



Appeal Decisions

Site visit made on 1 February 2024

by Elaine Gray MA, MSc, IHBC

an Inspector appointed by the Secretary of State

Decision date: 18th April 2024

Appeal A Ref: APP/H4505/C/23/3324826

Middle Hedgefield Farm, Stella Road, Ryton, Blaydon-on-Tyne, Gateshead NE21 4NN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Miss Joanne Stanton against an enforcement notice issued by Gateshead Metropolitan Borough Council.
- The enforcement notice is dated 24 May 2023.
- The breach of planning control as alleged in the notice is: Without planning permission the erection of a timber building to provide café with associated raised deck, canopy and smoking shelter and the installation of access railings and steps.
- The requirements of the notice are:
 - i) Remove from the Land the entire timber café building (including fixtures and fittings), indicated in the approximate location edged green shown as 'A' on the plan attached to the notice.
 - ii) Remove from the land the entire raised deck and balustrade (including fixtures and fittings), indicated in the approximate location edged green shown as 'B' on the Plan and shown in Photograph 1 attached to the notice.
 - iii) Remove from the land the structure attached to timber cafe building (including fixtures and fittings), indicated in the approximate location edged green shown as 'C' on the Plan and shown on Photograph 2 attached to the notice.
 - iv) Remove from the Land the wooden smoking shelter adjacent to the café building (including fixtures and fittings), indicated in the approximate location edged green shown as 'D' on the Plan and shown on Photograph 3 attached to the notice.
 - v) Remove from the Land the steps and railings, used to access the raised deck and timber building, and gravel surface materials (including fixtures and fittings), indicated in the approximate locations shown cross-hatched in green on the Plan and shown in Photograph 4 and 5 attached to the notice.
 - vi) Remove from the Land all waste, materials, equipment and debris in connection with or resulting from compliance with steps (i, ii, iii, iv and v) above.
- The periods for compliance with the requirements are: (i) 4 months; (ii) 4 months; (iii) 4 months; (iv) 4 months; (v) 4 months; (vi) 5 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) & (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/H4505/W/23/3326916

Middle Hedgefield Farm, Stella Road, Ryton, Blaydon-on-Tyne, Gateshead NE21 4NN

- 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 Miss Joanne Stanton against the decision of Gateshead Metropolitan Borough Council.
- The application Ref DC/22/01187/FUL, dated 14 October 2022, was refused by notice dated 24 May 2023.
- The development is described as: 'Proposed retention of existing timber café building following, (1) the removal of canopy / covered area to west side, (2) the removal of

raised deck to front along with associated boundary fencing, steel frame over deck and retractable canopy, (3) removal of smoking shelter to east side, (4) alterations to resulting building including the provision of a living roof, cladding and painting green or brown, (5) removal of 4 parking spaces, (6) erection of a gate to control use of eastern access, and (7) landscaping.'

Appeal C Ref: APP/H4505/W/23/3328813

Middle Hedgefield Farm, Stella Road, Ryton, Blaydon-on-Tyne, Gateshead NE21 4NN

- 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 Miss Joanne Stanton against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/22/01393/FUL, dated 18 December 2022, was refused by notice dated 10 August 2023.
 - The development is: Provision of car park to north west of site.
-

Decisions

1. It is directed that the enforcement notice be corrected by the deletion of the word 'structure' from requirement iii, and its substitution with the word 'canopy'.
2. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice, as corrected, is upheld.
3. Appeal B is dismissed.
4. Appeal C is dismissed.

Preliminary Matters

5. Since the enforcement notice was issued, the Government published a revised National Planning Policy Framework (NPPF) on 19 December 2023 and updated it on 20 December 2023. Those parts of the NPPF most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised NPPF, and I am satisfied that no party's interests have been prejudiced by taking this approach.
6. I have directed that the enforcement notice be corrected in the interests of clarity, so that the canopy referred to in the allegation is specifically referenced in the requirements, instead of the less specific term 'structure'. I am satisfied that this change does not make the notice more onerous, or prejudice any party's interest in the appeal.

Appeal A on ground (a), and the deemed planning application

Main Issues

7. The main issues are:
 - Whether the development is inappropriate development in the Green Belt, having regard to the NPPF and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;

- The effect of the development on highway safety in the area; 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 necessary to justify the development.

Reasons

Background

8. The appeal site was a working farm until the 1970s, when a scrap yard use was introduced. The planning history of the site shows that in 1996, a Lawful Development Certificate (LDC), ref: 1026/95, was issued for 'Mixed use development comprising residential accommodation of farm buildings and use of associated land within the 'planning unit' for the running of scrap merchant's business'. The Council state that the approved plans showed that the southern portion of the site, which is the subject of the appeal, 'was used for the occasional storage of scrap materials or had no specified use'.
9. Consequently, planning permissions were granted for additional dwellings and boarding kennels for dogs in the wider site controlled by the appellant and her family. The nursery/garden centre use does not appear to have planning permission. However, the Council state that polytunnels have been present on the site since around 2012, indicating that the nursery/garden centre business has been operating for at least 10 years.
10. From this evidence, I draw the conclusion that the nursery/garden centre business is likely to be the current lawful use of the appeal site. If that is so, then it has most likely superseded the scrap yard use. Although the scrap yard use was found to be lawful in 1996, LDCs relate only to the situation on the date that the application was made. The existence of a scrap licence for the site does not in itself confer lawfulness in planning terms. Therefore, although the appellant relies heavily on the previous existence of the scrap yard at the site, there is little evidence to show that this use could lawfully be reverted to, in the event that the appeal before me is dismissed.
11. I have had regard to the previous appeal decision letter relating to the same site, ref: APP/H4505/W/22/3297141, which is a material consideration to this case. However, I am not bound to draw the same conclusions as the previous Inspector on the issues raised in the current appeal.

Whether inappropriate development

12. Policy CS19 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030 (CS) requires the land within the Tyne and Wear Green Belt to be protected. Paragraph 152 of the NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 requires local planning authorities to ensure that substantial weight is given to any harm to the Green Belt, stating that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

13. Paragraph 154 states that the construction of new buildings should be regarded as inappropriate in the Green Belt, but lists a number of exceptions, including the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). Such development should not have a greater impact on the openness of the Green Belt than the existing development.
14. The notice attacks the development of a café building and a number of peripheral structures. The parties disagree as to whether or not the site is on previously developed land. However, even if it is, the relevant exception in paragraph 154 does not apply because the structure that was replaced was a polytunnel, which is a temporary building.
15. In light of the above findings that the development fails to meet any of the exceptions listed, I find that it is inappropriate development in the Green Belt, contrary to the provisions of paragraph 154 of the NPPF.

The effect on the openness of the Green Belt

16. The next step is to consider whether the development preserves the openness of the Green Belt and whether or not it conflicts with the purposes of including land within it. NPPF paragraph 142 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.
17. NPPF paragraph 143 sets out the five purposes of Green Belt designation, which are: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
18. The café comprises a main single storey rectangular structure. To the front of the building is a raised decking area with a balustrade. To one side is an open front canopy connecting the café building to the adjacent polytunnel. On the other side is a timber smoking shelter which is not directly attached to the main café building. In addition, steps and railings provide access to the building.
19. I note that the Council do not object to the scheme on the grounds of its effect on the character and appearance of the area. Instead, they found that the café building was acceptable in design terms in the context of the wider site. They concluded that, considering its position away from the main road behind a range of historic buildings, and its overall scale and form, the cafe is not prominent, or harmful to the local character.
20. From my observations on my visit, I agree with this finding. However, the openness of the Green Belt has a spatial as well as a visual aspect. Therefore, the absence of visual intrusion does not in itself mean that there is no impact on openness.
21. There is no dispute between the main parties that the main part of the café building and the associated structures add extra built volume in comparison to the previous polytunnel on the site. There is, therefore, a greater impact on

the openness by the simple merit of the quantum of new development compared to the polytunnel. Nonetheless, the courts have held that openness does not imply freedom from any form of development.

22. In this particular case, the new café is enclosed by development to the north and east. To the south is a tall earth bank directly behind the café building, and beyond that is an area of dense woodland. The building is not prominent in views towards it from the Public Right of Way (PROW) to the east. As a result, the structure blends in with its context. The building is relatively modest in comparison to the surrounding buildings, and it appears inconspicuous. Therefore, although there has been a reduction of openness, under these circumstances I consider that the harm to the Green Belt is limited.

Highway safety

23. Amongst other things, CS Policy CS13 seeks to ensure that development connects safely to and mitigates its effects on existing transport networks. Policy MSGP15 of the Making Spaces for Growing Places Local Plan Document for Gateshead (LPD) requires secure safe access to sites, and directs that development should not have an unacceptable impact on the safe operation of the transport network. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
24. The Council object to the scheme on the grounds that the existing accesses to the appeal site are inadequate to allow safe travel to and from the development. Currently, the wider site has two access points. One is directly to the north of the café building, and the other is further to the west, passing in front of the soft play centre at the Castle.
25. The access to the north is clearly of some age, comprising an unmade single carriageway track running between two historic buildings that front the B6317. The corners of the buildings and their position at the back of the pavement mean that visibility for any driver using this route to join the B6317 is substantially limited. The conditions at the access adjacent to the Castle are better, but still below the required minimum standard for new development.
26. The accesses are clearly less than optimal, but conversely, they appear to have been in place and operational for some considerable time. The Council confirm that three collisions have taken place since 2016 on the B6317. Two of the collisions were slight, but a serious incident took place involving a pedestrian on the zebra crossing which sits close to the access by the Castle. In the absence of more detailed information, it is unclear if any of these incidents were related to the conditions of the existing accesses.
27. The main question for the purposes of the appeal is whether the development that is the subject of the appeal is materially more harmful to highway safety than the previous use at the site. The appellant asserts that the café does not result in any unacceptable increase in vehicle movements due to the modest nature of the new floorspace. She further argues that trips are linked insofar as people come for the garden centre and stay to use the café.

28. From the information in the Appeal B submissions, the café building was complete and presumably operational by October 2021. The joint garden centre/café business has therefore been running for a number of years. Nonetheless, I have not been provided with any detailed or quantitative data to show the typical number of vehicle trips generated by the current mixed use of the site, or any way to make a meaningful comparison with the trips generated by the previous garden centre use.
29. With regard to car parking provision, I saw on my site visit that the car parking area is not formally marked out with spaces. The planning officer's report for the refused planning application ref: DC/21/00916/FUL gives some further information, stating that there were previously eight car parking spaces, with 17 new spaces being proposed, bringing the total on site to 25. Given that this application was for the erection of the café building and the creation of additional parking, it appears that a significant increase in vehicle visits in association with the café was anticipated.
30. The appellant however argues that this provision was to a maximum standard, leaving the option to provide fewer spaces if that was deemed appropriate. I note that the site is served by public transport, with bus stops close by on the main road. It is also close to residential areas, which would facilitate walking or cycling to the café. This would indicate that a number of customers come to the cafe by means other than private car. However, again, there is little detailed evidence before me to confirm this.
31. I note the appellant's fall back position that the scrap yard use could recommence, with wagons using the site access, which would be more dangerous in terms of highway safety. However, as discussed above, there is little evidence that the scrap yard use is still lawful, and so I can give minimal weight to this fall back position.
32. I have also taken into account the appellant's suggested condition, which would require a clear access and egress plan with appropriate signage for all vehicles visiting the site. However, although the red line boundary on the enforcement notice covers the access to the north, it does not take in the access next to the Castle. That being the case, it is not clear that the access and egress plan could be achieved within the physical confines of the development site as defined in the notice. Furthermore, the lack of detail available for such a plan, coupled with the overall absence of information on the level of traffic generated by the café development, leads me to the view that it would not be appropriate to require this information by condition.
33. Drawing these factors together, I conclude that it has not been satisfactorily demonstrated that the development is or can be made acceptable in terms of its effects on highway safety in the area. The fact that no associated accidents have occurred is not a reliable indication that none will happen in the future. The development therefore unacceptably conflicts with CS Policy CS13, LDP Policy MSGP15, and the NPPF.

Other considerations

34. The appeal scheme gives rise to a number of benefits, including boosting the local economy, providing employment, and providing a retail and leisure facility for the area. These benefits accord with CS Policy CS5, which amongst other

things, supports entrepreneurship through the supply of a range and choice of premises, and seeks to diversify and expand the rural economy by supporting local business and growth in leisure, culture and tourism. They are also supported by CS Policy CS8, which encourages development that improves the range and quality of leisure, culture and tourism facilities.

35. On that basis, the development accords with the economic and social objectives of the NPPF. The above benefits are further reflected by the high level of support within the local community that the café enjoys, which is clear from the expressions of support in third party representations.
36. I note that the café is and has been used as a facility to assist the disabled, and other vulnerable groups, which is a valuable community resource. However, there is no means to ensure that these elements of the development continue, as they could not reasonably be secured by planning condition. This factor limits the weight I can give to these particular benefits.
37. I have taken into account the appellant's concerns over human rights violations. Having regard to the circumstances drawn to my attention, this could represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However in this particular case, having regard to the adopted development plan policies and the NPPF, which aim to protect the public by requiring highway safety issues to be addressed, I consider that greater weight should be attached to these matters. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant, the appellant's family or workers and customers of the café.

Conclusion on ground (a)

38. In summation, I have found that the development is inappropriate development in the Green Belt. However, due to its acceptable appearance, its relatively small scale, and its proximity to existing development, the harm to the openness of the Green Belt is limited. Whilst substantial weight is to be given to any harm to the Green Belt, this is to be set against the contribution of the development to the economy in the area, which attracts considerable policy support.
39. I therefore find that the other considerations in this case clearly outweigh the marginal harm to the Green Belt that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which would justify the development, were it to be found otherwise acceptable. To that extent, it would comply with the relevant local and national Green Belt policies. However, I have found that the development has not been shown to be acceptable on the grounds of highway safety, contrary to CS Policy CS13 and LDP Policy MSGP15, and so the appeal scheme conflicts with the development plan as a whole.

Appeal A on ground (f)

40. Ground (f) is that the steps required to comply with the requirements of the notice are excessive.
41. The appellant argues that the revised scheme that is the subject of Appeal B below, submitted as planning application ref: DC/22/01187/FUL, should be

taken into account as a lesser step that would achieve the aims of the enforcement notice. Essentially, were I to allow Appeal B, the main café building would remain, but the peripheral structures would be removed. However, as may be seen from my decision below, I have found that the scheme proposed under Appeal B has not been shown to be acceptable when assessed against the development plan as a whole.

42. That being the case, and in the absence of any other obvious lesser steps that would remedy the breach, I find that the requirements of the notice are commensurate with its aims. The appeal on ground (f) fails.

Overall conclusion – Appeal A

43. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice, as corrected, is upheld.

Appeal B – s78

Main Issues

44. The main issues are:

- Whether the development is inappropriate is inappropriate development in the Green Belt, having regard to the NPPF and any relevant development plan policies;
- The effect of the development of the openness of the Green Belt;
- The effect of the development on highway safety in the area; 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 necessary to justify the development.

Whether inappropriate development

45. The appeal scheme under Appeal B is a revised and reduced iteration of the scheme considered above in Appeal A. Essentially, Appeal B seeks planning permission for the main café building, but with all the other elements, including the decking and the timber structures, removed.
46. NPPF paragraph 154 states that the construction of new buildings should be regarded as inappropriate in the Green Belt, but lists a number of exceptions, including the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). Such development should not have a greater impact on the openness of the Green Belt than the existing development.
47. Whether or not the site is previously developed land, the proposed café building would replace a polytunnel, which is a temporary building, and for that reason, the appeal scheme does not meet the exceptions set out in the NPPF. The proposal would comprise a new building which would be inappropriate development in the Green Belt.

The effect on the openness of the Green Belt

48. NPPF paragraph 142 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.
49. The café building would comprise a simple rectangular structure. It would be clad in timber and painted green or brown. It would have a flat roof finished with a green living roof. Taking into account the surroundings, I am satisfied that the new building would be acceptable in terms of design and scale, and would sit unobtrusively in its context.
50. However, the openness of the Green Belt has a spatial as well as a visual aspect. Therefore, the absence of visual intrusion does not in itself mean that there is no impact on openness. The café building would sit on the approximate footprint of the previous polytunnel, and would reuse the foundations of the unauthorised café building that occupies the site. Taking into account the built volume of the previous buildings on the site, the appellant calculates that the development as proposed would have a volume of 102 cubic metres greater than the volume of built forms on the site.
51. There would be, therefore, a greater impact on the openness by the simple merit of the quantum of new development compared to the previous situation. Nonetheless, the courts have held that openness does not imply freedom from any form of development.
52. The new café would be enclosed by development to the north and east. To the south, it would be bounded by a tall earth bank and beyond that, an area of dense woodland. The building would not be prominent in views towards it from the main road to the north, or the Public Right of Way (PROW) to the east. As a result, the structure would blend in with its context. It would be relatively modest in comparison to the surrounding buildings. Therefore, although there would be reduction of openness, under these circumstances I consider that the harm to the Green Belt would be limited.

Highway safety

53. Amongst other things, CS Policy CS13 seeks to ensure that development connects safely to and mitigates its effects on existing transport networks. LPD Policy MSGP15 requires secure safe access to sites, and directs that development should not have an unacceptable impact on the safe operation of the transport network. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
54. The Council object to the scheme on the grounds that the accesses to the appeal site are inadequate to allow safe travel to and from the new development. The access to the north is clearly of some age, comprising an unmade single carriageway track running between two historic buildings that front the B6317. The corners of the buildings and their position at the back of the pavement mean that visibility for any driver using this route to join the B6317 is substantially limited. The conditions at the access adjacent to the Castle are better, but still below the required minimum standard for new development.

55. The accesses are clearly less than optimal, but conversely, they appear to have been in place and operational for some considerable time. The Council confirm that three collisions have taken place since 2016 on the B6317. Two of the collisions were slight, but a serious incident took place involving a pedestrian on the zebra crossing which sits close to the access by the Castle. In the absence of more detailed information, it is unclear if any of these incidents were related to the conditions of the existing accesses.
56. In terms of parking provision, it is proposed that 24 parking spaces would be reduced to 20. The proposed development also includes the erection of a gate to control the use of the eastern access. However, it is not clear how practical this would be, given that a number of other developments within the wider site use this access. In any event, this would not resolve the issues arising from the substandard nature of the western access.
57. Moreover, it is unclear from the evidence before me whether the development that is the subject of the appeal would be materially more harmful to highway safety than the previous use at the site. I have not been provided with any detailed or quantitative data to show the typical number of vehicle trips generated by the mixed use of the site, or any way to make a meaningful comparison with the trips generated by the previous garden centre use.
58. The appellant argues that parking provision would be to a maximum standard, leaving the option to provide fewer spaces if that was deemed appropriate. I note that the site is served by public transport, with bus stops close by on the main road. It is also close to residential areas, which would facilitate walking or cycling to the café. This would indicate that a number of customers would come to the cafe by means other than private car. However, again, there is little detailed evidence before me to confirm this.
59. I note the appellant's fall back position that the scrap yard use could recommence, with wagons using the site access, which would be more dangerous in terms of highway safety. However, as discussed above, there is little evidence that the scrap yard use is still lawful, and so I can give minimal weight to this fall back position.
60. I have also taken into account the appellant's suggested condition, which would require a clear access and egress plan with appropriate signage for all vehicles visiting the site. However, the lack of detail available for such a plan, coupled with the overall absence of information on the level of traffic that would be generated by the appeal scheme, leads me to the view that it would not be appropriate to require this information by condition.
61. Drawing these factors together, I conclude that it has not been satisfactorily demonstrated that the development would be acceptable in terms of its effects on highway safety in the area. The fact that no accidents associated with the site have occurred is not a reliable indication that none will happen in the future. The development therefore unacceptably conflicts with CS Policy CS13, LDP Policy MSGP15, and the NPPF.

Other considerations

62. The appeal scheme would give rise to a number of benefits, including boosting the local economy, providing employment, and providing a retail and leisure

facility for the area. These benefits accord with CS Policy CS5, which amongst other things, supports entrepreneurship through the supply of a range and choice of premises, and seeks to diversify and expand the rural economy by supporting local business and growth in leisure, culture and tourism. They are also supported by CS Policy CS8, which encourages development that improves the range and quality of leisure, culture and tourism facilities.

63. On that basis, the proposed development accords with the economic and social objectives of the NPPF. The above benefits are further reflected by the high level of support for the scheme within the local community.
64. I note that the café would be used as a facility to assist the disabled, and other vulnerable groups, which would be a valuable community resource. However, there is no means to ensure that these elements of the development would continue, as they could not reasonably be secured by planning condition. This factor limits the weight I can give to these particular benefits.
65. I have taken into account the appellant's concerns over human rights violations. Having regard to the circumstances drawn to my attention, this could represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However in this particular case, having regard to the adopted development plan policies and the NPPF, which aim to protect the public by requiring highway safety issues to be addressed, I consider that greater weight should be attached to these matters. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant, the appellant's family or workers and customers of the café.

Appeal B Conclusion

66. In summation, I have found that the proposed development would be inappropriate development in the Green Belt. However, due to its acceptable appearance, its small scale, and its proximity to existing development, the harm to the openness of the Green Belt would be very limited. Whilst substantial weight is to be given to any harm to the Green Belt, this is to be set against the contribution of the proposal to the rural and tourism economy in the area, which attracts considerable policy support.
67. I therefore conclude that the other considerations in this case would clearly outweigh the marginal harm to the Green Belt that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which would justify the development, were it to be found otherwise acceptable. To that extent, it would comply with the relevant local and national Green Belt policies. However, I have found that the proposed development has not been shown to be acceptable on the grounds of highway safety, contrary to CS Policy CS13 and LDP Policy MSGP15, and so the appeal scheme conflicts with the development plan as a whole.
68. For those reasons, Appeal B is dismissed.

Appeal C – s78

Main issues

69. The main issues are:

- Whether the development is inappropriate development in the Green Belt, having regard to the NPPF and any relevant development plan policies;
- The effect of the development on the openness of the Green Belt;
- The effect of the development on the character and appearance of the surrounding area;
- The effect of the development on ecology;
- The effect of the development on highway safety; 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 necessary to justify the development.

Reasons

70. The new car park comprises an irregularly shaped piece of land with an area of around 450sqm. It is surfaced with grey stone chippings, but there is no formal marking out of car parking spaces.

Whether or not the development amounts to inappropriate development

71. NPPF Paragraph 155 sets out certain forms of development other than new buildings which are not inappropriate in the Green Belt, providing they preserve its openness and do not conflict with the purposes of including land within it. Engineering operations are included in this paragraph.
72. From the evidence before me, I am satisfied that the creation of the car park and associated operations to level the site amount to engineering operations. The car park development is therefore not inappropriate development, providing it preserves openness and does not conflict with the purposes of the Green Belt.

The effect on the openness of the Green Belt

73. NPPF paragraph 142 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.
74. NPPF paragraph 143 sets out the five purposes of Green Belt designation, which are: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
75. The Council argue that, by virtue of the addition of hard surfacing to the land, the development does not preserve the openness of the Green Belt and conflicts with its purpose to assist in safeguarding the countryside from encroachment.
76. Previously, the site was an open area of grass and other vegetation. There is little to suggest that the contours and ground levels of the appeal site have been substantially altered by the development. Consequently, due to the

nature of the physical changes to the appeal site in these respects, the development itself has had a limited spatial impact on the openness of the Green Belt.

77. Nevertheless, the hardstanding has been created to provide an additional area of parking for the adjacent business. It may be expected that vehicles will be parked on the site during the hours that the business is open. Even if the area is not always full, the regular parking of vehicles here for a substantial part of the day will have a spatial impact on the openness of the Green Belt as a matter of fact.
78. In terms of effect of the visual dimension of openness, there is little to screen the car park other than some planting to the north on a strip of land between it and the Castle car park. This planting could well be augmented to provide better coverage in views towards the area from the north. However, for those walking past on the PROW, there is little scope to soften the appearance of the cars parked within it.
79. Taking into account all of the above, the creation of the vehicular parking area has and would have an effect, albeit limited, on openness when compared to the previous situation. Therefore, the development does not preserve the openness of the Green Belt and it amounts to inappropriate development. Given the urbanising effect of the parking area when in use, I further find the development to conflict, to a limited degree, with the purposes of including land within the Green Belt, which include assisting in safeguarding the countryside from encroachment.

Character and appearance

80. The access road to the development is located in the Stella, Crookhill and Hedgefield Area of Special Character (ASC), and the car park itself is adjacent to the area. ASCs are a local designation, and LDP Policy MSGP23 requires a high level of importance to be given to the design of development within them, or affecting them.
81. The Stella, Crookhill and Hedgefield ASC includes a straggle of buildings along the semi-rural main road, and further buildings within the settlement of Crookhill. The design guidance for this area recommends that development should resist inappropriate alterations and extensions to existing buildings and infill development which would detract from existing townscape quality and setting of buildings, and to protect the landscape/semi-rural setting of the area.
82. The Council contend that the previously undeveloped grassy area of the appeal site contributed positively towards the semi-rural setting of the area. It is considered that the creation of the car park through the levelling and hard surfacing of the site has detrimentally affected the setting of the character area through the erosion of its semi-rural character.
83. The appellant argues that the character and appearance of the area is informed by the presence of the Castle car park immediately to the north. She relies on the fact that planning permission was granted relatively recently for that development in 2009. I have been provided with the planning officer's report for the conversion of the church building to the Castle premises. It is clear

from this document that a car park already existed in that location to serve the church. I note that the application site was then described as being largely surrounded by open land to the north, and to the south, where the appeal site lies.

84. The application proposed the retention of the car parking area at its existing size, and it was to be surfaced and formally laid out. That being the case, the car park was not created in 2009, and it is unclear how long it had been in existence prior to the 2009 application.
85. I agree that the Castle car park now forms part of the character of the area. However, from my observations of the area, development tends to be closest to the main road. As one moves south of the road, the developed areas give way to woods and areas of green open land. The appeal site therefore formed part of that transition towards the softer, more natural landscape behind. By surfacing that area, and introducing parked vehicles, the appeal scheme erodes the contribution of the site to the natural backdrop. Whilst the harm may be limited by the relatively small area of the car park, it is harm nonetheless.
86. Drawing these threads together, I find that the development unacceptably harms the character and appearance of the surrounding area. As a result, conflict arises with LDP Policy MSGP23, and with CS Policy CS15, which requires development to deliver high quality and sustainable design by, amongst other things, responding positively to local distinctiveness and character.

Ecology

87. The Council state that the appeal site is of an ecologically sensitive nature, being located 50m east of the Crookhill Pasture Local Wildlife Site (LWS), 50m south of the Hedgefield Quarry LWS and 400m north west (with ecological connectivity) of the Path Head Quarry LWS. There is connectivity between these LWSs and the appeal site provided by areas of grassland, woodland and hedgerow.
88. Prior to the development being carried out, the Council contend that the habitat present within and adjacent to the site included grassland, scrub, hedgerows and trees, with the potential to support a range of protected, priority and notable species. They state that the clearance of these habitats and their replacement with stone chippings and limited, inappropriate non-native tree planting have resulted in a net loss of biodiversity within the site.
89. Furthermore, as a result of the development, habitat outside of the red line boundary has been degraded and disturbed by vegetation clearance, the storage of waste materials and the tracking of vehicles. The Council consider that such activities are likely to have reduced the biodiversity value of these habitats and their ability to support protected and priority species which include nesting birds, hedgehogs and commuting and foraging bats. The Council also voice concern over the continuation and exacerbation of such activities at the site and potential impacts on surrounding habitats and ecological connectivity.
90. The Council objected to the scheme on the grounds that insufficient information was submitted with the planning application, such as an Ecological Impact Assessment or a Biodiversity Net Gain Plan. There was nothing to demonstrate

that the development sought to: avoid and/or minimise impacts on biodiversity in accordance with the mitigation hierarchy; provide net gains in biodiversity; or secure appropriate mitigation, monitoring, compensation and/or enhancement measures, as required by the NPPF and LDP Policy MSGP37.

91. LDP Policy MSGP37 requires, at point 4, that development that would adversely affect an LWS, either directly or indirectly, will only be permitted where: a) the developer can demonstrate that there are no reasonable alternatives; and b) the case for development clearly outweighs the need to safeguard the intrinsic value of the site.
92. In response, the appellant suggests that if further planting, biodiversity and/or ecology provision or work is required, it could be achieved by way of a suitably worded condition. However, this approach would effectively bypass the policy requirements set out above. LDP Policy MSGP37 places the onus on the appellant to demonstrate whether or not the development has or will have adverse effects, and to show how these will be addressed.
93. There is no evidence before me that the appellant has sought to meet these policy requirements. Were it to be found otherwise acceptable, a condition could only be imposed if there was a reasonable expectation that the development could be found not to harm biodiversity, and if it does, that suitable and effective mitigation measures could be implemented.
94. In the absence of any form of Ecological Impact Assessment in respect of the development, I can have no certainty that it is or can be made acceptable in terms of its impact on the ecology in the area. The development thus unacceptably conflicts with the requirements of LDP Policy MSGP37 and the NPPF.

Highway safety

95. Amongst other things, CS Policy CS13 seeks to ensure that development connects safely to and mitigates its effects on existing transport networks. LDP Policy MSGP15 requires secure safe access to sites, and directs that development should not have an unacceptable impact on the safe operation of the transport network. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
96. As noted above, the car park is accessed from the B6317 via an existing access that also serves the site to the east. The Castle soft play facility has its own separate car park to the west with a dedicated entrance. The access road is also the route of a PROW which the Council say is well used.
97. As the site was undeveloped, any additional traffic using the car park intensifies the use as a matter of fact. I accept that the access to the appeal site has been in place and operational for some time. The appellant asserts that the development does not result in any unacceptable increase in vehicle trips. However, I have not been provided with any information to show how many trips to and from the car park are typically made when it is operational.
98. In the absence of detailed and quantified evidence of this kind, I conclude that it has not been satisfactorily demonstrated that the development accords with

CS Policy CS13, LDP MSGP15, and the NPPF in terms of its effects on highway safety.

99. I have taken into account the appellant's suggested condition, which would require the submission of a clear access and egress plan with appropriate signage for all vehicles coming to the car park. She suggests that a revised, widened or more formal arrangement of access and egress, associated signage, and perhaps even a one-way system could be achieved.
100. However, the red line boundary submitted with the application does not take in the full width of the access next to the Castle, and does not take in any part of the other café access to the east. That being the case, it is not clear that the access and egress plan could be achieved within the physical confines of the development site. Furthermore, the lack of detail available for such a plan leads me to the view that it would not be appropriate to require this information by condition.
101. The appellant argues that the car park will have benefits for the transport network by taking parking and traffic off the public highway. However, drivers will have to use the road to travel to and from the premises, and so the benefit to the transport network from this circumstance is unclear.
102. There is no evidence that visitors to the adjacent business have previously parked on the highway, and so this benefit has not been demonstrated. Although it is the appellant's case that the development has been operating without any unusual levels of accident or incident, it does not follow that this will continue to be the case.

Other Considerations

103. The car park supports an existing business with a leisure offer, deriving policy support from CS Policy CS5, which amongst other things, supports entrepreneurship through the supply of a range and choice of premises, and seeks to diversify and expand the rural economy by supporting local business and growth in leisure, culture and tourism. It also accords with CS Policy CS8, which encourages development that improves the range and quality of leisure, culture and tourism facilities.
104. On that basis, the proposed development accords with the economic and social objectives of the NPPF. It could be argued that the development accords with the purpose of the Green Belt to assist in urban regeneration by encouraging the recycling of derelict and other urban land.
105. However, these factors are not sufficient to amount to the very special circumstances that would mitigate or outweigh the policy conflicts arising from the appeal scheme that I have identified in relation to character and appearance, ecology and highway safety.

Conclusion - Appeal C

106. For the reasons above, the development conflicts with the development plan as a whole, and so the appeal is dismissed.

Overall conclusion

107. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice, as corrected, is upheld.

108. Appeal B is dismissed.

109. Appeal C is dismissed.

Elaine Gray

INSPECTOR