



Appeal Decision

Site visit made on 12 February 2024

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal Ref: APP/W4705/W/23/3335113

Old Council Goods Yard, Station Road, Steeton with Eastburn, Keighley BD20 6RX

- 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 R Slingsby, Airedale Tree Surgeons, against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/05564/FUL, dated 1 November 2021, was refused by notice dated 23 June 2023.
 - The development is proposed arboricultural building and firewood bunker.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published. In relation to this appeal the relevant parts of the Framework are similar. Consequently, I have not gone back to the parties for comments. Whilst I have had regard to the Framework in reaching my decision, no party would be prejudiced or caused any injustice by me taking this approach.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - The effect of the proposal on flood risk.
 - 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

Whether inappropriate development

4. Paragraph 154 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. Under section a) of that paragraph a new building for agriculture and forestry would not be

inappropriate. Policy SC7 of the Local Plan for the Bradford District: Core Strategy Development Plan Document (2017) (CS) sets out the valuable role of the Green Belt and seeks its protection.

5. Forestry is not defined within the Framework or development plan. The Council state that forestry is commonly understood to be, with a dictionary definition of, growing and taking care of trees in forests, especially in order to obtain wood. In contrast, the appellant states that the term forestry encompasses a wider scope of activities including managing trees, arboriculture, and silviculture. The appellant owns a forest near Skipton and their business centres around the management of trees in an urban setting along with the storage and seasoning of timber.
6. The proposal is for an arboricultural building, that would be used for specialist machinery maintenance and storage, along with an outdoor storage bunker for firewood seasoning and storage. The appellant's submission sets out the machinery, equipment, and tools that would be stored in the building. This includes tractors, chippers, trailer, digger, grinders, and specialist safety equipment. The building would also have an indoor area to work on the maintenance, repair and upkeep of the machinery and equipment.
7. The development relates to a tree surgery business rather than a forestry business. The main purpose of the building is for the storage of machinery and equipment for a tree surgery business. Based on the evidence presented and given the type of business and building use, I am not satisfied that the proposed building would be for forestry.
8. Accordingly, the proposed development would not fall under any of the exceptions listed in the Framework. The proposal would therefore be inappropriate development in the Green Belt, having regard to paragraph 154 of the Framework and Policy SC7 of the CS.

Openness

9. 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.
10. The proposal would have a visual and spatial impact upon the Green Belt. It would result in a large building, and log store, being situated in an area currently free from development. Whilst existing mature landscaping would provide some screening, particularly in winter months the development would be visible from public vantage points. For these reasons, the proposal would cause a moderate loss to the openness of the Green Belt and conflict with the fundamental aim of Green Belt policy, as stated in the Framework, to keep land permanently open.

Flood risk

11. The development would introduce a new building which is identified as being located within Flood Zone 3b, which is the functional floodplain of the River Aire. This is land defined by the Planning Practice Guidance (PPG) and the Strategic Flood Risk Assessment (SFRA) as having a high probability of flooding. Given the use of the building and having regard to annex 3 of the Framework, the development is classed as a less vulnerable land use. The PPG

sets out that this type of development (less vulnerable) is not compatible with this Flood Zone and therefore should not be permitted.

12. The appellant states that potentially the Environment Agency model used levels data that were significantly different to the actual ground levels onsite. Thus, they consider the Environment Agency's objection is based on out-of-date data. The appellant has provided evidence to demonstrate that their consultant did contact the Environment Agency to make an enquiry relating to the modelling data and did have direct correspondence with them. The flood risk assessment data includes a note that the model is due to be superseded by the Leeds FAS Phase 2 modelling. Based on the information presented, the SFRA update has not yet been completed or adopted.
13. Whilst the appellant suggests that the site has never flooded and is therefore not functioning as a floodplain, there is limited robust information to support this claim. Furthermore, this statement contradicts emails provided which set out that anecdotal evidence suggests that the site has not significantly flooded. This would indicate that the site has flooded, but in the appellant's view not significantly. Given that the site is identified as being within Flood Zone 3b, the information provided is not proportionate to the degree of flood risk and does not adequately demonstrate that the site is not functioning as a floodplain. Based on the evidence submitted and given the location of the site and size of the building proposed, the development would increase the risk of flooding on the site and elsewhere.
14. For the reasons given above, the effect of the proposal on flood risk would be unacceptable. Consequently, it would conflict with Policy EN7 of the CS. This seeks, amongst other things, to appraise, manage and reduce the risk of flooding. It states that development will not be permitted in areas shown as functional floodplain in the Bradford SFRA, with the exception of water compatible uses and essential infrastructure. In addition, it would conflict with chapter 14 of the Framework which seeks to ensure that inappropriate development in areas at risk of flooding now, or in the future, should be avoided.

Other considerations

15. The appellant's case sets out the need for the development, including that they require dry, secure indoor storage for the machinery, equipment, tools, and Personal Protective Equipment (PPE). The building would protect these items from the elements, as well as deter theft. The incorrect storage of the PPE may damage the items which could result in both a monetary loss and safety issues. In addition, the building would include an indoor area to work on the maintenance, repair and upkeep of the machinery and equipment.
16. The site currently contains storage buildings of a reasonable size. The appellant highlights that as the business has grown, the current storage arrangements are no longer sufficient. Having said that, there is limited information regarding where the machinery and equipment is currently being stored, maintained, repaired and upkept if the current arrangements are insufficient or that the deterioration of the equipment and theft has been an issue. Bearing in mind that the development would result in a large building and there are currently storage buildings on the site, based on the evidence presented, I give moderate weight to the need for the building.

Conclusion

17. The appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. It would also cause a moderate loss to the openness of the Green Belt and the effect of the development on flood risk would be unacceptable. The Framework is clear that substantial weight should be given to any harm to the Green Belt and 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.
18. I give moderate weight to the need for the development. When drawing this together, the other considerations advanced in support of the appeal whether taken individually or cumulatively, do not, clearly outweigh the totality of the harm that I have found. The very special circumstances necessary to justify the development therefore do not exist. Consequently, I conclude that the scheme would conflict with the Framework and the development plan.
19. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, I conclude that the appeal does not succeed.

L Wilson

INSPECTOR