



Appeal Decision

Site visit made on 30 May 2023

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/W4705/C/23/3314139

**Land at Former Pineberry Inn, Brighouse and Denholme Road, Bradford
BD13 1CN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr David Ripley of Kirkmore LTD against an enforcement notice issued by the City of Bradford Metropolitan District Council.
 - The notice was issued on 15 December 2022.
 - The breach of planning control as alleged in the notice is the siting of metal containers for storage purposes.
 - The requirements of the notice are to:
 - i. Cease the unauthorised use, and
 - ii. Remove all metal storage containers from the land.
 - The period for compliance with the requirements is three calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - 1) Deleting the allegation within section 3 of the enforcement notice (the matters which appear to constitute the breach of planning control) and replacing it with the following: *Without planning permission, the material change of use to use for the siting and storage of metal containers.*
 - 2) Replacing the *four* with *ten* in the first sentence of section 4 (reasons for issuing this notice).
2. Subject to these corrections, the appeal is dismissed, and the enforcement notice is upheld.

The Enforcement Notice

3. The allegation as set out in section three of the enforcement notice refers to the siting of metal containers for storage purposes, and in the reasons for issuing the notice the four-year period is referenced. The enforcement notice should distinguish between operations and a material change of use, which it does not.
4. It seems to me, based on the Council's submissions, that it is the siting and storage of the containers which they consider to constitute a material change of use.

5. The parties' views were sought regarding proposed corrections to the allegation and relevant period. Both responded and confirmed that they considered there would be no injustice caused.
6. Accordingly, and since it is evident that the appellant understands what the notice is directed at, I shall correct the notice to reflect that the development constitutes a material change of use with consequent changes to the relevant period.
7. Since these corrections neither enlarge or reduce the scope of the breach or requirements, there would be no injustice to either party. I shall correct the notice accordingly under the available powers of section 176(1)(a) of the Act.

Preliminary Matter

8. In their response to the proposed corrections, the appellant stated that there is an appeal on ground (f) however, for clarity there was no appeal made on this ground.

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

9. 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 character and appearance of the area;
 - 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

10. Paragraph 150 of the Framework sets out certain forms of development which are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including and relevant to this appeal a material change in the use of land. It has not been suggested that any of the other exceptions apply, nor do I see any reason that they would.
11. 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.
12. The containers are located on the car park. When the pub was operating cars would have been parked on this land some of the time, and would have had a visual impact on openness, albeit limited due to the intermittent nature of parking.

13. Although temporary, it is an established principle that temporary development can be inappropriate. The containers are substantial and their spatial and visual impact is significant and fails to preserve the openness of the Green Belt.
14. Overall, the development does not assist with safeguarding the countryside from encroachment which is one of the five purposes of including land within the Green Belt and consequently, the development constitutes inappropriate development in the Green Belt.

Character and appearance

15. The appeal site is the car park to The Pineberry which occupies a prominent roadside position at the junction of Fleet Lane with the A644 between the settlements of Mountain and Queensbury. Although a little dilapidated The Pineberry has a largely traditional appearance.
16. There is a school on the opposite side of the A644 and a park on the opposite side of Fleet Lane. Notwithstanding the relatively busy A644, the immediate locality has a rural character and appearance.
17. The containers are substantial and prominent in views from the road. They have an industrial and incongruous appearance which is significantly at odds with the traditional appearance of the pub and rural surroundings and cause significant harm to the character and appearance of the area contrary to Policies DS1 and SC9 of the Local Plan for the Bradford District Core Strategy (Adopted July 2017). Together these policies require development to achieve high quality places through being informed by a good understanding of the site and being appropriate to the local context.

Other considerations

18. In their original submissions, the appellant argued for a temporary planning permission, until 31 December 2024, on the basis that they were preparing to submit a planning application for the redevelopment of the site, including the replacement of the pub building. In this respect the appellant submitted a draft layout plan and structural report. They stated that the containers are needed for storage of fixtures and fittings from within the pub and the storage of building equipment.
19. I am aware that since the appeal was made, the appellant submitted a planning application for the redevelopment of the site (23/00688/MAF). However, given that application is still under consideration, and it is not inevitable that permission will be granted, and as the containers have been on the land since around summer 2021, this is a matter of limited weight.
20. However, given the proposed temporary nature, the identified visual harm to the character and appearance of the area would be limited and the weight given to such harm could be reduced a little. Nevertheless, that harm would still outweigh the benefits of retaining the containers which, as already explained, carries limited weight.
21. The appellant referred to Policies DS5 and SC2 of the Core Strategy on the basis that the containers will reduce the opportunities for crime and being temporary will not harm the amenity of residents. Moreover, that they are adopting a sustainable approach to the project by recycling building materials and reusing the pubs existing fixtures, fittings, and furniture. They argued that

it is reasonable for there to be secure on-site storage during construction and that removing the containers and materials off site will involve more traffic movements.

22. However, as already noted there is currently no planning permission, and since there is no substantive evidence that the containers are the only means by which such storage and security needs could be met, these are matters of limited weight.
23. The planning merits of the proposed redevelopment, including the alleged improvement to visibility at the entrance, have no bearing on the merits of the appeal development.

Green Belt Balance

24. 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.
25. 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 character and appearance of the area. 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 the Framework.

The appeal on ground (g)

26. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
27. The appellant's case, which I have covered under the appeal on ground (a), relates to the appellant's intention to redevelop the site. However, permission has not yet been granted for such a redevelopment, consequently there are no details or certainty about when any operations would commence.
28. Accordingly, and since it seems that there would not be any complex operations involved in removing the containers, I consider three months, as specified in the notice, is proportionate to the breach of planning control that has occurred. The appeal on ground (g) therefore fails.

Conclusion

29. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

Felicity Thompson

INSPECTOR