



Appeal Decision

Site visit made on 10 October 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Appeal Ref: APP/N2739/W/23/3315664

Balne Moor Lodge (to the south of), Balne Moor Road, Balne, Goole, North Yorkshire DN14 0EL

- 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 Andy Cutting against the decision of Selby District Council.
 - The application Ref 2022/0049/FUL, dated 10 December 2021, was refused by notice dated 29 July 2022.
 - The development proposed is described as “change of use of HGV trailer service workshop and associated yard to dwelling. Adjacent garden to Balne Moor Lodge to be used as garden for dwelling”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in September 2023, replacing the version published 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. On 1 April 2023 Selby District Council merged with a number of other Councils to form a new Unitary Authority of North Yorkshire Council. This appeal decision however refers to the name of the Council shown on the decision notice, which is the subject of the appeal, that being Selby District Council. Development plans for the merged Councils remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced.

Main Issues

4. The main issues are:
 - i) whether the proposed development would be inappropriate development in the Green Belt, and the effect on openness;
 - ii) whether an appropriate location for development having regard to the development plan policies and its countryside location and accessibility;
 - iii) whether a safe and suitable access is capable of being provided;
 - iv) whether the proposed development would be provided with adequate means of drainage;

- v) whether the development would provide for a suitable living environment for future residents, with particular regard to contamination; and
- vi) the effect of the proposed development on ecology and protected species.

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

5. The appeal falls within land defined as Green Belt. It comprises a HGV trailer workshop, which I observed to store a variety of items, including a vehicle. A number of vehicles were positioned around the building proposed for conversion on hardstanding and a lawned area is present too. The building is accessed from a shared, gated, access off Balne Moor Road. Balne Moor Lodge, a residential dwelling occupies the site frontage adjacent to Balne Moor Road with large expanses of hardstanding and gardens. A riding arena and paddock are positioned close to the appeal site and a substantial barn and hardstanding lies to the south. Heavily landscaped boundaries are present to West End Lane and Balne Moor Road.
6. For developments in the Green Belt Policy SP2 of the Selby District Core Strategy 2013 (SDCS) defers to Policy SP3 of the said Plan and the Framework. Policy SP3 of the SDCS sets out the extent of the Green Belt and precludes development except in accordance with the Framework.
7. The Framework sets out that the Green Belt serves 5 purposes with its fundamental aim to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence. The Framework sets out what is regarded as inappropriate development in the Green Belt, save for certain exceptions.
8. Paragraph 150 d) of the Framework identifies the re-use of buildings, provided that they are of permanent and substantial construction, as not being inappropriate development in the Green Belt.
9. Whilst no structural survey of the existing building has been submitted, the Framework seeks only that the building is of permanent and substantial construction. I observed the existing building to be of a metal portal framed construction, including blockwork and metal sheeting to elevations and a corrugated metal and cement fibre roof. The elevations of the building are punctuated with a number of openings. Whilst internal strengthening works may be required to support the proposed roof, the building appeared of permanent and substantial construction.
10. Notwithstanding the above, I must also have regard to paragraph 150 of the Framework that requires me to consider the effect of the proposed development on the openness of the Green Belt, in order to determine whether the exception applies. There is no formal definition of openness but, in the context of the Green Belt, it is generally held to refer to an absence of development. Openness has both a spatial (physical) dimension, and a visual aspect.
11. The re-use of the building would spatially preserve the openness of the Green Belt as the proposed dwelling would be no larger than the current building. Furthermore, existing areas of hardstanding surround the building and the

proposed garden is currently *in situ* as a lawned garden with planting which serves the existing property. Accordingly, the associated domestic areas would not encroach into the Green Belt.

