



Appeal Decision

Site visit made on 20 October 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2023

Appeal Ref: APP/N1025/W/23/3321245

Units North of JTD Autos, Ilkeston Road, Sandiacre, Nottingham NG10 5EA

- 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 Aaron Webster against the decision of Erewash Borough Council.
- The application Ref ERE/0922/0033, dated 29 August 2022, was refused by notice dated 11 November 2022.
- The development proposed is change of use from farm storage and workshop to workshop with an office for internet sales of goods vehicles, use of open barn for under cover vehicle display, proposed fencing and hardstanding for parking and turning space.

Decision

1. The appeal is allowed and planning permission is granted for change of use from farm storage and workshop to workshop with an office for internet sales of goods vehicles, use of open barn for under cover vehicle display, proposed fencing and hardstanding for parking and turning space, at Units North of JTD Autos, Ilkeston Road, Sandiacre, Nottingham NG10 5EA, in accordance with the terms of the application, Ref ERE/0922/0033, dated 29 August 2022, and subject to the conditions set out in the attached schedule.

Main Issues

2. The site lies within the Green Belt. Therefore, the main issues are:
 - Whether the proposal amounts to inappropriate development in the Green Belt, including the effect on the 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 of the proposal on the character and appearance of the area;
 - If the development is inappropriate, whether any 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 it.

Reasons

Whether Inappropriate Development

3. The Government attaches great importance to Green Belts. Paragraph 150 of the National Planning Policy Framework (the Framework) states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of development which are not regarded as inappropriate, provided they preserve its openness and do not conflict with the purposes of including land within it. This includes d) the re-use of buildings

provided that the buildings are of permanent and substantial construction and e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

4. Saved Policies GB1 and GB5 of the Erewash Borough Saved Policies Document (July 2008) (the EBSPD) generally reflect the Framework presumption against inappropriate development in the Green Belt. However, these policies are not wholly consistent with the approach of the Framework to the Green Belt as they do not set out the same exceptions to inappropriate development, and include additional criteria for exceptions not required by the Framework. Therefore, in accordance with Paragraph 219, I afford limited weight to these policies and have assessed the proposal primarily against the Framework.
5. The appeal site represents the northerly extent of development along Ilkeston Road as it leads out of the built-up area of Sandiacre. The site contains two large buildings, an open-sided portal framed barn and an enclosed, portal framed industrial building. The site is used for the storage of farm machinery and at my visit I saw open storage to many exterior parts of the site. To the south of the site, and lying outside of the Green Belt, are a series of commercial/industrial units with forecourt parking, beyond which the built up area comprises a mix of residential and light industrial uses. Open fields exist to the opposite side of Ilkeston Road, with expansive open countryside to the north, all of which falls within the Green Belt. The Erewash Canal runs immediately behind the site, beyond which is a railway line and further undeveloped land around the River Erewash, also within the Green Belt.
6. The proposal seeks to change the use of the site to a base for internet sales of goods vehicles. The existing buildings on the site would be retained, with minor changes to add two windows and remove a timber office addition from the enclosed building. The appellant's evidence sets out that around 30 vehicles would be stored on site, with between 2 and 4 staff vehicles and occasional customer vehicles.
7. The re-use of the existing buildings themselves would not amount to inappropriate development under exception d) of Paragraph 150. However, the change of use would affect the whole of the site and therefore should be considered under exception e), with the effect on openness the determining factor as to whether the proposal would represent inappropriate development.
8. Openness is an essential characteristic of Green Belts, and has both a spatial aspect and a visual aspect. The existing use, at the time of my visit, included haphazard external storage of vehicles, containers, old farm machinery and equipment, building materials and produce, specifically hay. Though none of this is permanent in and of itself, it is evidently longstanding in its presence on site and has therefore become an established feature which takes up space and therefore has an effect on the openness of the site. The evidence before me also indicates that there are no planning controls over the use of the site, and the amount of equipment and materials could increase significantly.
9. The proposal would replace this external storage with an arrangement more akin to a car park, with up to around 30 vehicles stored in two areas to the front of the site and under the open-sided barn. The vehicles are described as commercial, which would suggest they are likely to be larger than a normal car. Having regard to the number proposed, their grouping to the front of the site, and the fact that they would more than likely become a consistent feature

of the site due to the nature of the proposed use, I find that they would have an effect on openness both in spatial and visual terms. However, the plans indicate that the external parts of the site would otherwise be open to enable vehicles to be manoeuvred, which would result in a more orderly arrangement compared to the scattered array of materials currently present on the site.

10. Drawing these considerations together, I find that the proposed external storage of vehicles would have a limited adverse effect on openness, but this would be no worse than that caused by existing use of the site, and would be less harmful compared to the potential effect on openness were the existing uncontrolled use of the site to intensify. Relative to the existing situation, therefore, openness would be preserved.
11. Moreover, notwithstanding that land used for agricultural purposes does not fall within the Framework definition of previously developed land, the proposal would be contained within an already developed, clearly defined site contiguous with the urban area, with existing buildings retained and re-used. Therefore, it would not lead in any substantive way to encroachment of development into the countryside and would not impact on this or any other Green Belt purpose.
12. Therefore, I find that the proposal would preserve the openness of the Green Belt and so would accord with the exception at Paragraph 150(e). Consequently, it would not be inappropriate development in the Green Belt and would not conflict with the provisions of the Framework or the general aims of Saved Policies GB1 and GB5 of the EBSPD.
13. As the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances needed to justify the development.

Character and Appearance

14. The Council's reason for refusal refers to 'material harm to the character of the wider landscape,' due to the replacement of the agricultural use with parking of large vehicles on the site. The Council also refers to the Sandiacre Cloudside Conservation Area (SCCA) which encompasses open land to the western side of Ilkeston Road considered important to the understanding of Sandiacre's historic form and function as an agricultural settlement in a countryside setting. However, the Council's reason for refusal does not specifically allege harm to the heritage significance of the SCCA.
15. The existing site, whilst accepted as being in agricultural use, is not a working farmyard but fulfils a storage and maintenance function for farm produce and machinery. The existing site has little aesthetic value due to the unkempt appearance of the assorted paraphernalia scattered across it. Also, despite being adjacent to the open countryside, the site is not associated with a farmhouse, but contains a modern, industrial building that is viewed as part of an established line of industrial development with comparable areas of forecourt parking which extends south along Ilkeston Road and beyond to Lenton Street. In this respect, the proposed use for vehicle sales would be consistent with the immediate environs, which include other businesses related to car repair and maintenance.
16. Moreover, the proposal would not result in a change to the overall scale or form of buildings on the site, and the change of use would be expected to improve

the appearance of the external parts of the site compared to the current situation, including through the addition of new boundary landscaping. In these respects, the proposal would improve the presence of the site in the landscape, whilst retaining the quasi-agricultural form of the buildings. As such, it would maintain an appropriate relationship both to the urban area on one side and the open fields to the other, and it would not have a deleterious effect on the setting of the SCCA, including views to and from St Giles' Church to the west, as the predominantly open countryside surrounding the site, which contributes to its heritage significance, would be unaffected.

17. For these reasons, I conclude that the proposed development would improve the appearance of the site itself and would preserve the wider character and appearance of the area, in accordance with Policy 10 of the Erewash Core Strategy (March 2014), which requires new development to have regard to the local context and protect, conserve or where appropriate, enhance landscape character. The proposal would also accord with the Framework aim of ensuring developments function well and add to the overall quality of the area.

Other Matters

18. Other matters are advanced by the appellant, including a potential fall-back position and economic benefits through the employment of up to four staff. However, such matters are no longer potentially decisive considerations in light of my findings that very special circumstances do not need to be demonstrated. Therefore, it is not necessary to consider them in further detail.

Conditions

19. I have had regard to the list of suggested conditions provided by the Council, and to the appellant's comments on these. Where necessary, I have amended the wording of the conditions to ensure they meet the tests for conditions set out in the Framework.
20. A condition is required listing the approved plans, to provide certainty. Conditions are also necessary to ensure the parking and manoeuvring areas are laid out prior to occupation, and that the entrance gates are set a sufficient distance in from the highway, in the interests of highway safety. Conditions are necessary to secure the use of specified materials and installation of the proposed landscaping to ensure a satisfactory appearance. Finally, it is necessary to secure details of external lighting to the site, in order to protect biodiversity that may be present on site or along the adjacent canal corridor.

Conclusion

21. I have found above that the proposal would not be inappropriate development in the Green Belt, nor would there be a harmful effect on the openness of the Green Belt or the character and appearance of the area. Consequently, there is no conflict with the development plan or the Framework and so the appeal should be allowed, subject to the conditions set out in the attached schedule.

K. Savage

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Unnumbered Site Location Plan; 3589/01 (Site Layout Plan); 3589/02 (Existing and Proposed Plans); Design and Access Statement; Flood Risk Assessment.
- 3) The development hereby approved shall be carried out using the materials specified in the approved plans and details.
- 4) Prior to the first occupation of the development hereby permitted, the access, car parking and manoeuvring space shall be provided in accordance with the approved plans, laid out, surfaced, and maintained throughout the life of the development free from any impediment to their designated use.
- 5) Notwithstanding the approved plans or the provisions of the Town and Country Planning Act (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order), any gates or other barriers to the vehicular access shall be set back a distance of 12.5 metres from the highway boundary and shall be hung so as to open inwards only.
- 6) The indigenous hedgerow planting comprising hawthorn/blackthorn/hazel to be provided to the north, east and southern boundaries, as detailed on the Site Layout Plan Drawing 3589/01, shall be carried out within the first planting season following first occupation of the buildings or the completion of the development (whichever is the sooner). Any trees or hedgerows which, within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) No external lighting shall be installed until details of any lighting scheme, including the level of luminance, siting, design, light spread and height has been submitted to and approved in writing by the Local Planning Authority. External lighting shall thereafter be installed in accordance with the approved details and so maintained for the life of the development.
