



Appeal Decision

Site visit made on 4 September 2024

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2024

Appeal Ref: APP/F2360/W/24/3342915

Loopy Lou's Plant Nursery, Lodge Lane, Farrington Moss, Leyland, Lancashire PR26 6RA

- 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 Mick Hughes against South Ribble Borough Council.
 - The application reference is 07/2024/00112/FUL.
 - The development proposed is described as 'Change of use of an area of yard to allow for storage of fencing materials and containers.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There were originally two appeals at this location. However, since the site visit, the appeal against the Council's decision to refuse to grant planning permission for a change of use of the former building which housed Loopy Lou's to a vehicle workshop¹ has been withdrawn. My decision is based solely on the submissions provided in relation to this remaining appeal.
3. The use applied for has commenced. Nevertheless, I am determining the appeal based on the plans before me.
4. Since the appeal was lodged, the government has published "Proposed reforms to the NPPF and other changes to the planning system", the "National Planning Policy Framework: draft text for consultation", and the Secretary of State's written ministerial statement entitled "Building the homes we need" (WMS). Both parties have had an opportunity to comment on these documents so have not been prejudiced by this change.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies including, where appropriate, its effect on openness;
 - The effect of the proposal on the living conditions of occupiers of neighbouring residential properties with regard to noise and disturbance;

¹ Application reference is 07/2023/00919/FUL, appeal reference APP/F2360/W/24/3338060.

- If development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

6. In its decision notice, the Council's second refusal reason relating to the Green Belt references conflict with both the Framework and Policy G1 of the South Ribble Borough Council Local Plan (Adopted July 2015), (LP).
7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework establishes that the construction of new buildings should be regarded as inappropriate, except in specific circumstances. Paragraph 155 of the Framework establishes that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
8. LP Policy G1 states that planning permission will not be given for the construction of new buildings in the Green Belt unless there are very special circumstances, subject to a number of exceptions. The supporting text to LP Policy G1 also references certain other forms of development that are not inappropriate development in the Green Belt, albeit this text does not include exception e) of paragraph 155 of the Framework, material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).
9. In its officer report (OR), the Council has considered the most salient exception to be paragraph 154 g), relating to the limited infilling or the partial or complete redevelopment of previously developed land (PDL). However, the Council finds that the site is not PDL, based on its former use for horticulture, and therefore concludes that this exception does not apply. That the appeal site is not PDL is disputed by the appellant. In the appellant's Statement of Case, exceptions b) and g) of paragraph 154 of the Framework are quoted, along with all of paragraph 155.
10. Taking paragraph 155 of the Framework first, exception e) is relevant. However, in order to conclude that a material change in the use of land will not be inappropriate development, openness must be preserved.
11. The appeal site comprises an open yard with a combination of fencing and hedging to its boundaries, as well as a further area containing a number of shipping containers. The site shares a vehicular access with a building to the southwest, presently used as a vehicle workshop, and a range of vacant glasshouses/polytunnels, as well as further land to the east.
12. The change of use sought is retrospective. While I have been provided with some aerial photography of the appeal site, only one is dated, and it is from 2023, so it is relatively recent. It is unclear whether these photographs show the appeal site before or after the change of use for the storage of fencing materials and containers occurred.

13. The information before me indicates that formerly, the nearby glasshouses and workshop were used as a plant nursery. The Council suggests that the appeal site formed part of a mixed fishing business and horticultural facility and the appellant's Planning Statement suggests it formed part of the nursery also. However, neither main party has provided any details of the approved plans relating to the planning permission for this former use, demonstrating the manner in which the appeal site was intended to be used.
14. The appellant and a previous owner have both confirmed in writing that they have used the appeal site for storage related purposes, including commercial storage for fencing contractors and groundwork businesses, since 2011. This date coincides with the grant of planning permission for relocation of the plant nursery to this location, and casts doubt on whether the appeal site was used only as part of the plant nursery. The Council has provided correspondence in which the appellant suggests that use of the site for storage related purposes is immune from enforcement action due to the time period that has lapsed. However, there is no lawful development certificate before me to this effect, and it is not for me to determine the lawful use of the site as part of this section 78 appeal. It is not possible to ascertain from the information before me what the physical implications of any lawful use of the site have been on Green Belt openness.
15. The plans before me indicate that the open yard would be used for external storage purposes, while 7 shipping containers would be positioned in the approximate location of a number of shipping containers presently on site. No parameters are provided for the quantity or height of any external storage, and no information is provided relating to the manner in which the shipping containers would be used.
16. The storage of materials externally within the open yard would likely be fluid in nature. The transient nature of the stored materials would mean that this part of the proposed development would not introduce any fixed or permanent components. At the time of my site visit, the quantity of materials stored at the site was relatively small and low lying. Nevertheless, this could change, and there is no information before me to suggest that the quantity or extent of stored materials would be managed or controlled in any particular way. The 7 shipping containers would be bulky items, the duration of which is not known. In combination, the storage of materials and containers would impact on the openness of the Green Belt.
17. Given the lack of clarity relating to how the site has been used lawfully, I am unable to conclude that use of the yard for external storage of materials and shipping containers, would not impact the openness of the Green Belt to a greater extent than any former lawful use. Therefore, Green Belt openness would not be preserved, and so the proposal does not benefit from exception e) of paragraph 155 of the Framework. The evidence before me does not suggest that the appeal scheme could benefit from any of the other exceptions within paragraph 155.
18. Turning to paragraph 154 of the Framework, this paragraph considers new buildings in the Green Belt. The description of the proposal refers to change of use of the land. While shipping containers are moveable structures, they can be considered buildings, but it is necessary to take into account their size, degree

of permanence and physical attachment. Neither main party has explicitly stated that the shipping containers should be considered as buildings.

19. However, even if the proposal did comprise new buildings, the proposal does not involve the provision of appropriate facilities for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments. Therefore, it does not benefit from exception b) of paragraph 154 of the Framework.
20. As there is no lawful development certificate relating to use of the appeal site for storage related purposes, I am unable to conclude from the evidence before me that the proposal involves PDL. Consequently, the development cannot benefit from exception g) of paragraph 154 of the Framework, which allows for limited infilling or the partial or complete redevelopment of PDL. Even if the site were to be considered PDL, given the lack of information relating to how the appeal site has been lawfully used to date, I am unable to conclude that the appeal scheme would not have a greater impact on the openness of the Green Belt.
21. On this basis, the proposal would not meet any of the exceptions of LP Policy G1 or the Framework and so it would amount to inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Noise and Disturbance

22. The loading and unloading of materials stored at the appeal site, as well as the comings and goings of associated vehicles along the access track, has the potential to generate noise and disturbance for those residential properties in close proximity to the appeal site.
23. I have been provided with a letter from Metor Services Ltd, which indicates their intention to use the yard on an ad hoc basis to undertake predominantly perimeter fencing works for landowners. The company is nationwide, operating from a base in Hertfordshire where they hold an operator's license for 10 vehicles. While this suggests a modest scale of use at the appeal site, planning permission would run with the land not with any present owner or occupier, and so circumstances could change.
24. While I note that the Council's Environmental Health Officer raises no objection to the proposal subject to the imposition of a condition to control operating hours, the appellant relies on a noise report that does not consider the appeal proposal itself, but the change of use of a nearby building. The noise report by Redfan Solutions dated 12 March 2024, clearly states that the scope of work relates to 'Noise assessment for change of use to a vehicle workshop', while the introduction explains that the report assesses the impacts of noise produced from the vehicle workshop and goes on to consider garage source noise levels, as well as those vehicle movements only associated with the workshop use. The plan within section 3 clearly indicates an existing building to the south of the appeal site. Having carefully considered this document, it provides no assessment of noise from the proposal before me.
25. I am aware that a plant nursery has formerly operated from this locality, which would have potentially had its own comings and goings. Additionally, I appreciate that certain conditions could be imposed to manage the effects of noise and disturbance to an extent. However, given the lack of detail relating to

how the site would operate and be managed, as well as the lack of any assessment of noise specific to the appeal scheme, I am unable to conclude from the information before me, that the living conditions of occupiers of nearby dwellings would not be harmed unacceptably by way of noise and disturbance.

26. Consequently, the appeal scheme would harm the living conditions of occupiers of neighbouring properties, with regard to noise and disturbance. As such, it conflicts with LP policy G17 and policy 17 of the Central Lancashire Adopted Core Strategy, July 2012, (CS), which collectively and amongst other matters, require that new development is sympathetic to surrounding occupiers, that the amenities of occupiers of new development will not be adversely affected by neighbouring uses and vice versa, and that new development does not have a detrimental impact on neighbouring buildings as a result of proximity.

Other Considerations

27. A commercial use of the site would make a positive contribution to, and diversify the local economy and could provide further employment opportunities, while supporting other businesses including local material suppliers and nearby shops, and providing a service to the local community. Having a local base for fencing contractors could avoid excessive commuting and long journeys for contractors. The recent WMS recognises the importance of sustained economic growth in improving the prosperity of our country and the living standards of working people. However, given the scale of the appeal scheme, these benefits attract only modest weight in support of the proposal.
28. The development would not result in overlooking, overshadowing or have an overbearing impact on the living conditions of occupiers of nearby dwellings. These are neutral matters that do not carry weight for or against the appeal scheme.
29. Reference is made to permitted development rights for the temporary use the land for up to 28 days per year, provided by Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, any effects of a temporary use for such a short duration would not be comparable to the permanent change of use sought by the appeal proposal.
30. Reference is also made to the test of materiality in relation to the proposed change of use. However, as discussed above, there is no LDC before me relating to use of the site for storage purposes. Nor does the information before me clearly show how the appeal site may have been used as part of the former plant nursery. Therefore, I am unable to conclude that there has been no material change. I am required to determine the appeal based on the development applied for.
31. Having regard to the proposed reforms to the Framework, both main parties have referenced Grey Belt land. However, as there is no certainty at this stage that the draft document will be adopted in its current form, this limits the weight I can give to those points relating to Grey Belt.

Green Belt Balance

32. The appeal scheme amounts to inappropriate development in the Green Belt. As inappropriate development is, by definition, harmful to the Green Belt, I

give it substantial weight as required by paragraph 153 of the Framework. The proposal would also result in harm to the living conditions of occupiers of nearby properties with regard to noise and disturbance.

33. I have considered the matters put before me in favour of the scheme, including the economic benefits associated with a commercial use. However, I conclude that these other considerations taken together do not clearly outweigh the substantial weight I have afforded to the Green Belt harm and the other harm arising from the proposal. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

34. For the reasons given above, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

S Brook

INSPECTOR