



Appeal Decision

Site visit made on 19 October 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/J4525/W/20/3257868

Houghton Quarry, Newbottle Street, Houghton-le-Spring DH4 4AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Ryan Peddie (Holystone Civil Engineering) against the decision of Sunderland City Council.
- The application Ref 19/00102/MAV, dated 18 January 2019, was refused by notice dated 6 March 2020.
- The application sought planning permission for The redevelopment of Houghton Le Spring Quarry landfill site, comprising a revision to the final landfill restoration contours; development of an employment park, consisting of offices (Use Class B1) (3,558m² gross floor space), and buildings for general industrial distribution and storage (Use Classes B2 and B8) (5,992m²) with ancillary trade counter units; solar PV/renewable energy generation area (3,000m²), associated ancillary infrastructure, access, car parking and landscaping at Quarry Row Houghton Le Spring without complying with conditions attached to planning permission Ref 12/03178/FUL, dated 28 October 2013.
- The conditions in dispute are Nos 2, 3, 10 and 21 which state that:
 - (2) "Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans: Drawing Numbers BF4830/20/01; BF4830/20/02; BF4830/20/03; BF4830/20/04; BF4830/20/05; BF4830/20/06; BF4830/20/07; BF4830/20/08; BF4830/20/09; BF4830/20/10; BF4830/20/11; BF4830/20/12; BF4830/20/13; BF4830/20/14; BF4830/20/15; BF4830/20/16; BF4830/20/17; BF4830/20/18; BF4830/20/19; BF4830/20/20; BF4830/20/21; BF4830/20/22; BF4830/20/23; BF4830/20/24; BF4830/20/25; BF4830/20/26."
 - (3) "Notwithstanding the submitted information, the landfilling of the site shall be completed up to the revised final landfill restoration contours hereby approved within 5 years of the date of this planning permission, unless otherwise agreed in writing with the Local Planning Authority."
 - (10) "The proposed development shall be carried out in complete accordance with the Noise and Vibration Mitigation measures as detailed in section 7 of the Environmental Statement Report reference BF4830/5/ES received 20.11.2012."
 - (21) "Notwithstanding the submitted information a detailed plan to show details of the siting of the plant and machinery required in connection with screening/crushing/processing operations for the materials shall be submitted to and agreed in writing by the Local Planning Authority and then fully implemented as agreed."
- The reasons given for the conditions are:
 - (2) "In order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan."
 - (3) "In the interests of visual amenity and to avoid unnecessary delay in the restoration of the site."
 - (10) "To ensure a satisfactory form of development and to comply with policy EN5 of the adopted Unitary Development Plan."

(21) "In order to protect the amenity of the surrounding properties and comply with policy EN5 of the adopted Unitary Development Plan."

Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. This appeal is a redetermination following a successful High Court Challenge by the appellant resulting in the quashing of the previous appeal decision. I have had regard to the previous appeal, where material.
3. The previous Inspector, while aware that it was the appellant's case that the appeal scheme would create and retain employment, was considered to have misunderstood the appellant's evidence with particular regard to jobs.
4. Works at the quarry have now ceased, save for some monitoring that I saw at the site visit, thus the appellant now submits¹ that:

"8.54. A resumption of the works at the quarry would result in the recreation of jobs that were lost when the Site was mothballed and continue to support the local supply chain of goods, materials and services. The proposed development would contribute to:

- *Reinstating the existing work force on the Site (10 jobs);*
- *Reinstating and maintaining the work force connected with the wider operations such as HGV drivers for an estimated further 5 years;*
- *Also providing enhanced economic benefits in terms of new direct and indirect employment opportunities, comprising 15 – 25 jobs; and*
- *Creating an additional 10 jobs created by further expansion of the associated transport operation).*

8.55. The additional local investment in the economy and employees spending their salaries in the area also represents a benefit of the proposed development."

5. It is my role to redetermine the case afresh, but not to review the previous appeal decision. The main parties have had the opportunity to present representations on the case following the quashing of the previous appeal decision and I have taken these into account.
6. The appeal site currently benefits from planning permission for the redevelopment of the quarry landfill site, comprising a revision to the final landfill restoration contours; development of an employment park, consisting of offices and buildings for general industrial distribution and storage with ancillary trade counter units; solar PV/Renewable energy generation area, associated ancillary infrastructure, access, car parking and landscaping (Ref. 12/03178/FUL).
7. This appeal seeks to vary conditions 2, 3, 10 and 21, to allow for a continuance of the recycling operations and the continued in-filling of the quarry void to

¹ Planning Appeal Statement. Prepared by: Paul Burrell BSc (Hons) Dip UP MRTPI, Pegasus Group 20 September 2023

- create a revised (higher) development platform for the employment park. This necessitates a revision to the approved phasing of works, a revised restoration programme and a re-alignment of the internal access road.
8. The application also includes a proposal to install and operate an aggregate wash plant at the site which would be located next to the existing crushing and screening plant and weighbridge at the west side of the development platform. After four years, the plant would be moved to the eastern end of the platform to enable the final in-filling and site restoration works to the other end of the platform. I understand that the plant would allow for an increase in the amount of recyclable material that would be used to build the proposed raised development platform.
 9. The proposed development falls under Schedule 2 of the EIA Regulations. There is no evidence of a screening opinion having been issued in relation to the section 73 application which is the subject of this appeal. An Environmental Statement (ES) dated November 2019 that was submitted by the appellant explains that an EIA was carried out in respect of the original application, which was granted consent in October 2013 (Ref 12/03178/FUL). A review of the ES was undertaken by the Planning Inspectorate Environmental Services which concluded that overall, it can be regarded as satisfactory despite some omissions and/or inadequacies. I am therefore satisfied that the proposal would not give rise to any likely significant effects that would affect a protected site or affect water bodies in a river basin management plan area.
 10. After the appeal decision was quashed, a revised landscape plan has been prepared titled 'Wider Restoration Landscape Proposals,' drawing reference no. P20-1402_EN_006. A revised Greenbelt Assessment has also been provided. The Council has been provided with the opportunity to comment. As such I am happy that, in accepting this revised plan, no party would be disadvantaged.
 11. Furthermore, a new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous iteration. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments. References hereafter in the decision to the Framework are to the December 2023 version.
 12. Therefore, I consider the main issues to be:
 - i. Whether the proposal would represent inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant Development Plan policies; and
 - ii. If the proposed development is inappropriate, whether the 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 proposal.

Reasons

Whether inappropriate development

13. The Framework at paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very

special circumstances. Policy NE6 of the adopted Core Strategy and Development Plan (CSDP) aims to protect the openness of the Green Belt by ensuring that proposals are consistent with the exception list in national policy which broadly aligns with the Framework. As a result, I afford this policy significant weight in decision making terms.

14. Paragraph 154 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt. While the Framework goes on to identify, at paragraph 154, a number of exceptions including “g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development”.
15. Furthermore, paragraph 155 b) of the Framework details that “engineering operations are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it”, as set out in paragraph 143 of the Framework.
16. The Council details² that the appeal site is not classed as Previously Developed Land. No substantive evidence or argument is presented to support this assertion. Based on the evidence before me and my observations on site, I am satisfied that the appeal site meets the definition of Previously Developed Land detailed in annex 2 of the Framework.
17. Furthermore, the appellant refers to paragraph 154 d) of the Framework, an exception concerned with the replacement of a building. However, the business park to which the appellant refers has not been constructed and as such the appeal scheme cannot be considered to replace it. This exemption does not therefore apply in this instance.
18. Elements of the appeal scheme clearly constitute built development such as the employment park, while others are engineering operations, such as landfilling.
19. Therefore, in accordance with the Framework it is necessary to consider whether the appeal scheme would have a greater impact on the openness of the Green Belt than the existing development, in this instance the quarry, and with regards the engineering operation, whether the infilling operation would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
20. The openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no resulting impact on the openness of the Green Belt.
21. The appeal scheme would import a total of 1,371,000m³ of inert material, the effect of which would raise the height of the development platform upon which the employment park would sit to between 103m AOD and 105m AOD.
22. By virtue of the importing of the substantial quantity of inert material and the consequential increase in the height of the development platform upon which the employment park would be developed, the completed development would

² Paragraph 4.3 Appeal Statement, Issue 1, undated.

³ Being 750,000m³ from 12/03178/FUL and additional 621,000m³ from 19/00102/MAV

- have a greater spatial impact than the existing situation of the appeal site and thus would have a detrimental impact on the openness of the Green Belt in spatial terms.
23. Turning to the visual aspect, the submitted plans detail that the appeal scheme would be screened when viewed from particular viewpoints by the topography of the area and the appeal site. Nonetheless, the submitted evidence shows that, unmitigated, the appeal scheme would be visible from certain vantage points including from the residential properties to the north.
24. The appellant's Green Belt Assessment has been updated making reference to the additional proposed landscaping. The additional landscaping is described as comprising "mature trees forming an arc around the northern side of the business park. The proposed trees would be extra heavy standards (EHS) which would have an initial height of 8m plus from ground level. This means that the top of the trees would be higher in height than the highest parts of the proposed built form and would entirely screen views of the built form in terms of lines of sight from the surrounding countryside and townscape to the north of the site." Though elsewhere I note that the appellant describes a lesser screening effect of existing and proposed topography and trees, as "it would not be generally visible"⁴.
25. This revised landscaping is significant, both in itself, and in the screening benefits as described by the appellant. The EHS trees would provide a greater immediate screening benefit whereas other proposed landscaping would likely take some time to reach full maturity and therefore achieve the screening effect. However, such screening can only mitigate negative impacts, rather than removing them in their entirety.
26. The proposed screen planting would compartmentalise the visual impact of the business park development. Within the existing topography and landscaping barrier a significant visual impact and erosion of the openness of the Green Belt would remain.
27. Furthermore, I note that the screen planting is to be controlled by condition but if the landscaping were to fail outside of the period controlled by the proposed conditions the visual impact would be greatly increased. There is no mechanism before me to maintain the landscaping for the life of the proposed development.
28. As such, the appeal scheme would have a detrimental visual impact on the openness of the Green Belt, albeit mitigated, to an extent, by screen planting.
29. To conclude this main issue, as a result of the above I consider that the appeal scheme would have a detrimental spatial and visual impact on the openness of the Green Belt and thus would fail to preserve the openness of the Green Belt.
30. With regards the purpose of including land within the Green Belt, I acknowledge that the appeal scheme would not conflict with purposes a), b) and d) as set out by paragraph 143 of the framework. I also acknowledge that the proposal would help meet purpose e) of the framework. However, given its location and the fact that it would bring about built development where there is currently little, I consider that the proposal would represent an encroachment

