



Appeal Decision

Site visit made on 11 September 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/X4725/W/24/3344238

Land off Matty Marsden Lane, Horbury WF4 6ET

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- 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 Dave Nicholson against the decision of Wakefield Metropolitan District Council.
 - The application Ref is 23/01855/FUL.
 - The development proposed is change of use to a personal use hobby farm, siting and cladding of 3 shipping containers and creation of gravel drive into site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice has cited policies from the Wakefield Local Development Framework 2009 (LDF) and the emerging local plan 2036. Following the Council's decision and prior to the submission of the appeal, the Wakefield District Local Plan 2036 Volume 1 Development Strategy, Strategic and Local Policies has since been adopted on 24 January 2024 (the LP) and this supersedes the policies of the LDF. I have therefore assessed the appeal against the current development plan in terms of the policies of the LP. The appellant will be aware of these policies as they are referenced in the officer report and the decision notice.
3. The appeal submission has been accompanied by an amended block plan which includes amongst other things the removal of 2 of the proposed shipping containers and reconfiguration of the proposed gravel track. The Procedural Guide: Planning Appeals – England makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council, and on which interested people's views were sought.
4. Moreover, accepting this new information could deprive those who were entitled to be consulted of the opportunity to comment. Therefore, having regard to the Holborn Studios judgement¹, I have made my decision based on

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

the drawings and description of development that was before the Council when it made its decision.

Main Issues

5. The main issues are:

- whether or not the proposal would be inappropriate development in the Green Belt including the effect on its openness;
- the effect upon 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 required to justify the proposal.

Reasons

Green Belt

6. The National Planning Policy Framework (the Framework) sets out that the provision of new buildings in the Green Belt should be regarded as inappropriate other than for certain exceptions. These include at paragraph 154(b) 'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it'.
7. No local planning policies are cited in the decision notice in relation to the Green Belt reason for refusal. However, Policy SP3 (Green Belt) of the LP is referenced throughout the Council's officer report and is provided in the evidence before me. This policy notes that in the Green Belt, development will conform to local and national planning policy relating to the Green Belt. In the absence of any specific local plan policy relating to changes of use to land in the Green Belt, I have therefore assessed the development against the Framework.
8. The appeal site is located within the Green Belt and the evidence before me suggests that it has previously been used as a 'Victorian' quarry and a waste site around the years 1800 – 1910. However, at the time of my site visit, I noted that the site was open ground with a perimeter of trees and hedging. There is no dispute that a change of use to a hobby farm would constitute an outdoor recreation facility. I now turn to the matter of whether the proposed facilities associated with the change of use would be appropriate and would preserve openness.
9. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. A number of neighbouring buildings are located close to the site. However, surrounding vegetation and the topography of the surroundings limits the visibility of these buildings in the immediate vicinity of the site. More particularly, the overriding openness of the appeal site is clearly evident.
10. The plans indicate that 3 shipping containers together with 2 polytunnels and other smaller structures including a chicken coop and bee hives would be

provided, together with a substantial gravel track. The shipping containers and polytunnels in particular would be substantial structures. The footprint and volume of all the indicated structures would undoubtedly have a spatial effect on openness.

11. Due to their sporadic placement around the site, the indicated structures would also stand out individually, and the extensive footprint of the proposed gravel track would add to the spread of development across the site. As such, despite there being trees and hedging on the site, the various structures and access track would be visible in views across the site, most particularly from the site frontage on Matty Marsden Lane.
12. In addition, while general storage and requirements for an area to make refreshments have been set out, no detailed requirements for 3 shipping containers of the size indicated has been provided to suggest that they would be appropriate facilities for a hobby farm of the scale proposed. Although the appellant suggests that the indicated structures could be easily removed, there is nothing to suggest that they would not be retained on the site for a considerable period. Therefore, their effect on openness would be enduring.
13. Taking the above considerations into account, including the spatial and visual effects identified, the proposed development would not preserve openness and would not meet the exception at Paragraph 154 (b) of the Framework.
14. Any historical uses of the site have long since ceased and, as the appellant acknowledges, the site has been taken over by nature. There is no detailed evidence to suggest that any earthworks associated with more recent uses are authorised. The definition in the Framework of previously developed land excludes land that was previously developed but where the remains of the permanent structure or fixed surface infrastructure have blended into the landscape. Therefore, the exception at Paragraph 154 (g) of the Framework is not applicable and, in any case, would not be met since it requires that any redevelopment of the land has no greater impact on openness than the existing development.
15. For the reasons given above, I conclude that the proposed development does not preserve the openness of the Green Belt. As such, in the context of paragraph 154 (b) of the Framework, the proposal constitutes inappropriate development in the Green Belt.

Character and appearance

16. When viewed from Matty Marsden Lane, the appeal site is a flat open space surrounded by trees and hedging along its boundaries. Located at the head of Matty Marsden Lane is the Old Halfway House Pub. This is in an elevated position above the appeal site. The more consolidated streets and buildings of Horbury lie beyond the site's rear boundary. However, the nearest buildings and residential properties on Matty Marsden Lane have a more fragmented development pattern. Any remnants of past uses on the site have substantively blended into the landscape and the appeal site's overriding open and verdant appearance positively reflects a prevailing rural character beyond the main built form of Horbury.

17. Whilst polytunnels are a common feature on farmsteads or located in fields, these are more often either standalone structures or laid out in an organised group of structures. The shipping containers would be clad in timber which would reduce their industrial appearance to some extent. Nevertheless, the number of structures proposed, combined with their various scale, form and sporadic layout across the site would appear cluttered. Together with the elongated gravel track, which would introduce a large quantity of hard surfacing substantively dissecting the site, this would unacceptably detract from the natural appearance of the site and the prevailing rural attributes of Matty Marsden Lane.
18. To conclude, the proposed development would have a harmful effect on the character and appearance of the area. In that regard, it would conflict with Policy LP56 (Design of New Development) of the LP which requires that proposals shall respect and where appropriate, enhance the character of the locality in terms of design, scale, density and layout.
19. Policy LP56 was not cited in the reason for refusal but was provided with the Council's appeal submissions and forms part of the current development plan. The Council's decision refers to Policies LP22 and LP54 of the LP. In my assessment of these policies, Policy LP22 is principally concerned with the extent of the Green Belt boundary. Policy LP54 relates to the 'Protection of Trees and Woodland'. While these policies have not been determinative with respect to this main issue, this does not overcome the conflict with Policy LP56.

Other Considerations

20. A planning decision at Netherton Lane is cited by the appellant. No detailed information is before me in terms of the planning considerations in that particular instance, including for example an officer report or decision notice. However, an image of a site block and location plan has been provided which indicates the provision of 1 polytunnel and 1 shipping container with a small area of hard standing. There is less development in this example, and the structures are located closer to each other, than is the case with the appeal proposal. Even acknowledging that the appeal site is larger, that particular decision does not endorse the appeal development, which for the reasons set out, would be inappropriate having regard to the requirements of the Framework.
21. The appellant suggests that the proposal would utilise an area of poorer quality land for small scale agricultural food production use. However, there is nothing to suggest that levels of food production would be at a level that would make a substantial contribution towards reducing the intensity of use of higher quality land elsewhere.
22. I have had regard to the suggested conditions provided by the Council. The restriction of the hobby farm for private use and no business purpose would not overcome the harm identified above.

Green Belt Balance and Conclusion

23. The development constitutes inappropriate development in the Green Belt to which I attach substantial weight. The Framework states that inappropriate

development is by definition harmful to the Green Belt and should only be approved in very special circumstances.

24. As part of the assessment, I have also found that the proposed development would be harmful to the character and appearance of the area. 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. This is a high hurdle for a development proposal to overcome. The other considerations put forward in favour of the proposal only carry very limited weight.
25. In conclusion and on balance, the substantial weight to be given to Green Belt harm, in addition to the other harm identified is not clearly outweighed by other considerations and therefore the very special circumstances needed to justify the proposed development do not exist.
26. For the reasons given above, the overall conclusion is therefore that the appeal should be dismissed.

J Smith

INSPECTOR