12. The building proposed for conversion is positioned back within the site from the road frontage. Furthermore, the appeal site benefits from mature landscaping to all its boundaries, meaning there would only be very limited glimpses of the proposed development.
13. For these reasons, I find that there would be no loss of openness to the Green Belt, either visually or spatially, when compared to the existing situation. On this basis the proposal would fall within the exception under criterion d).
14. Policy ENV1 of the Selby District Local Plan Part 1 2005 (SDLP) is not specific to development in the Green Belt and therefore I find no direct conflict with this policy in this circumstance.
15. For the reasons stated above, the proposed development would meet an exception listed in paragraph 150 d) of the Framework. Accordingly, the proposal would not comprise inappropriate development in the Green Belt, and I am satisfied that the openness of the Green Belt would be preserved. I therefore find no conflict with Policies SP2 and SP3 of the SDCS or the Framework.
16. As I have concluded that the proposal would not amount to inappropriate development within the Green Belt, I do not need to consider Other Considerations.

Appropriate location

17. The proposed dwelling would be positioned within close proximity to an existing dwelling and outbuildings. However, it lies outside of a settlement within open countryside.
18. Policy SP2 of the SDCS sets out the strategic approach to housing delivery, directing development to settlements. Both Policies SP2 of the SDCS and Policy H12 of the SDLP support the re-use of buildings to residential uses in the countryside and set out a number of criteria for the proposals to comply with. The Council acknowledges that these policies, and their requirement for a business use, are not consistent with the Framework. Policy SP1 of the SDCS seeks to apply the tilted balance, as set out in Paragraph 11 of the Framework, when policies are out of date. I return to this matter in my Planning Balance and Conclusion section below.
19. The Framework seeks to avoid the development of isolated homes in the countryside, save for a list of exceptions listed in Paragraph 80. Based on the evidence before me, whilst the immediate setting of the building would be enhanced through the removal of the vehicles stored around the building, the application form states that the current use of the building is for a HGV trailer workshop. On this basis, as the building is not redundant or disused, the proposal would not accord with the exceptions listed in Paragraph 80.
20. Balne Moor Road is an unlit road with no pavement and is subject to the national speed limit which would discourage pedestrians and cyclists from using it to access settlements. Given the significant distances involved between the appeal site and the nearest settlements, and the limitations of the rural roads,

it is therefore likely that the future occupiers of the dwellings would be dependent on a private motor vehicle to meet their everyday essential needs. In these circumstances the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location. Whilst the proposal would provide some support for the local economy and would therefore help to maintain the vitality of the rural community, as a single dwelling, the contribution from the development in this regard would be limited.

21. On the basis that the site would not be well located in terms of proximity to settlements and accessibility to them, I find that the appeal site is isolated. Furthermore, the proposed development would not meet any of the exceptions listed in the Framework with regard to isolated homes in the countryside.
22. For the reasons stated above, I therefore conclude that the proposal would not be in an appropriate location for development, having regard to development plan policies and its countryside location and accessibility. Accordingly, I find conflict with Policy SP1 of the SDCS which defers to the Framework where it indicates development should be restricted. I find conflict with Policy H12 insofar as it relates to not exploring a business use of the building. It would also conflict with the Framework which seeks to avoid isolated homes and promote sustainable development.

Highway Safety

23. In the vicinity of the appeal site Balne Moor Road is a relatively straight highway. It is devoid of footpaths, is unlit and subject to the national speed limit. The vehicular access to the appeal site is within close proximity to the junction with Heck Lane and West End Lane. I observed visibility at the access to be good.
24. The proposal would utilise an existing gated access, which would be shared with the existing dwelling, Balne Moor Lodge, and its associated uses. No evidence is before me as to what might be an appropriate visibility splay for the proposed development. It is also unclear what visibility splay would be available to the development.
25. The proposed development would cease the use of the existing building as an HGV trailer workshop. Based on the evidence before me the traffic movements generated by the future occupiers of the proposed 3-bed dwelling would be less than the vehicular movements associated with the established use of the building. I am therefore satisfied that the existing access would adequately serve the proposed development.
26. For the reasons stated above, I therefore conclude that the proposed development would not be harmful to highway safety. Accordingly, there would be no conflict with Policies T1, T2, ENV1 or H12 of the SDLP. Nor do I find conflict with Policies SP3 and SP15 of the SDCS. I also find no conflict with the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Drainage

27. As the proposal relates to an existing building, surface water drainage is already provided for, and as such there would be no material increase in additional run-off. With regards to foul drainage, a Foul Drainage Assessment Form has been submitted which indicates that, as there is no mains drainage to serve the proposed development, a package treatment plant will be required to manage the foul drainage from the site. The Internal Drainage Board is satisfied that a condition for a detailed drainage design would be appropriate, and I see no reason to disagree.
28. There is no evidence before me to suggest that, subject to the imposition of a pre-commencement of works condition for such drainage details, that the proposed development would not meet the criteria of Policy ENV1 of the SDLP and Policy SP15 of the SDCS. Collectively these policies seek to secure appropriate drainage systems. Nor do I find conflict with the Framework which seeks to avoid development in the areas at highest risk of flooding and to provide appropriate sustainable drainage.

Contamination

29. The Framework requires that a site is suitable for its proposed use taking account of ground conditions, including from pollution arising from previous uses and that adequate site investigation information is presented. Policy ENV2 of the SDLP states that where a site might be contaminated, planning permission may be granted subject to conditions to prevent the commencement of development until a site investigation and assessment has been carried out and development has incorporated all measures shown in the assessment to be necessary.
30. The appellant asserts that the existing building has been used for mechanical repairs to HGV trailers, and not the HGV's themselves. The Screening Assessment Form indicates that no fuel or chemicals are known to have been stored on site and no past industrial activities or waste disposal activities have been identified onsite or nearby. Therefore, based on the evidence before me any contamination identified is unlikely to be significant factor to preclude development.
31. As the end use is for domestic purposes, I concur with the Council's Contaminated Land Officer that further investigation of land contamination, and the submission of a remediation strategy, would be appropriate prior to the commencement of development.
32. Accordingly, if I were to allow the appeal, subject to the imposition of appropriately worded conditions for the investigation and remediation of contamination, I have no reason to conclude that the proposed development would not provide for appropriate living conditions for future occupiers with particular regard to contamination. I therefore find no conflict with Policy ENV2 of the SDLP or SP18 of the SDCS. Collectively, these policies seek to protect new development from sources of pollution. Nor would it conflict with the objectives of the Framework in this regard.

Ecology and protected species

33. The building proposed for conversion could offer a suitable habitat for protected species, in particular bats. I also observed trees within the appeal site

boundary. In the absence of any assessments regarding such matters the proposed development's impact on ecology, including protected species, cannot be determined.

34. The appellant has suggested that a pre-commencement condition could be used to undertake an ecological survey prior to development works commencing on site. I am mindful of the advice provided in Circular 06/2005 that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. The circular further advises that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.
35. Accordingly, the imposition of a planning condition requiring further investigation and/or mitigation, would not be reasonable and therefore not meet the Framework tests and guidance in the Planning Practice Guide. Furthermore, without sufficient information to establish what appropriate guidance or measures could be put in place to mitigate possible ecological impacts I am unable to determine what would be the reasonable requirements of any condition.
36. Bringing these matters together it has not been demonstrated that the proposal would not have any adverse effects on ecology, with particular regard to protected species. I therefore find conflict with Policy ENV1 (5) of the SDLP and Policy SP18 of the SDCS which take account of the potential loss or adverse effect on wildlife habitats. I also find conflict with those parts of the Framework that seek to protect habitats and biodiversity.

Other Matters

37. I acknowledge the present use of the building; however, this does not outweigh the harms identified.
38. Any concerns regarding due process during the processing of the planning application fall outside of the remit of this decision.

Planning Balance and Conclusion

39. I have found that the proposal would not be inappropriate development in the Green Belt, nor would it harm the openness of the Green Belt or conflict with the purposes of including land within it.
40. However, as set out above, I conclude that the development would be in an unsuitable location for residential development with regard to its countryside location and accessibility. I also cannot be satisfied that it would not have an adverse effect on ecology and protected species. It would be contrary to the development plan in these respects.
41. Set against this, I note the benefits of the re-use of the building for residential purposes in making a positive contribution towards the supply of housing. I also acknowledge that the Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services from future

occupiers. Whilst these elements weigh in favour of the proposal, given the small scale of the development proposed, these benefits are limited.

42. In these circumstances even if the 'tilted balance' at paragraph 11 of the Framework were engaged, in my view, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.

43. For the reasons given above I conclude that the appeal should be dismissed.

R. Gee

INSPECTOR