



Appeal Decision

Site visit made on 28 June 2024

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th July 2024

Appeal Ref: APP/R1038/W/23/3331825

Devonshire Arms, Westfield Lane, Middle Handley, Derbyshire S21 5RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Tompkins of WAWAW Ltd against the decision of North East Derbyshire District Council.
 - The application Ref is 22/01004/FL.
 - The development proposed is change of use of existing land to accommodate additional car parking for the Devonshire Arms Public House with associated engineering works and relocation of existing stable.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form description of development did not reference the relocation of the existing stable, as subsequently cited on the decision notice. For best clarity, I have therefore included this within the description above.
3. The appellant has presented a revised plan showing a reduced eastern extent of the car parking, and states that the stable building could thus be set back similar to its original placing. While this proposal has not been subject to full public consultation, it would have a lesser impact than that originally proposed, and the Council has no objection to my consideration of it. In accordance with the Holborn Studios Ltd 2017 judgement, accepting this plan as the basis for my determination therefore meets the substantive and procedural tests, whereby no parties would be prejudiced in the interests of natural justice.

Main Issues

4. The main issues are:
 - whether the proposed development would be inappropriate development in the Green Belt, including any effect on openness, having regard to the National Planning Policy Framework ('the Framework') (2023) and any relevant development plan policies;
 - the effect of the proposed development on the character and appearance of 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 proposal.

Reasons

Inappropriate Development

5. The appeal site comprises part of a larger field fronting onto Westfield Lane, and incorporates a stable building for horses. It lies in between a dwelling and the car park of the Devonshire Arms Public House, with the pub building beyond. Relatively thick hedging and trees form the front and side boundaries, with no boundary to the rear. Along with a field on the opposite side of Westfield Lane, the site forms a gap between the main cluster of village properties, and those more spaced out to the east.
6. The proposal is to extend the car park onto eco-grid surfacing, with a replacement stable building in the eastern part of the site. Field access would remain off Westfield Lane, with a new access from the existing car park. There would be a total increase of 18 spaces, as 3 would be lost to form the access.
7. The Council considers that a condition would be required to include a new acoustic fence alongside the neighbouring dwelling. The appellant has confirmed that this would be acceptable, and I agree that such noise mitigation would be necessary. Although there are no details as to the fence type and precise location, its function would require it to be tall and solid. My determination is therefore based on the inclusion of such a notional fence as part of the proposal.
8. The Framework 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 SS10 of the North East Derbyshire Local Plan 2014-2034 (LP) (2021) takes a broadly similar approach to Green Belt as in the Framework.

Stable Building

9. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions. The Council considered the replacement stable building to fall under the exception within the Framework paragraph 154(b) and the LP Policy SS10(2)(b), being the provision of appropriate facilities for outdoor recreation. However, the exception under 154(d) and SS10(2)(d) is also relevant, being the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
10. The proposed stable building would be the same size as that which it would replace, and would be sufficiently close to the existing location, so as to fall under this exception. As such, it is not inappropriate development. There is therefore no need to also consider it against the Framework paragraph 154(b), or the openness or the purposes of the Green Belt.

Car Parking – engineering operations

11. The Framework paragraph 155(b) and the LP Policy SS10(3)(b) allow an exception for engineering operations, provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. I find that the physical works for the car parking construction would result in only very minor levels changes, and surfacing which would have a similar appearance to the current grass. It would therefore meet this exception, and would not be inappropriate development.

Car Parking – Change of Use and Fence

12. The main parties both considered the change of use to car parking under the Framework paragraph 155(e) exception (which is not also included within the LP Policy SS10). This exception is for a material change in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). However, recent case law¹ has established that potential uses which fall within this 'such as' list of examples within the brackets, should be very closely aligned to those examples given. Although that judgement concerned residential use, I find for the same reasons that car parking for a public house would not be very closely aligned to those uses.
13. The use of the land for car parking would therefore not fall under the 155(e) exception or any others, and thus would be inappropriate development in the Green Belt. An acoustic fence would also be required. The term 'building' in the Framework paragraph 154 refers to any structure or erection, which therefore includes fences. As they are not in the list of identified paragraph 154 exceptions, the fence would also be inappropriate development.

Openness

14. The Framework paragraph 142 identifies 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. My assessment is based on the inappropriate development of the use of the land for the parked cars, and of the fence.
15. The evidence suggests that numerous staff and visitor cars would be present for a large portion of the time, due to the long daily opening hours and the overnight guests. Spatially, the proposal would thus result in additional massing into the current openness of the field.
16. I accept that the adjacent roads already incorporate those parked cars which cannot fit within the existing car park, and to some extent therefore this spatial massing already exists as an absolute. However, the appellant has identified that for example wedding bookings are currently being turned away due to a lack of parking. In the absence of evidence to the contrary, I therefore find it highly likely that the additional car park would result in more cars overall, and combined into one massed location. The fence would also be a new solid feature, such that it would have a spatial effect on openness, albeit to a very limited degree.
17. The field and those beyond it are currently used for grazing for horses and livestock, with the appeal site incorporating associated vehicle movements and parking, including horse boxes. However, in comparison to a public house car park, this is much less intensive. As such, I find the proposal would cause spatial harm to the openness.
18. Visually, the openness of the Green Belt across the site is evident from the road, and from the existing car park and adjacent properties. It has a clearly rural and open character, despite the adjacent built form of the village. The parked cars would be seen from Westfield Lane and from various properties, even were there to be additional landscaping. Despite additional planting, both parked cars and the fence would be noticeable within this context, including

¹ Royal Borough of Kingston Upon Thames v Secretary of State for Levelling Up, Housing and Communities & Anor [2023] EWHC 2055 (Admin)

due to the tree gap required for the new access. Thus, it would visually harm openness. This would cause more visual harm than cars parked along the streets, which is a typical feature of highways and which has a more dispersed impact.

19. In drawing together my findings on spatial and visual impact, I find that the use of the land as a car park including an acoustic fence, would cause significant harm to the openness of the Green Belt.

Green Belt Conclusion

20. The Framework paragraph 142(c) further identifies that one of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The car park would result in uniform rows of parked cars, which is an urban feature which would elongate the built form into the countryside. The proposal would therefore fail to accord with 142(c). Overall, the appeal proposal would result in inappropriate development in the Green Belt which is, by definition, harmful. It would harm the openness of the Green Belt and conflict with one of its purposes. It would therefore conflict with the LP Policy SS10, and Section 13 of the Framework.

Character and Appearance

21. Middle Handley comprises one of several sparsely scattered villages within a mainly pastoral landscape, including hedgerow bounded fields, and a network of small irregular lanes. As such, the area displays many of the characteristics of the 'Wooded Hills and Valleys' character type of the 'Nottinghamshire, Derbyshire, and Yorkshire Coalfield' as identified in The Landscape Character of Derbyshire (2014).
22. The site forms a clear field gap within the built form of the village, adjacent to its focal point of the Devonshire Arms. Such gaps and open spaces are a further defining feature of the village, acting as interfaces between the organic clustered settlement pattern of the built form and the surrounding fields. The site therefore contributes strongly towards the countryside character and setting. Notwithstanding the site's boundary vegetation, this contribution can be appreciated from many vantage points.
23. The relocated stables building adjacent to Westfield Lane would have a very similar impact to at present. However, as identified above, the proposed car park infrastructure and the regular parking of cars within the space would create an urbanising feature and a ribbon development effect. It would detract from the traditional character of the hamlet and its countryside setting.
24. Overall, the proposed development would cause harm to the character and appearance of the area, and would conflict with the LP Policies SS1, SS9, and SDC3. Together and amongst other matters, these require development to enhance local distinctiveness through careful siting, scale, and design, and to protect and enhance the character and settings of villages and local landscapes, including their form and scale. It would also conflict with the Framework paragraphs 135 and 180, whereby developments should be sympathetic to local character and their surrounding landscape setting, maintain a strong sense of place, and recognise the intrinsic character and beauty of the countryside.

Other Considerations

25. The Devonshire Arms functions as an important community hub, and provides socio-economic public benefits, from its contribution to the local economy through tourism, employment, and its food and drink services. The expanded car park would increase these benefits. The LP Policy SS1 provides support for contributing towards business expansion and growth. The Framework paragraph 85 also identifies that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
26. However, although the limited existing car parking is identified to be impacting on business viability to the extent of losing wedding bookings, this does not in itself indicate that the increased car park is essential for the ongoing business viability, employment offer, or to secure its long-term financial sustainability. Moreover, no evidence has been presented to demonstrate consideration of any methods for reducing car use. I therefore only give moderate weight to the proposal's socio-economic benefits. I acknowledge the proposal's significant support from customers, but this does not in itself indicate a lack of harm.
27. Parking currently takes place on-street and partly on pavements. Increasing off-street provision would therefore increase safety for road users and pedestrians, and reduce car damage. However, the recent introduction of double yellow lines has reduced the conflict potential around the junction, albeit has created more parking pressure overall. Dangerous parking can also be addressed through other legislation. Furthermore, as the appellant suggests that the proposal would only provide the bare minimum of the currently required parking spaces, on-street parking is likely to continue, especially if the business grows. I thus give moderate weight to the highway safety benefits of the proposal overall.

Planning Balance and Conclusion

28. The proposed development would reduce the openness of the Green Belt, and would not assist in safeguarding the countryside from encroachment. It would be inappropriate development in the Green Belt, which is harmful by definition and to which I attach substantial weight as required by the Framework paragraph 153. It would also cause harm to the character and appearance of the area. This harm renders the development contrary to the requirements of the Council's development plan policies and in conflict with the Framework.
29. Against the totality of the harm I have identified, the other considerations advanced by the appellant are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
30. In conclusion therefore, the proposal would be contrary to the development plan and the Framework taken as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR