



Appeal Decision

Site visit made on 3 January 2024

by K Lancaster BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th February 2024

Appeal Ref: APP/G2713/W/23/3322206

Plainville Lake, Bull Lane, Wigginton, North Yorkshire YO32 2RG

- 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 D Baker against the decision of Hambleton District Council.
- The application Ref 22/02811/FUL, dated 2 December 2022, was refused by notice dated 21 February 2023.
- The development proposed is described as “construction of five new cabins to provide overnight accommodation for customers of Plainville Lake. The cabins will replace existing fishing pegs, so the number of fishing pegs won't increase”.

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) on 19 December 2023 and updated on 20 December 2023. 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 Hambleton 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 Hambleton 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. I have determined the appeal on this basis.

Main Issues

4. The main issues of the appeal are:
 - whether or not the proposal would be inappropriate development in the Green Belt, for the purposes of the Framework and any relevant development plan policies, including the effect upon the openness of the Green Belt;
 - whether or not the proposed development would deliver biodiversity net gain; and
 - if the development is inappropriate, whether 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

5. The appeal site comprises a fishing lake, breeding pond and carpark, which are currently used for recreational purposes. The site is accessed from Bull Lane, which contains a small number of dwellings and farms in a dispersed pattern. The site is located within the Green Belt, approximately 3.3 km from the closest village, Wigginton.
6. The fishing lake occupies the majority of the site with a footpath that follows the outer edge the lake providing access to the fishing pegs. The majority of the site is bounded by trees and hedgerows. The car park is located at the entrance to the site with no vehicular access around the lake.
7. The proposed development would involve the provision of five cabins providing overnight accommodation. The cabins would each have two small bedrooms, a bathroom and small kitchenette area with living space. They would also have a decking area overlooking the lake that would directly access the dedicated fishing peg. Three of the cabins would be located between the fishing lake and the breeding pond, close to the entrance of the site, with a further two cabins located at the opposite end of the lake. The proposed cabins would be single storey and would be clad in timber with a coloured profiled metal roof covering.

Whether Inappropriate Development in the Green Belt

8. Paragraph 142 of the Framework states 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.
9. Paragraph 152 of the Framework states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions.
10. Paragraph 154(b) of the Framework exempts 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. Paragraph 154(b) goes on to state that the development should preserve the openness of the Green Belt.
11. Policy S6 of the Hambleton Local Plan adopted February 2022 (HLP) states that within the Green Belt there is a need to maintain strict controls over the types of development which can be permitted. It also states that proposals for development in the Green Belt will be determined in accordance with relevant national policy.
12. It is not disputed that the appeal site is currently used for outdoor recreation, as a fishing lake. However, it is disputed as to whether the introduction of five cabins would fall under the exemption of being an appropriate facility for outdoor recreation. The Framework does not define an appropriate facility.
13. The appellant states that the proposed overnight accommodation would be for the sole use of those visiting the site to fish. Whilst I accept that the overnight

accommodation would not be a facility for fishing directly it could provide overnight accommodation for those taking part in the recreational activity. However, whilst the location of the site is such that it is likely to attract visitors with an interest in fishing, there is no compelling evidence to suggest that the accommodation, each having two bedrooms may not be equally attractive to those who do not wish to take part in fishing activities at the site. As such, the proposal would not represent an exception under Paragraph 154(b) of the Framework and therefore would be inappropriate development in the Green Belt.

14. In terms of openness, the proposed cabins would introduce built development into an area where no such development currently exists. Even though the individual cabins may be of a relatively small scale, in combination, the cabins would nevertheless result in a significant increase in the extent of built development within the site. Whilst I recognise that the site is well-contained by existing landscape features, which would reduce the visual impact of the proposed development, it would nevertheless result in the introduction of new built features to previously open land causing harm to the openness of the Green Belt both visually and spatially.
15. Consequently, even if the cabins are an appropriate facility for outdoor recreation, the proposal would fail to preserve the openness of the Green Belt. Therefore, it would not meet the exception of paragraph 154(b) as a whole.
16. I have also considered whether the appeal site could represent previously developed land (PDL). Paragraph 154(g) of the Framework refers to limited infilling of the partial or complete redevelopment of PDL. However, even if the site is PDL, Paragraph 154(g) states that development should not have a greater impact on the openness of the Green Belt than the existing development. As outlined above, the introduction of five cabins would have a greater impact on the openness of the Green Belt than the existing development and would therefore fail to comply with this part of Paragraph 154(g).
17. For the reasons given above, although I acknowledge that in isolation the loss of openness, caused by the proposal would be limited, there would still be some minor harm arising from it, resulting in both spatial and visual harm to the openness of the Green Belt. Therefore, the proposed development would not preserve the openness of the Green Belt, which is contrary to the fundamental aim of the Framework.
18. Consequently, for the above reasons, the proposal fails to meet any of the exceptions listed in the Framework and therefore the proposal would be inappropriate development in the Green Belt and would not preserve the openness of the Green Belt. These are matters to which I give substantial weight. The proposal is also contrary to Policy S6 of the HLP, the requirements of which have been referred to above.

Biodiversity Net Gain

19. Policy E3 of the HLP requires that all development should demonstrate the delivery of net gain for biodiversity using the latest DEFRA guidance and relevant tool.

20. In this particular case, although no biodiversity net gain information has been submitted, given the size of the appeal site, there would appear to be sufficient and suitable land available to achieve a net gain for biodiversity. The Council has confirmed that it is satisfied that this requirement could be dealt with imposition of a suitable pre-commencement condition and based on the evidence before me, I see no reason to disagree.
21. Therefore, I am satisfied, subject to the imposition of a suitably worded planning condition, that the proposed development could deliver a net gain in biodiversity and so there would be no conflict with Policy E3 of the HLP. I consider the absence of harm to be a neutral factor for Green Belt purposes.

Other Considerations

22. Paragraphs 88 and 89 of the Framework support a prosperous rural economy, including through well-designed and beautiful new buildings and through sustainable rural tourism which respects the local character of the countryside. Policy EG8 of the HLP provides support for the visitor economy but seeks to direct new visitor accommodation to locations within or adjacent to the built form of a settlement. Policy EG8 also requires that development is located where there is access to local services and sustainable transport options.
23. The appeal site is an existing rural business and I have therefore had regard to the appellants desire to diversify the existing business and to provide an additional income source to off-set increasing costs and to offer an improved service to their customers. However, I have not been presented with any substantive evidence to demonstrate how the proposed development would contribute to these aims and the local visitor economy. Furthermore, in this particular case, the appeal site is located in the open countryside, with very limited access to local services and sustainable transport options. Consequently, it would not therefore accord with the aims of Policy EG8 and the Framework. Therefore, I attribute the benefits of the proposed development to the local visitor economy limited weight.
24. Policy E7 of the HLP requires development to protect and enhance distinctive landscapes, taking into consideration the degree of openness and special characteristics of the landscape. I recognise that the proposed development would be located within a site that is well-contained by existing landscape features, thereby reducing the visual impact of the proposed development. However, there would still be harm to the openness of the appeal site and the Green Belt. Therefore, I find that the proposed development would be contrary to Policy E7.
25. The provision of overnight accommodation, linked to existing fishing pegs at the lake, would have the potential to reduce car-borne journeys to and from the site, by allowing visitors to stay overnight or for longer periods on site, rather than elsewhere within the local area. However, as there are no facilities on-site or within reasonable walking distance, the proposed development is still likely to generate additional journeys to and from the site. Therefore, whilst I have had regard to the benefits of providing accommodation on site, I attribute these benefits limited weight.

26. My attention has been drawn to two nearby planning applications¹ which granted approval for stable blocks and the use of land for the keeping of horses. Although these sites were also located within the Green Belt, neither application involved the provision of overnight accommodation. Therefore, these schemes are not considered to be directly comparable to the appeal proposal.
27. My attention has also been drawn to a planning application² for 8 holiday lodges at Holly Tree Farm, Murton Way, York. I understand that an application was approved, contrary to officer recommendation, within the Green Belt. However, I only have limited details of this application, which relates to a site within a different local authority area. Therefore, whilst I note that this decision relates to a similar type of proposal, the evidence before me does not indicate that schemes are directly comparable. Therefore, I attribute this limited weight.
28. I have had regard to a previous appeal decision³ on the site, which granted approval for the fishing lake and car park. The Inspector noted that the proposals would not cause harm to the visual amenity of the Green Belt. However, this previous decision relates to an entirely different proposal and pre-dates both the Framework and the adoption of the Hambleton Local Plan. Accordingly, I attribute this very limited weight.
29. The Council has raised no concerns in relation to the effect of the proposal on the living conditions of the occupiers of neighbouring properties or on highway safety. There are also no objections raised by any statutory consultees. Based on the evidence before me and my own observations at my visit, I see no reason to disagree. However, the absence of harm is a neutral factor which neither weighs for nor against the proposed development.

Green Belt Balance

30. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be given to any harm to the Green Belt and 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.
31. In this case, I have found harm to the Green Belt by reason of the proposed development's inappropriateness, and harm to the openness of the Green Belt.
32. Balanced against that are the other considerations discussed above. However, for the reasons given, I find that the other considerations in this case, taken cumulatively, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
33. The development would be contrary to the Framework and to Policy S6 of the HLP which states that within the Green Belt there is a need to maintain strict controls over the types of development which can be permitted. It also states that proposals for development in the Green Belt will be determined in accordance with relevant national policy.

¹ Planning Application Refs: 00/51923/P and 12/0061/FUL

² Planning Application Ref: 14/00809/FUL

³ Appeal Ref: APP/G2713/A/06/203066

Conclusion

34. For the reasons given, the proposal would therefore not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR