. Nonetheless, the sheds, storage containers and hardstandings result in built form on a part of the site where previously there was none. This built form is clearly visible within the site, from the road and from neighbouring properties where it has an adverse visual impact on the openness of the site, resulting in an encroachment of development into the countryside.

10. Furthermore, the Planning Practice Guidance¹ (PPG) sets out that the degree of activity likely to be generated can be taken into account when considering the potential impact of development on the openness of the Green Belt. The mixed leisure/ agricultural use is likely to attract a greater level of activity and traffic generation when compared to the previous agricultural use. Such an increase in activity level, along with any associated vehicular movements, would likely further compromise the openness of the Green Belt experienced here.
11. The appellant comments that the buildings subject of this appeal take up less area and have less volume than buildings which have been removed from the site. However, I have not been provided with any substantive evidence of buildings which previously stood on the site or their relative volumes and thus it has not been appropriately evidenced that the structures subject of this appeal have no greater impact on the openness of the Green Belt than structures which may have previously been located on the site.
12. Additionally, the appellant comments that development surrounding the appeal site and the paraphernalia associated with it has a greater effect on the Green Belt than the appeal proposal. Whilst it may well be the case that existing built form and paraphernalia have an effect on the openness of the Green Belt, nonetheless I am tasked with considering the proposal before me, and the presence of built form elsewhere does not justify further development which would conflict with the aims of the Green Belt as set down in the Framework.
13. On this basis, the proposal would not preserve the openness of the Green Belt and would fail assist in safeguarding the countryside from encroachment, contrary to the 5 purposes of the Green Belt set out in paragraph 138 of the Framework. Insofar as openness is concerned it would also conflict with those aims of Policies STRAT1 and STRAT6 of the South Oxfordshire Local Plan 2011-2035 (2020) (LP) which seek to protect and enhance the countryside including the Green Belt, ensure that the Green Belt serves its key functions and restrict development to that deemed appropriate by the Framework.

Character and appearance

14. The appeal site is part of a large field which is agricultural in character and appearance and contains 2 sheds. The site boundaries permit clear views of the site from the road, from nearby residential properties and from the school. Consequently, the site appears as a prominent feature in views throughout this part of the village. The main road through Holton is bordered by stone walls and mature vegetation, much of which is lined by grass verges. Dwellings are generally set back from the highway. This, along with mature planting in front gardens and the open agricultural nature of the appeal site and the wider field give the area a spacious, green and verdant character to which the appeal site makes a positive contribution.
15. The proposal introduces built form to an agricultural field, much of which remains open and agricultural in character and appearance. Nonetheless, the sheds, shipping containers and hardstandings are prominently sited close to the road and are clearly visible from within the site and the surrounding area. The sheds are similar in scale and form to structures on the neighbouring site and thus do not appear out of character with the rural surroundings. However, the shipping containers, by virtue of their scale, design and materials, appear

¹ Paragraph: 001 Reference ID: 64-001-20190722

as incongruous features within the site's rural setting, resulting in harm to the rural character and appearance of the site and the surrounding landscape.

16. Thus, I conclude that the proposed development would fail to preserve the character and appearance of the area. Accordingly, I find conflict with those aims of LP policies DES1, DES2 and ENV1 which collectively seek to ensure that development physically and visually enhances and complements the surroundings and respects existing landscape character and local context and protects and where possible enhances features that contribute to the nature and quality of the landscape including the landscape setting of settlements.

Protected species

17. The appellant comments that no objection to the proposal on grounds of the impact on protected species was made by the Council's Countryside Officer or Newt Officer. Additionally, I have not been provided with the comments of the Countryside Officer referred to by the Council. Nonetheless, and notwithstanding that the site is not within a Special Area of Conservation, a Site of Special Scientific Interest, or other priority habitat site, based on the Council's case, which includes reference to the proximity of the site to mapped ponds which have confirmed sightings of Great Crested Newts and the suitability of the site as a habitat for Great Crested Newts, there would appear to be a reasonable prospect of Great Crested Newts being present on the site.
18. In the absence of any ecological surveys, I have not been presented with any particular evidence which dissuades me otherwise including the appellant's own assessment that the proposal avoids Great Crested Newt connectivity routes, and that the habitat has been retained and a new pond provided. Thus, and notwithstanding the retrospective nature of the proposal, I am not persuaded that the effect of the proposal on this protected species and its habitats has been adequately surveyed or that the extent to which this protected species may be affected by the development has been demonstrated.
19. Additionally, whilst it may well be the case, as the appellant suggests, that improvements to biodiversity levels could be secured by a planning condition, as advocated by LP policy ENV2, nonetheless this does not overcome the potential harm to a protected species and its habitat.
20. The proposal results in potential harm to a protected species and its habitat. Thus, it conflicts with those aims of LP Policies ENV2, ENV3 and DES1 which seek to ensure that proposals lead to no net loss of habitat and planning permission is only granted if impacts on biodiversity can be avoided, mitigated or compensated fully and that development which would result in deterioration or harm to legally protected species will only be permitted in specified circumstances. The proposal would also be inconsistent with the provisions in the Framework relating to conserving and enhancing the natural environment.

Contaminated land

21. The Council suggest that a contaminated land preliminary risk assessment is necessary to establish the potential for land contamination due to the historic agricultural use of the site and the more sensitive leisure use of the application which, it is stated, may result in adverse effects to users due to unacceptable levels of soil pollution. Third parties have also commented that various waste and hazardous materials are buried within the site.

22. The proposal is not supported by a preliminary risk assessment and does not specify any mitigation methods to protect site users from adverse impacts of pollution from previous operations on the site. I have not been presented with any particular evidence that the previous agricultural use would not result in soil pollution. Accordingly, given the more sensitive nature of the leisure use, it has not been adequately demonstrated that site users would not be the subject to the adverse effects of pollution or associated harm to human health. Furthermore, I have not been presented with any compelling evidence that the Council's position on the suitability of the site as a habitat for Great Crested Newts demonstrates an absence of contaminated land.
23. It has been suggested that information to establish the potential for land contamination can be dealt with by condition. The PPG² advises that conditions can be used to enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. In the event the appeal were allowed I am satisfied that the approval and implementation of a preliminary risk assessment and, if necessary, remediation strategy could be controlled by condition and that such a condition could be worded to ensure that any adverse effects on the site users arising from potential contaminated land within the site could be addressed prior to the continued use of the site. Subject to such a condition, the proposal would accord with those aims of LP policy ENV11 which seek to ensure that proposals are designed to avoid or provide details of mitigation methods. I also find no conflict with the contaminated land requirements of paragraph 183 of the Framework.

Other considerations

24. I note that the proposal would be accessible to the residents of a care home and that there would be social benefits for these residents associated with the recreational use as well as economic benefits for the care home business. I also note that the proposed structures would provide shelter for times of rest for those visiting the site which would improve the user experience. However, I have limited details of this use and its frequency to give substantial credence to.
25. The appellant states that he has cleared development and piles of detritus from the wider site, planted an orchard on the land, planted groups of trees and created ponds, all of which, it is stated, enhance the landscape, visual amenity, and biodiversity value of the site. Whilst it may well be the case that these works have been carried out, even if I were to accept that they did in fact enhance the landscape, visual amenity, and biodiversity value of the site, nonetheless, given the small scale of these works I attribute limited weight to these benefits.
26. The appellant refers to improvements to site security resulting from the fencing and tool stores. This weighs in favour of the proposal, however, given the small scale of the proposal I attribute this benefit limited weight.

Planning Balance and Conclusion

27. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special

² Paragraph: 001 Reference ID: 21a-001-20140306

circumstances. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.

28. The other considerations do not clearly outweigh the substantial weight that I give to the harm to the Green Belt, by reason of inappropriateness, harm to openness and 5 purposes and other harm in terms of character and appearance and protected species. Consequently, the very special circumstances necessary to justify the development do not exist. There would also be conflict with the requirements of LP policy STRAT6.
29. Despite finding no harm in relation to contamination, the proposal would conflict with the development plan, when read as a whole.
30. Material considerations, including the Framework do not indicate that a decision should be taken other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR