



Appeal Decision

Site visit made on 6 February 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2024

Appeal Ref: APP/M1005/W/23/3329397

**Golden Valley Caravan Park, Coach Road, Golden Valley, Alfreton
DE55 4ES**

- 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 D Fretwell against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2021/0359.
 - The development proposed is 10 No holiday chalets and formation of new site entrance.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr D Fretwell against Amber Valley Borough Council. This application will be the subject of a separate decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) came into force on the 19 December 2023 with a further change published on 20 December. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

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 and any relevant development plan policies, including the effect of the development on the openness of the Green Belt;
 - Whether the proposal would preserve or enhance the character or appearance of the area, including the Golden Valley Conservation Area;
 - The effect of the proposal on trees and biodiversity; and
 - 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 required to justify the proposal.

Reasons

Inappropriate development

5. Paragraph 154 of the Framework sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain criteria. New buildings within the Green Belt are inappropriate unless, amongst other exceptions, it relates to the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation; 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 155 states that other forms of development, such as material change of use and engineering operations, are also not inappropriate, on the proviso that they would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
6. Policy EN2 of the Amber Valley Borough Local Plan, adopted 2006 (LP) reflects paragraph 154 of the Framework in resisting development in the Green Belt except in certain circumstances, including essential facilities for outdoor recreation.
7. Paragraph 142 of the Framework identifies that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Openness is an essential characteristic of the Green Belt, along with permanence. Openness has both a spatial and visual aspect and intrusion on either can individually or collectively impact on the openness of the Green Belt.
8. The appeal site comprises a parcel of land on the opposite side of Coach Road from the existing Golden Valley Caravan and Camping Park. The appeal site, at the time of my visit, had been cleared of all vegetation, hard surfaced and caravan hook-up points and plot numbers have been installed. New trees have also been planted around the site and on the bank which slopes down from the appeal site to the disused canal.
9. The existing caravan site on the opposite side of Coach Road is set within verdant grounds and contains a significant number of trees. To both sides of the appeal site are two detached residential properties that have large gardens with well-established trees. On the opposite side of the canal is a large area also covered in trees. In the wider area, near the junction with Newlands Road are other residential properties, the Golden Valley Equestrian Centre, and other large groups of trees.
10. This part of the Green Belt, situated outside of any of the defined settlement boundaries, is green and verdant due to the large areas covered in trees, including the trees along the line of the old canal, with open fields between. The appellant's Protected Species Appraisal¹ contains a photograph, at Plate 2, showing substantial vegetation on the site and this photograph does not encompass the whole of the site. Although the appellant seeks to define the appeal site as a field, from the evidence before me the appeal site previously contained vegetation and I have no substantive evidence to show that the extent of the vegetation was not similar to the surrounding area. I am, therefore, not convinced by the appellant's claim that the appeal site only contained six trees and areas of scrub, bramble, and nettles. The appeal site,

¹ Arc Ecology Protected Species Appraisal, dated May 2021

prior to the removal of the trees and vegetation, would have contributed positively to the Green Belt as part of the verdant landscape.

11. The appeal proposal is for the installation of 10 holiday chalets. Whilst only the hardstanding for the access road and parking areas would be permanent features, all of the chalets would be present on the site all year round. The chalets would not be regularly moved or removed from the site. Moreover, the proposal is for a permanent change of use of the site for tourist accommodation. That the chalets are not buildings and could be removed if no longer required does not temper the harm of the structures whilst they are on site. The engineering works and the chalets, albeit temporary, would result in development on a piece of land which was previously undeveloped.
12. Coach Road is a private road with no through access for vehicles, however, it is also a Public Right of Way (PROW). Moreover, I saw evidence of a used path along the opposite side of the disused canal. The appeal site, as part of the Green Belt, would be appreciated by users of both the PROW and the path, visitors to the existing caravan site and the occupants and visitors of other properties accessed off Coach Road.
13. The new planting on the bank sloping up from the canal to the site would, over time, screen the proposal from the canal. However, the chalets, due to their height and positioning, would be visible above the roadside hedge and through the access points. Neither the roadside hedge nor the six trees proposed within the site would screen the proposed chalets and areas of hardstanding. Overall, the scale of the structures, their siting and the quantum of development would have an adverse effect on the visual aspect of the openness of the Green Belt.
14. Moreover, notwithstanding the presence of the existing caravan site opposite, the proposal would result in development on land which was previously undeveloped and would extend the caravan site beyond the physical boundary formed by Coach Road, and closer to the disused canal. Activity from people and vehicles on the appeal site would also increase significantly. The combined effect of the structures and the use would have a spatial impact on the openness of the Green Belt.
15. Furthermore, as development on previously undeveloped land and not within or adjoining a settlement, the proposal would also breach a key purpose of Green Belt policy by encroaching into the countryside and, as such result in a form of urban sprawl, albeit for temporary tourist accommodation.
16. For the above reasons, the proposal would have both a visual and spatial impact, would reduce the openness of the Green Belt and would result in encroachment into the countryside. Consequently, the proposal would be inappropriate development, having regard to paragraphs 154(b) and 155(b) and (e), in that the development would not preserve the openness of the Green Belt. The proposal would, therefore, be contrary to Policy EN2 of the LP and the advice contained within the Framework.
17. The Council has also sought to refuse the application on the basis of Paragraph 11d(i) of the Framework. Policy EN2 of the LP is the most important policy for determining this application and is consistent with the Framework. As such, although the LP was adopted in 2006 the policy is not out-of-date and consequently, the presumption in favour of sustainable development, as set out in paragraph 11d of the Framework, does not apply in this case.

Character and appearance

18. The appeal site lies within the Golden Valley Conservation Area. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) ('the Act') provides, at section 72(1), that with respect to any buildings or other land, in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.
19. The Conservation Area is set around the canal and the buildings and land either side of the canal but does not include the existing camping and caravan park on the opposite side of Coach Road. The Council's evidence confirms that there is no Conservation Area Appraisal for the area. However, the appellant's Heritage Statement² has detailed the historic development of the area, including the formation of the Cromford Canal and the Butterley Tunnel, the housing and businesses along the canal, and the later decline and closure of the canal and tunnel.
20. As far as it is relevant to the appeal, I consider that the significance of the Conservation Area is mainly derived from the line of the canal and the tunnel, the sloping banks, and landscaped areas either side of the canal. The appeal site, although previously covered in vegetation, is open and tranquil in that it is an undeveloped piece of land. The site currently makes a positive contribution to the character and appearance of the Conservation Area and to the setting of the canal by reason of this undeveloped nature.
21. Even if I were to accept the appellant's case that the land was scrub and overgrown, I have not accepted that the site only contained six trees, based on the appellant's own evidence. New trees planted on the bank between the canal and the appeal site would be positive to the Conservation Area, and trees and grass are proposed within the appeal site. However, the change in the site from vegetation and trees to tourism use would be significant and detrimental to the character and appearance of the Conservation Area and would not improve its openness or tranquillity.
22. That the use is similar as the existing camping and caravanning site is not determinative in my decision. The existing site is outside the Conservation Area. However, the harm to the Conservation Area from the proposed development, would be less than substantial. I place great weight on this harm, in accordance with Paragraph 205 of the Framework. Paragraph 208 of the Framework advises that such harm should be weighed against the public benefits of the proposal.
23. Economic benefits would be gained from the increase in tourists and the supporting text to Policy ER12 acknowledges significant growth in tourism in the Amber Valley. The proposed chalets would also provide a different form of camping to the existing camping and caravan park and would be suitable for disabled tourists and those with special needs. However, although these would be public benefits, I am not convinced that the appeal site is the only means to achieve these benefits and that this justifies the harm to the Conservation Area.
24. The proposal, as amended, does not include any details of access to the canal and the proposed additional tree planting on the bank would close off any

² ABDS "Design, Access and Heritage Statement," Rev A, 29th May 2021

views of the canal from the appeal site. As such, the benefits of opening up access to, and knowledge of, the canal and tunnel would not be provided, and I have not given any weight to this as a public benefit.

25. Overall, the public benefits, taken together, would not outweigh the harm to the setting of the Golden Valley Conservation Area, a designated heritage asset.
26. For the reasons given above, I find that the proposal fails to preserve or enhance the character or appearance of the area, including the Golden Valley Conservation Area. I have had regard to the Act. The proposal is, therefore, contrary to Policies ER12, EN7 and EN27 of the LP which, taken together, seek to ensure that tourism development would not significantly affect the character of the surrounding environment or landscape, and that development contributes to the preservation or enhancement of the Conservation Area.
27. For the same reasons the proposal would not comply with the advice contained within paragraph 212 of the Framework which aims for new development within Conservation Areas to enhance or better reveal their significance and preserve those elements of the setting that make a positive contribution. Neither would the development comply with Paragraph 135 which seeks to ensure that development adds to the overall quality of the area and is sympathetic to landscape setting.

Trees and biodiversity

28. The appeal site is covered by a Tree Preservation Order (TPO). However, from the evidence before me, prior to the submission of the planning application, the site had been cleared of vegetation. This is being dealt with separately by the Council.
29. Policy EN8 of the LP seeks to resist development that would damage or destroy significant trees, woodland, or hedgerows, unless exceptional circumstances can be demonstrated to justify the proposal.
30. As an Arboricultural Impact Assessment and Method Statement were not provided before the clearance works, I have no substantive evidence of the extent of tree cover on site before the clearance work was carried out. The appellant's Protected Species Appraisal includes a photograph of part of the frontage of the appeal site which shows a number of trees and other vegetation within the site. Even if this photograph is not representative of the whole of the appeal site it does clearly show that the site contained trees.
31. The trees which have been planted on the bank to the canal, the roadside boundary, and the proposed six trees which would be planted within the site, would be beneficial and would go some way towards mitigating the environmental harm from the loss of the trees in terms of the TPO.
32. The proposed development would also provide the opportunity for better management of the trees, in accordance with the Landscape Management Plan³. However, the trees planted, and the management plan do not amount to the exceptional circumstances required under Policy EN8 of the LP.

³ Anderson Tree Care Landscape Management Plan at the canal-side area, dated March 26 2021.

33. Policy EN9 provides an exception to the loss of landscape features, where the loss is offset by the provision of alternative, replacement, or additional features within the site, or on other land in the ownership of the appellant. From the evidence before me the appellant has planted a number of trees on other land that they own, including on the existing camping and caravan park.
34. However, I have no substantive evidence that any trees have been planted to directly offset the trees removed from the appeal proposal. Moreover, the plan, within the appellant's appendix, showing 120 trees planted at Codnor Castle, is separated from the appeal site by open fields and roads and as such the ability of these trees to offset the effect of the loss of trees within the appeal site is reduced.
35. The vegetation within the appeal site would also have provided habitat for biodiversity. The replacement of a large part of the existing hard surfacing with grass and the new tree planting would also provide some biodiversity benefit. However, even considering that the appellant has won David Bellamy Awards for promoting nature and wildlife, the evidence before me would not lead me to conclude that the appeal proposal would mitigate or offset the environmental harm that would result from the removal of the vegetation from the site, nor that the site would be better off in terms of biodiversity.
36. For the above reasons, I find that the proposal would have an adverse effect on trees and biodiversity contrary to Policies EN8 and EN9 of the LP which, taken together, seek to resist the loss of significant trees, woodland, hedgerows, and landscape features unless in exceptional circumstances or where the landscape harm is offset.
37. For the same reasons, the proposal would not comply with the advice at Paragraphs 180 and 186 of the Framework which, taken together, seek to ensure that development contributes to and enhances the natural environment, recognising the benefits from natural capital and ecosystems, including trees and woodland, and seeks to avoid harm to biodiversity unless it can be adequately mitigated or, as a last resort, compensated for.

Other matters

38. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that the proposal would comprise inappropriate development in the Green Belt due to the adverse impact on the visual and spatial aspect of openness. Substantial weight is given to the harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt, and any other harms, are clearly outweighed by other considerations.
39. The proposal would provide additional tourist accommodation as an extension to the existing, well-established, camping and caravan park, which would have associated economic benefits. However, given the small scale of the development and the seasonal nature of tourism these benefits would be limited. Nevertheless, these benefits contribute positively and carry moderate weight in favour of the proposal.
40. However, I have also found that the proposal would not preserve or enhance the character or appearance of the Conservation Area and the public benefits of

the development would not outweigh the harm to the heritage asset. Moreover, the proposal would adversely affect trees and biodiversity within the appeal site and the immediate area. Other trees that have been planted on other sites owned by the appellant, would not mitigate this harm.

41. That the development would not have an adverse effect on highway safety, provides sufficient parking and turning within the site, and, notwithstanding the concerns of the third-party representations, would not have an unacceptable adverse effect on the living conditions of the occupants of neighbouring properties, are neutral matters that weigh neither for nor against the development.
42. For the above reasons I find that the other considerations in this case do not clearly outweigh the harm that I have identified to the Green Belt and other matters. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

43. The development conflicts with the development plan taken as a whole and the Framework. There are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Townsend

INSPECTOR