



Appeal Decision

Site visit made on 3 October 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Appeal Ref: APP/A4710/W/23/3320770

299 Stainland Road, Elland, Calderdale HX4 9EH

- 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 Weston of Oxley Property against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/01293/FUL, dated 28 November 2022, was refused by notice dated 31 January 2023.
 - The development proposed is replacement of existing container with satellite office structure.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The decision notice refers to policies in the Replacement Calderdale Unitary Development Plan but this has since been replaced by the Calderdale Local Plan 2018/19 – 2032/33 Written Statement, Adopted March 2023 (Local Plan). Policies BT1, BT2, GB1, GN3 and HE1 have been submitted by the Council as relevant to this appeal.

Main Issues

3. I consider that the main issues are: -
 - whether the proposal constitutes inappropriate development in the Green Belt;
 - the effect of the proposal on openness;
 - whether the proposal would preserve or enhance the character or appearance of the Stainland Conservation Area; and
 - 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 the development.

Reasons

Green Belt

4. The National Planning Policy Framework (the Framework) explains that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. The Framework makes it clear that the construction of new buildings is considered inappropriate unless it satisfies one of the exceptions cited in paragraph 149.

These exceptions are also referred to in Local Plan Policy GB1. One such exception is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). Such development must also not have a greater impact on the openness of the Green Belt than the existing development or not cause substantial harm to openness where the development would re-use previously developed land and contribute to meeting an identified affordable housing need (149(f)). The latter point is not applicable to the proposed development for an office building. Although the structure is a temporary one by virtue of it being a free standing metal storage container, its longevity on this site and its established lawfulness mean that it is not a temporary building in practice.

5. From the evidence submitted the existing storage container has been on this site for a period well in excess of ten years and therefore the appellant claims that it is lawful. The Council has not disputed this. However, an application to establish that an agricultural store has been located on the site for over ten years was approved in 2015¹. The Framework sets out in the Glossary that previously developed land excludes land that is or was last used by agricultural or forestry buildings. Given that I have no evidence that the container has the benefit of any other non-agricultural use then the land does not fall within the Framework's definition of previously developed land and therefore does not meet the criteria in paragraph 149(f) of the Framework.
6. None of the parties have suggested that the proposal would fall within any of the other exception cited in the Framework and the Local Plan although the appellant and the Council have compared the size of the proposed building with that of the existing structure and criterion (d) of paragraph 149 allows the replacement of a buildings. However, as well as requiring a replacement building not to be materially larger than the one it replaces, it also requires the replacement building to be in the same use and so the comparable sizes are not relevant for the purposes of assessing the proposal against this criterion. As the proposed office would not fall within the other exceptions cited in paragraph 149 of the Framework or in Local Plan Policy GB1, it would amount to inappropriate development in the Green Belt. The Framework requires that any harm caused by inappropriateness carries substantial weight.

Openness

7. The Framework sets out that the essential characteristic of Green Belts are their openness and their permanence. It also sets out the five purposes of Green Belts which are to check the unrestricted sprawl of large built-up areas; to prevent towns from merging into each other; to safeguard the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in regeneration, by encouraging the recycling of derelict and other urban land.
8. As referred to above, the appellant compares the size of the proposed building with that of the storage container. In terms of volume the proposed building would amount to about 85m³ whereas the existing container is about 60m³. This is not an exceptionally large increase but the appeal site also includes the provision of space for two cars and a post and rail fence to the south-eastern

¹ Local Planning Authority Ref: 15/60253/ENF.

boundary. The design and appearance of the building and its siting would appear more formal in appearance than the current arrangement where the container is sited alone with a small area of rough hardsurfacing at the top end of the field. The encroachment into the countryside would be more noticeable and its visual impact on the openness of the Green Belt more obvious than the existing arrangement. I therefore find that the proposal would have an adverse effect on the openness of the Green Belt.

Conservation Area

9. Stainland Road runs through the centre of the Stainland Conservation Area and comprises stone built properties set close to the road which is generally fairly narrow. This creates a strong traditional built area with intermittent views through to the countryside beyond. Buildings are mostly two stories high although there are some single storey structures including garages. The topography of the area means that the land falls away quite steeply to the south of the village. The combination of stone buildings, the narrow road and the topography of the landscape with the open countryside around the village contribute towards its significance as a heritage asset.
10. The existing metal storage container is located at the north-western end of a field which is accessed from Stainland Road which also serves Nos 299 and 301 Stainland Road, a garage and a tarmac parking area. From this area there is a gate into the field containing the storage container with the land dropping away from the parking area and down the field. A landscaped retaining wall separates the tarmac area from the land where the storage container is located. This location and the topography of the land means that the existing storage container is partly screened from view from Stainland Road but is more prominent in the landscape when viewed from the south.
11. The existing storage container is modest in size but it is a standard metal container that has a negative impact on the character and appearance of the Conservation Area. Its removal would benefit the Conservation Area. However, the proposed building would be a non-descript flat roofed structure that, although timber clad, would not be representative of the traditional stone buildings which characterise the area. Although there are exceptions to the more prevalent materials and style of buildings, including the nearby brick garage and rendered buildings, and notwithstanding that details of external materials could be subject to a planning condition, the proposed flat roofed building would fail to enhance the character of the Conservation Area in terms of its utilitarian design and appearance.
12. However, the removal of the existing container would be an improvement and although the design merits of the proposed building are limited in that they would not be consistent with the character of the traditional buildings in the Conservation Area, it would be an improvement on the existing metal container and therefore have a neutral effect on the Conservation Area. This being the case, the appearance of the Conservation Area would be preserved and no harm would be caused to its significance as a designated heritage asset.
13. As such, the proposed office would not conflict with Local Plan Policy HE1 and the relevant policies in the Framework which, in accordance with the statutory duty under Section 72(1) of the Town and Country Planning (Listed Buildings

and Conservation Areas) Act 1990, requires that special regard be had to preserving or enhancing the character or appearance of a Conservation Area.

Other Considerations

14. The proposed office would utilise an existing access and space for two cars to park would be provided. Although concern has been expressed about the potential for extra traffic associated with the proposed office, I do not consider that the scale of the proposal would be sufficient to cause any adverse effects on highway or pedestrian safety. I also have no reason to believe that the proposal would cause harm to the living conditions of the occupiers of the surrounding residential properties. The lack of harm resulting from these matters add a neutral factor in balancing the effects of the proposal. I have also considered other Local Plan policies referred to, in particular BT1, BT2 and GN3 which relate to design; privacy, daylight and amenity space; and the natural environment but these do not alter my conclusions.

Conclusion

15. The Framework makes it clear that inappropriate development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other circumstances.
16. The proposed dwelling would be inappropriate development and I have found that the openness of the Green Belt would be harmed. This carries substantial weight. Whilst I have found that the proposal would preserve the appearance of the Conservation Area and no harm would arise in relation to any other considerations, these carry only moderate weight.
17. I therefore conclude that the proposal would be inappropriate development in the Green Belt and the very special circumstances required to clearly outweigh the harm caused by inappropriateness do not exist. The scheme would conflict with the Framework and Local Plan Policy GB1.
18. For the reasons given above I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR