



Appeal Decision

Site visit made on 10 February 2025

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2025

Appeal Ref: APP/U2750/W/24/3354071

The Wilson Building, Shipton to Chapmans Lane, Shipton by Beningbrough, North Yorkshire YO30 1AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Wilson against the decision of North Yorkshire Council.
 - The application Ref is ZB24/00137/OUT.
 - The development proposed is described as 'outline planning for new single storey rural retail units.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline form with all matters reserved for future consideration. I have dealt with the appeal on this basis and treated any details not to be considered at this stage as being illustrative only.
3. The revised National Planning Policy Framework (Framework) has been published during the course of the appeal. The main parties were given the opportunity to comment and I have considered the revised Framework in my decision, along with the responses that I received.

Main Issues

4. The main issues are a) whether the proposal would constitute inappropriate development in the Green Belt for the purposes of the Framework and development plan policy; b) whether the proposal would accord with the development plan policies concerning development in the countryside; and, c) if it is inappropriate development, 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 development.

Reasons

5. The appeal site comprises a rectilinear area of predominantly grassland. It is located to the rear of a vacant retail unit and a car parking area, and is largely enclosed by wooden post and rail fencing on its other boundaries. There is a tree line found to the north-east. Beyond the retail unit and the parking area is the A19, from where the site is clearly visible. On its southern and eastern boundaries, the site is abutted by an open field and land. Immediately to the north of the site is a petrol station, a farm shop and delicatessen. A dwelling is found to the rear of the petrol station. The nearest settlement is Shipton by Beningbrough, found

approximately 1 kilometre to the south along the A19. Otherwise, built development is occasional, and the surrounding area is largely countryside in nature.

Green Belt

6. The site lies in the York Green Belt under the Hambleton Local Plan (2022) (Local Plan). This remains the extant development plan for the area, notwithstanding the preparation of the emerging North Yorkshire Local Plan. Policy S6 of the Local Plan states that within the Green Belt there is a need to maintain strict controls over the types of development which can be permitted. Proposals for development in the Green Belt will be determined in accordance with relevant national policy.
7. Paragraph 154 of the Framework sets out that the construction of new buildings is inappropriate in the Green Belt unless, amongst other exceptions, it involves limited infilling or the partial or complete redevelopment of previously developed land (PDL) (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
8. There is a disagreement between the main parties over whether the site lies within the curtilage of the retail unit and this has a bearing over whether the site constitutes PDL. Even if I was to accept this was the case, the development of the site for the proposal would cause substantial harm to the openness of the Green Belt. The grassland area is currently devoid of development, while spatially the proposal would involve the imposition of a single storey rural retail units building on this open land. It would also likely increase the degree of activity on the site through vehicles and people. With the site's visibility from the A19, as well as from the neighbouring open field and land, the proposal would also result in a considerably greater visual impact compared to the current site, even at a single storey height,. The retail unit, the garage site and the tree line would provide some screening but nevertheless the proposal would still be readily apparent in these surroundings. This exception does not therefore apply.
9. Paragraph 155 of the Framework sets out that commercial development in the Green Belt should not be regarded as inappropriate where, amongst other factors, there is a demonstrable unmet need for the type of development proposed and the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.
10. The evidence concerning a demonstrable unmet need is not compelling. While I am mindful of the Market Statement submitted with the planning application and that no doubt some motorists would be attracted to further roadside facilities, there is already the adjacent vacant unit, and the existing garage shop and associated facilities. In addition, the difficulties that have been cited in finding a long term occupier for the vacant unit does not suggest demonstrable unmet need in this location. Paragraphs 110 and 115 of the Framework refer to the use of sustainable modes of transport, yet the proposal would be in a location that would likely be near entirely car reliant, including from Shipton by Beningbrough. All of the relevant criteria under paragraph 155 need to be passed. The proposal does not therefore benefit from this further exception to inappropriate development.

11. I conclude that the proposal would constitute inappropriate development within the Green Belt, and so it would not comply with paragraphs 154 and 155 of the Framework. As a consequence, it would not comply with Policy S6 of the Local Plan.

Development in the Countryside

12. For the purposes of the Local Plan, the site is treated as countryside as it lies outside of the existing built form of a settlement identified in the Local Plan's settlement hierarchy. While there are some existing buildings close to the site, Policy S5 of the Local Plan confirms that groups of buildings that are not specifically identified in the hierarchy will be considered as part of the countryside.
13. Policy EG7 of the Local Plan sets out the limited circumstances where employment generating development will be supported outside of the main built form of a defined settlement. The relevant criteria under the policy centre on a need case or else a requirement for a countryside location. As I have set out above, a need for the proposal in this location has not been ably demonstrated for it to attract support due to the existing vacant unit, and the proximity to the garage and the related services.
14. Policy EG7 and Policy S5 also refer to character and appearance matters, as does the Framework in relation to good design. I am less persuaded there would be demonstrable harm in this regard because a subsequent submission of reserved matters could ably provide a building of suitable design and materials. However, this does not address the conflict with Policy EG7 over the circumstances where development may be permitted in such a location. Nor would the proposal be favoured under Policy S5 which requires accordance with other policies of the plan and as it would also not be a type of rural building that would be supported under this policy.
15. I conclude that the proposal would not accord with the development plan policies concerning development in the countryside. It would not comply with Policy EG7 and Policy S5 in relation to how they seek to control development in the countryside, including businesses in rural areas.

Other Considerations

16. Even though the proposal would not comply with Policies EG7 and S5, there would be some likely economic benefit during the construction phase and when the units would be operational, including through business rates and spend. While there is not a complete legal agreement before me, the appellant has committed to making a contribution to the Yorkshire Wildlife Trust that would benefit biodiversity. The appellant is also content for electric vehicle charging to be provided. In addition, the proposal would provide a service to the members of the local community that could access it. These considerations attract moderate weight in support of the proposal.
17. As the appeal site itself is largely grassland, it is not evident why it would become derelict if the proposal was not to proceed. Some detritus on the site was observable during my site visit from the A19, but matters in relation to waste tipping are dealt with by other regimes. There is also no substantive technical evidence which establishes that the site has become overtly contaminated. Its

potential for agricultural or other uses is not for my consideration as that is not the use of the proposal which is the subject of the appeal.

18. If the proposal was not to go ahead, it is also not clear why this has a bearing over whether the existing unit would become occupied, and the same applies regarding the relevance of a derelict unit on a main road elsewhere that I have been referred to. The Council has also informed that the Thirsk coffee shop site is not in the Green Belt. A site which involves a hotel is also not readily comparable because a hotel is not proposed or found close to the appeal site, regardless of whether the vacant unit had the same occupier as a unit close to that hotel. None of these matters alters my conclusion.
19. The proposal would not be unacceptable in highway safety terms by way of the vehicular access off the A19 and with the proposed shared parking area with the vacant unit, subject to reserved matters. However, this would be required in order for a development to be not unacceptable. Matters in relation to pre-application discussions with the Council and Parish Council are noted, but my decision ultimately depends on a consideration of the merits of the case. Similarly, with regard to the lack of consultee objection on other planning matters.

Conclusion

20. The proposal would be inappropriate development in the Green Belt and further harm would arise as it would not accord with the development plan policies concerning development in the countryside. Paragraph 153 of the Framework states that substantial weight is to be given to any harm to the Green Belt and that very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal conflicts with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, the appeal should be dismissed.

Darren Hendley

INSPECTOR