



Appeal Decision

Site visit made on 31 October 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 8th January 2024

Appeal Ref: APP/A4710/W/23/3322292

**Woodfield House, Halifax Road, Hipperholme, Brighouse, Calderdale
HX3 8HD**

- 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 Dr Samir Khan against the decision of Calderdale Metropolitan Borough Council.
- The application Ref 23/00055/FUL, dated 17 January 2023, was refused by notice dated 2 May 2023.
- The development proposed is construction of agricultural storage building to store food machinery and house livestock.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The scheme includes a track from an existing field entrance on Wood Lane to the proposed storage building. The appellant has now confirmed that the access track is not required. The appeal process should not, however, be used to evolve a scheme. Therefore, applying the principles established in *Holborn Studios Ltd*¹, it is my view that the appeal must be determined on the basis of the plans as originally submitted and upon which the Council based its decision. To do otherwise would prejudice the interests of third parties and consultees, who have not been consulted on the revised scheme. I have therefore determined the appeal on the basis of the plans originally submitted.
3. A revised National Planning Policy Framework (the Framework) has been published, December 2023. The sections relevant to this appeal remain unchanged. Paragraph numbering has, however, changed, which I have accordingly referred to in my decision.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies, including the effect on the openness of the Green Belt;
 - The effect of the proposed access track on highway safety;

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).

- The effect of the proposal on the Shibden Valley Special Landscape Area (SLA); and
- If the development is inappropriate, 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 proposed development.

Reasons

Whether inappropriate development

5. 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. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
6. The Framework also confirms that the construction of new buildings is inappropriate in the Green Belt. It does, however, provide a number of exceptions which includes at paragraph 154 a) buildings for agriculture and forestry.
7. The proposal seeks to construct a storage building for stock, feed and machinery. This is related to the production of food for the family, including the raising of livestock, such as sheep and poultry, as well as vegetable and fruit growing. The proposed floor plan shows four sheep pens in the centre of the building with room either side for the storage of tractors and equipment.
8. Whilst the description states that the building is for agriculture, with the land defined as 'pasture', the appellant states that the proposal is for 'hobby farming'. This is not an agricultural use as defined in Section 336(1) of the Town and Country Planning Act 1990. Therefore, whilst the appellant wishes to keep in the order of 6 sheep, 2 horses and around 20 chickens, and store various items of equipment, some of which would be used for the general maintenance of the grounds of Woodfield House, the building would not be used solely or mainly for agricultural purposes.
9. However, there is no dispute between the parties that paragraph 154 b) of the Framework is relevant, as did the previous Inspector with a larger scheme². This refers to the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The appellant has, in this regard, referred to paragraph 11.13 of the UDP, which states that 'Outdoor sport and outdoor recreation are appropriate uses within the Green Belt.' The UDP has now, however, been replaced by the CLP, and the provision of appropriate facilities such as outdoor sport and recreation is covered by Policy GB1 b. This is consistent with policy within the Framework.
10. The appeal site is a steeply sloping field located between Wood Lane and Halifax Road. It is covered in an even sward of grass with a group of fruit trees located in a corner at the top of the field. The site has mature trees growing

² APP/A4710/W/22/3297845

along the boundary with Halifax Road to the south, along the boundary with residential properties to the east, and provides a boundary separating the field with the rest of the grounds of Woodfield House to the west. The northern side of the site, which runs along Wood Lane, has a traditional stone wall, with vertical wooden fencing along it in part. There are also trees along this boundary.

11. Whilst the appellant has described the building as being smaller than the two previous planning applications³ for a barn, the proposed floor plan shows that it would be 23 metres in length, 11 metres in depth and approximately 6 metres in height. It would, therefore, be a sizeable building, sited in the corner of the field, close to Halifax Road, and adjacent to an existing garage building.
12. The field is an open area of land with no buildings on it. The construction of a building and a track, where there is none, would, therefore, in spatial terms have an effect on openness. The building would be constructed with green timber cladding and a dark roof, adjacent to large trees, interplanted with leylandii. Hence, it would be barely visible from Halifax Road when the trees are in full leaf, with likely limited visibility when the trees are bare.
13. The building would, however, be visible from Wood Lane and the housing that fringes the lane and the eastern side of the site, particularly at times of the year when there are no leaves on the trees. The proposal seeks to screen the building by planting leylandii around all four sides of the building. Leylandii is not a native species, and this would appear contrived and likely draw more attention to the presence of the building. Whilst the appellant has now confirmed that they would exclude the leylandii and plant more fruit trees, such a scheme is not, however, before me. Furthermore, any planting to screen the site would take some time to mature and the long-term maintenance of the planting could not be guaranteed. Therefore, I do not have any degree of certainty that a condition would address these concerns.
14. The appellant considers that one building used for both stock and the secure storage of machinery and equipment would be preferable visually to various smaller ones. Whether or not this is the case, I have no alternative scheme before me to compare this with.
15. The proposal would use an existing field entrance from where the access track would be constructed. Despite the track being sited to one side of the field, it would extend from the top, to almost the bottom of this steeply sloping field. This would introduce a prominent feature, which again would be visible at times of the year when trees would be bare. The proposed track and barn would, therefore, also have a harmful effect on the openness of the Green Belt in visual terms.
16. For the above reasons, the proposed development would cause moderate harm to the openness of the Green Belt in this location and would conflict with the fundamental aim to keep land permanently open. It would also conflict with one of the five purposes of the Green Belt which is to assist in safeguarding the countryside from encroachment.
17. The proposal would therefore not accord with paragraph 154 b) of the Framework and as such would be inappropriate development in the Green Belt.

³ Ref: 20/01235/FUL and 21/00872/FUL

Furthermore, it would not accord with Policy GB1 of the CLP which reflects policy set out in paragraphs 154 and 155 of the Framework regarding development in the Green Belt.

Highway Safety

18. The proposal would utilise an existing entrance on Wood Lane. This is a narrow, single-track lane which provides access to a number of properties, plus agricultural fields and buildings. Whilst the Highway Authority does not object to the use of this entrance, they express concerns regarding the lack of information on the gradient of the track and the surface treatment.
19. The entrance is an existing access point, which based on submitted information, could be used by the appellant without any additional consents. Furthermore, the appellant contends that the scale of the use of the lane and track has been inflated. The proposal is described as 'hobby farming', and so there would only be limited use of the entrance. The lane is also narrow and curves. Therefore, those using it would be aware of its dimensions and that it is unsuitable for anything other than slow moving traffic. Consequently, the access track would be unlikely to have an unacceptable effect on highway safety. It would therefore accord with Policy BT4 of the CLP.

Shibden Valley Special Landscape Area (SLA)

20. The site is within the SLA. Whilst no evidence of the significance of the SLA has been provided, I could see the wider landscape surrounding the site which consists of wooded valley sides and a pattern of small fields surrounded by hedgerows and trees.
21. The proposed building would be in an agricultural style, which would be common in rural surroundings. It would also be constructed close to the road and an existing garage and so in this location would not harm the visual quality of the wider SLA. The proposed planting of leylandii, as a non-native species, would, however, appear alien in this location which is close to native woodland.
22. The access track, which would curve from the entrance on Wood Lane and extend down the slope of the site, would be seen from Wood Lane and from views across the valley. Whilst it would not be as obtrusive when trees are in leaf, it would be visible at other times of the year. It would in this location appear as an incongruous feature which would not harmonise with the rural character of the surroundings of the site.
23. For the above reasons, the proposed development would cause unacceptable harm to the SLA and as such would not accord with CLP Policy GN4 which amongst other things, only supports development which does not adversely affect the scenic quality of the SLA.

Other considerations

24. The appellant has now confirmed that external deliveries can be dropped off on Halifax Road where goods can be moved by existing family vehicles, rather than use the Wood Lane entrance. Whilst the proposal is described as 'hobby farming' and so there may be only limited deliveries related to this, I have no substantive evidence as to the likely extent and frequency of this. This does not, however, affect my assessment of this appeal.

25. The submitted photographs show that the appellant has cleared the site of scrub and removed fly tipping, which I saw to be the case. I also saw that fruit trees had been planted at the top of the field and that the appellant and his family already had chickens which were kept on the adjoining ground. I recognise that the appellant wishes to make more effective use of the land by keeping animals and growing vegetables and fruit in a sustainable way and provide suitable accommodation to ensure the welfare of animals, including having indoor lambing pens. This is of moderate weight.
26. The appellant has also referred to the land being able to accommodate more sheep than proposed, that a temporary building could be used for a limited number of days within the year, and that if the landholding was larger, a bigger building would be allowed. Notwithstanding these factors, I am determining the appeal based on the proposal before me.
27. Although the appellant has suggested that a personal condition would ensure that the building would only be used for the agricultural purposes as set out in the application, this would not change my findings with regard to the main issues as set out above. I therefore give limited weight to this.
28. The appellant has also stated that the Council does not offer a pre-application service in which they have been able to discuss the proposal following the previous two refusals. This is a matter between the parties and does not affect my consideration of the appeal.
29. The appellant has highlighted that the keeping of livestock could be undertaken without requiring planning permission, but that a purpose designed building would be more effective and efficient and therefore their preferred option for their livestock ambitions. However, the use of the site for hobby farming by a multi-generational family would be a benefit of a personal nature, as opposed to the public harm that would result from the proposals. Whilst the proposal would enable animals to be sheltered during lambing and provide more secure storage of equipment, these are of moderate weight in my assessment.

Green Belt Balance

30. The Government attaches great importance to Green Belts. Substantial weight should be given to any harm to the Green Belt, and I have found that the proposal is inappropriate and would harm the openness of the Green Belt. This moderate harm to the openness of the Green Belt must therefore receive substantial weight.
31. The Framework confirms that inappropriate development should not be approved except in very special circumstances. It goes on to confirm that 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. The other considerations that have been advanced in this case, do not outweigh the harm that I have identified to the Green Belt and the SLA. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

32. Notwithstanding my finding that the proposal would be unlikely to have an unacceptable effect on highway safety, the proposed development conflicts with the development plan when considered as a whole and there are no

material considerations that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.

33. Therefore, for the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR