



Appeal Decision

Site visit made on 22 January 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2024

Appeal Ref: APP/W4223/W/23/3326718

Roebuck Inn, Brighton Road, Strinesdale, Oldham, Lancs OL4 3RB

- 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 Mrs Susan Howarth against the decision of Oldham Metropolitan Borough Council.
- The application Ref FUL/349740/22, dated 24 August 2022, was refused by notice dated 21 June 2023.
- The development is extend garden area and new boundary fence.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading is taken from the planning application form. However, the decision notice and appeal form describe the development as '*Change of use of land for extension to garden area, play equipment, lighting and boundary fence*'. I consider this to be a more accurate description of the appeal proposal than the one within the application form and have therefore determined the appeal on the basis of this description.
3. I observed on my site visit that the appeal proposal has already been implemented, I shall thus consider it on a retrospective basis.
4. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

5. The main issues are:
 - i. Whether or not the development is inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
 - ii. the effect on the openness of the Green Belt; and
 - iii. whether any 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 to justify the development.

Reasons

Whether inappropriate development

6. The appeal relates to an extended beer garden, and its associated play equipment, outdoor furniture, lighting and boundary fence, located to the rear of the Roebuck Inn Public House, within land defined as the Green Belt.
7. Policy 22 of the Oldham Local Development Framework Development Plan Document – Joint Core Strategy and Development Management Policies (2011) (Local Plan) states that development in the Green Belt will be permitted provided it does not conflict with national policies on Green Belt and therefore conforms with the provisions of the Framework.
8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being their openness and permanence. The Framework goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. As per paragraph 155 of the Framework, certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Included within this list, at criterion (e), are material changes of use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
10. The appeal scheme has necessitated a change of use of grazing land to provide an extension to a beer garden. This has involved the external placement of additional outdoor furniture on stone flags for patrons as well as additional outdoor hanging lights. The appellant's submission states that the extended beer garden area measures 80 square metres and therefore increases the footprint of the Roebuck Inn by approximately 4%. Nevertheless, an increase of 80 square metres is considerable and by occupying space in a recreational capacity that was previously undeveloped grazing land, the development has inevitably reduced the openness of the site and resulted in encroachment into the countryside. On this basis, the material change of use of land that has occurred has represented inappropriate development within the Green Belt.
11. The appeal proposal also includes the provision of play equipment and a new boundary fence that encloses the extended beer garden. Paragraph 154 of the Framework establishes that the construction of new buildings in the Green Belt is inappropriate subject to a number of exceptions. The term 'building' refers to any structure or erection and therefore includes the fence and any new play equipment erected.
12. A fence is not in the list of exclusions in paragraph 154 of the Framework and therefore when judged against the wording of national policy is inappropriate development in the Green Belt.
13. It is unclear whether all the play equipment within the whole of the beer garden has recently been erected, or whether it is just the extended section of play equipment that sits within the enlarged beer garden area that has been recently installed. Consistent with the appellant's written submissions, the submitted plans show that it is only the extended section of play equipment that is new

and thus subject to assessment. I have no clear evidence before me to indicate otherwise and therefore have proceeded on this basis.

14. The extended play equipment constitutes an extension to an existing building, in this case, an extension to the existing play equipment situated within the original area of beer garden. Therefore, this element of the appeal proposal falls under criterion (c) of paragraph 154 of the Framework. This paragraph establishes that the extension or alteration of a building is not inappropriate, provided that it does not result in disproportionate additions over and above the size of the original building.
15. The Framework does not contain a definition of 'disproportionate additions', and I have not been provided with any local policies or guidance on this matter. Therefore, this is a matter of planning judgement.
16. The play equipment has the appearance of a castle and according to the submitted plans previously consisted of two tower features with associated slides, steps and connecting walkways. The appeal proposal has involved the provision of a third tower and connecting walkway. As a result of its size, scale and layout, the extension to the play equipment does not represent a disproportionate addition over and above the size of the original piece of play equipment. Therefore, in my judgement based on the evidence before me, the extended play equipment does not constitute inappropriate development within the Green Belt.
17. In summary of the above, I conclude that the extended play equipment is not in itself inappropriate development within the Green Belt, however the extension to the beer garden area and new fencing enclosing the extended beer garden are both elements of the scheme that comprise inappropriate development within the Green Belt. There is thus conflict with Policy 22 of the Local Plan and the Framework in so far as these policies require no conflict with national policies on Green Belt and state that inappropriate development will not be approved except in very special circumstances.

Effect on openness

18. With regard to the extended section of beer garden, I have already identified above a material loss of Green Belt openness.
19. In respect of the extended play equipment, as I have found that this is not inappropriate development within the Green Belt, there is no requirement to assess its impact on openness as this is not a test within paragraph 154(c) of the Framework. On this basis, the play equipment element of the scheme should not be regarded as harmful to the openness of the Green Belt.
20. With respect to the fencing, this is of solid, man-made specification and would be seen within its immediate surroundings, as well as being visible, at least in part, from public views on Green Lane and when travelling north along Brighton Road. This encroachment of development into previously undeveloped land results in some visual harm to the openness of the Green Belt. This is despite the fencing being seen in the context of other developed influences. Regarding the appellant's suggestion that the fence does not exceed permitted development height limitations, I shall return to any implications of this under Other Considerations.

21. In view of the above, the appeal scheme, by virtue of the change of use of land that has occurred in conjunction with the erection of boundary fencing to its perimeter, has caused a loss of Green Belt openness. As such, the scheme conflicts with Policy 22 of the Local Plan and the Framework in so far as these policies set out that the openness and permanence of the Green Belt will be protected.

Other considerations

22. A number of other considerations have been put forward by the appellant and interested parties.
23. The appellant has stated that the works were undertaken during the Covid-19 pandemic and funded through the use of a Government loan to enhance the outside dining experience, and to allow for more people to eat out during this period. I am sympathetic to the impacts of Covid-19 on businesses, including food and drink establishments, however there is no longer a requirement for customers to eat outside and thus the need and benefits arising from this have somewhat diminished.
24. Even so, the appellant has also stated that rural businesses need to diversify and the extended beer garden area makes the outdoor space more useable and the long-established business more viable, allowing more staff from the local community to be employed. Furthermore, comments have been made that this is a highly respected family-owned business and I have no reason to doubt that the extended beer garden attracts more visitors to the area.
25. I have been provided with no specific information or figures in respect of the financial impacts of the extended beer garden on the viability of the business, or the extra number of staff that have been employed as a result of the appeal proposal. Nevertheless, any additional business or employment generated by the proposal are benefits that, in my judgement, attract considerable weight.
26. A large number of interested parties have stated that the extended beer garden, play equipment and extra seating area is enjoyed by children and families, and benefits the community. Indeed, it has been commented that this is a fun and safe place for children to interact, whilst being watched by their guardians. I also acknowledge reference to the high-quality views available. Whilst I acknowledge the comments of these interested parties, the submitted plans show that the previous beer garden area included bench tables and play equipment for children and families to use. As such, the additional benefits arising from the extended beer garden and the additional piece of play equipment are considered to be fairly limited.
27. Additionally, an interested party has advised that the play area is used and enjoyed by a disabled child. I have therefore had due regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010. Disability is a relevant protected characteristic to which the PSED applies. These rights are engaged in reaching my decision and I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
28. I have carefully noted the interested party's comments in this regard, and I appreciate the contribution the play area makes to the personal circumstances of the interested party and their disabled child. Nevertheless, based on the

evidence before me, and for the same reasons given above, I am not satisfied that the previous outdoor seating area and play equipment did not provide similar benefits, and therefore would continue to provide these benefits should the outdoor area be returned to its previous lay out. I therefore attribute moderate weight to the scheme's benefits in this specific context. This is even whilst acknowledging the PSED's objective of advancing equality of opportunity between persons who share a relevant protected characteristic and those who do not.

29. My attention has also been drawn to other developments within this area which interested parties consider to be more harmful to the Green Belt than the appeal proposal. I have however not been provided with the full details of these other schemes. Furthermore, each proposal must be judged on its own individual merits. Thus, the existence of other developments elsewhere does not demonstrate very special circumstances in this case. For the avoidance of doubt, neither does any low grading of the particular grazing land in question.
30. It has been suggested that the installed fencing does not exceed permitted development height limitations. However, if the extension to the beer garden had not occurred, it is unclear what purpose a treatment of the specification installed would serve running across agricultural grazing land. Moreover, in the absence of an extension to the beer garden, there would, in my judgement, have been no real prospect of such an installation taking place. It has not been clearly demonstrated otherwise. Thus, for the avoidance of doubt, the existence of permitted development rights for certain forms of boundary treatment does not demonstrate very special circumstances for inappropriate elements of the scheme.

Green Belt Balance

31. The extended beer garden and new fencing constitute inappropriate development in the Green Belt and harm openness. By virtue of paragraph 153 of the Framework this harm attracts substantial weight.
32. The Framework makes it clear that the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, must be clearly outweighed by other considerations for planning permission to be granted. In this case, I find that although there are matters which weigh in favour of the scheme, these other considerations do not clearly outweigh the substantial harm arising to the Green Belt.
33. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

Conclusion

34. The development conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having regard to all other matters raised, the appeal is dismissed.

R Major

INSPECTOR