⁴ Paragraph 10.29 Planning Appeal Statement dated 20 September 2023

of built development into the countryside contrary to paragraph 143 of the Framework.

31. The proposal therefore falls outside of the exemptions set out in the Framework and is therefore inappropriate development in the Green Belt contrary to policy NE6 of the development plan and the provisions of the Framework.

Other considerations

32. The appellant makes reference to the existing planning permission⁵ as being a Fallback position and I have had regard to the existence of this planning permission in reaching my decision. The Courts⁶ have ruled that the correct approach is to first assess the effect of the development itself and second to consider any fallback position with other considerations that may amount to very special circumstances (VSC).
33. The development permitted by the existing planning permission would not involve the importation of an additional 621,000m³ of material and as such the built development would not be located some 12m higher⁷ than the consented scheme as a result.
34. For these reasons I consider that the existing planning permission would have a lesser impact on the openness of the Green Belt than the appeal scheme before me, even when the enhanced landscaping proposed in this appeal is considered. Therefore, I afford little weight to the existing planning permission as a fallback position.
35. The appellant has referred to the appeal scheme, specifically bringing the additional inert material onto the site, as meeting an identified need for waste management facilities in this location that would also minimise the need for vehicles to travel. The need for such a facility has been quantified in the submitted evidence as meeting some 40% of the 2020 shortfall under the 'increased recycling scenario' of 347,000t⁸ identified in the report 'Waste Arisings and Capacity Requirements' published in 2018. This is not a matter at dispute between the parties and therefore, I afford it significant weight.
36. As referred to previously, the appeal scheme is beneficial in terms of jobs including reinstatement of the jobs of the work force on the site, those of HGV drivers and the wider workforce and direct and indirect employment opportunities resulting from the appeal scheme. These jobs are a material consideration that weigh in favour of the appeal scheme, and while modest in terms of the local economy as a whole, I nonetheless afford them moderate weight.
37. The appeal scheme includes the creation of a business park, this is a material consideration that weighs in favour of the appeal scheme, and I afford it moderate weight. However, the appellant describes a scenario whereby the delivery of the business park is delayed due to economic conditions and if consent is not granted for the appeal scheme, the site could remain in a vacant and undeveloped state.

⁵ 12/03178/FUL

⁶ *David and Edith Lloyd v SSCLG & Dacorum Borough Council* [2013] EWHC 3076 (Admin)

⁷ Paragraph 3.7 Planning Appeal Statement – Pegasus Group, dated 20 September 2023

⁸ Paragraph 8.46 Planning Appeal Statement – Pegasus Group, dated 20 September 2023

38. I note that the financial information contained in the Environmental Statement relating to the viability of the employment park is now a number of years old and from a different financial climate. As such, the appetite for the take-up of the proposed business units may improve. Therefore, it is possible that the business park would come forward, even without the appeal scheme. Moreover, there is little guarantee that the park would be developed even if the appeal scheme were to be permitted. Accordingly, I only attach limited to moderate weight to any enabling arguments in that regard.

Planning Balance and Conclusion

39. The proposed variation of the disputed conditions would fail to preserve the openness of the Green Belt. As such, it would result in inappropriate development in the Green Belt.
40. The Framework makes it clear that substantial weight should be given to any harm to the Green Belt and that the very special circumstances needed to justify inappropriate development in the Green Belt will not exist unless the harm is clearly outweighed by other considerations.
41. I have had regard to the existing consent and attach significant weight to the provision of waste management facilities in this location, moderate weight to the jobs that would be provided by the appeal scheme and moderate weight to the provision of the employment park on the site that is currently in an unrestored, vacant and derelict state.
42. In my view these other considerations, individually and cumulatively, fall short of the very high threshold set out in the Framework, to clearly outweigh the harm to the Green Belt. As such, the very special circumstances necessary to justify the development do not therefore exist. Accordingly, appeal scheme would be in conflict with policy NE6 of the development plan and the provisions of the framework.
43. For the reasons given above, and having regards to all relevant matters, I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR