



Appeal Decision

Site visit made on 29 October 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2025

Appeal Ref: APP/M1005/W/24/3340781

Denby Hall Business Park – Flamstead House, Hall Road, Denby, Ripley, Derbyshire DE5 8JX

- 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 Linar Ltd against the decision of Amber Valley Borough Council.
- The application reference is AVA/2023/0668.
- The development is a vehicle parking facility.

Decision

1. The appeal is allowed and planning permission is granted for a vehicle parking facility at Denby Hall Business Park - Flamstead House Hall Road, Ripley, DE5 8JX in accordance with the terms of the application, reference AVA/2023/0668, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out and retained in accordance with the following drawings and details:
 - Design & Access Statement (Planning & Design Practice Ltd, version 2 dated 23 August 2023)
 - Location Plan
 - Block Plan as Proposed (Drawing LP20, Revision B including lighting details, October 2023)
 - 2) The parking of HGVs (over 3.5 tonnes) within the application site shall be carried out in accordance with Block Plan as Proposed (Drawing Number LP20, Revision B) approved by Condition 1. No more than eight HGVs (over 3.5 tonnes) shall be present on the site at any time.
 - 3) The external lighting scheme shall be installed, operated and maintained in accordance with Block Plan as Proposed (Drawing Number LP20, Revision B) approved by Condition 1 and details set out in the e-mail from the appellant's agent to the Local Planning Authority dated 18 October 2023. Lamps shall be positioned and maintained on site to minimise light trespass and glare. No amendments shall be made to the approved lighting scheme without the prior written approval of the Local Planning Authority.
 - 4) The parking facility hereby approved shall be used ancillary to the operation of the associated warehouse premises (permitted by outline planning permission AVA/2014/0679 and subsequent reserved matters approvals), and shall not be severed for use by or as an independent and unconnected business.

Application for costs

2. An application for an award of costs was made by Linar Ltd against Amber Valley Borough Council. That application is the subject of a separate Decision.

Preliminary and Procedural Matters

3. I have omitted the word “retrospective” from the description of development in the banner heading and my formal decision above, as it is not in fact descriptive of the development. Nevertheless, the scheme for which permission is sought has been carried out, and I was able to see it in place during my site visit.
4. I have also been appointed to determine two other appeals relating to Denby Hall Business Park, in respect of proposals for a surface water attenuation pond and a number of landscaped bunds. They relate to land at the opposite side of the business park from this appeal site, and they are dealt with in separate Decisions¹.
5. In December 2024 the Government published a revised National Planning Policy Framework (“the Framework”), replacing the December 2023 version extant at the time the planning application was determined. However, while this made considerable changes to national Green Belt planning policy, the specific provisions most relevant to this appeal were not altered significantly. As a result I consider that there is no requirement for me to seek further submissions on this matter; I am satisfied that neither main party’s interests have been prejudiced by my taking this approach. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the December 2024 version.

Main Issues

6. The appeal site is within the Green Belt, and the main issues are:
 - Whether the proposal is inappropriate development within the Green Belt having regard to the Framework and any relevant development plan policies, and its effects on the openness and purposes of the Green Belt; and
 - If the 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 development.

Reasons

Inappropriate development

7. The appeal site is an area of land adjacent to a warehouse operated by the appellant company. The warehouse was erected following a grant of outline planning permission in 2015² (“the 2015 outline permission”), and subsequent approval of reserved matters. The appeal site is within the area encompassed by the “red line” boundary of the 2015 outline permission, though that has not altered the fact that it remains within the Green Belt. An area of hardstanding

¹ PINS Refs: APP/M1005/W/24/3340773 and APP/M1005/W/24/3340778

² LPA Ref: AVA/2014/0679

measuring approximately 7,600m² has been laid out, providing around 50 car parking spaces for the company's employees as well as a number of HGV spaces, and lighting columns have also been installed. It is this development for which planning permission is now sought.

8. The development plan for the area comprises the saved policies of the Amber Valley Borough Local Plan 2006 ("the AVLPL"). Saved Policy EN2 addresses development in the Green Belt, but is not fully consistent with national Green Belt policy set out in the Framework. The Council therefore acknowledges that, so far as this appeal is concerned, that policy is out of date and carries limited weight; it was not referred to in the decision notice issued. My assessment of the main issues in this appeal therefore relies on the Framework.
9. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 states that some specified forms of development in the Green Belt are not inappropriate in certain circumstances, but it is not part of the appellant's case that the appeal scheme falls within any of those exceptions. It is therefore common ground between the main parties, and I agree, that the appeal scheme is inappropriate development in the terms set out in Paragraph 154 of the Framework.

Openness and purposes of the Green Belt

10. The development has introduced a hard-surfaced area and several lighting columns into a part of the Green Belt where previously they were not present. Additionally, for the periods the parking facility is in use the presence of cars and HGVs provides a visual indication of the site having been developed. At the same time, the appeal site is contained – visually and spatially – between warehouse and factory buildings and their associated service areas on its eastern, southern and south-western sides, and by grassed banks and areas of tree planting to the west and north. While there has therefore been a moderate loss of the openness of the Green Belt, its impacts appear to me to have been limited and localised by the appeal site's containment. This containment also means that there has been no conflict with the purposes of including land within the Green Belt.

Other considerations

11. The appeal site is within, or at least adjacent to, the existing Denby Hall Business Park. Saved Policy ER5 of the AVLPL states that permission will be granted for the redevelopment or extension of existing business, industrial or storage and distribution premises or their expansion onto immediately adjacent land – which includes land outside existing business and industrial areas – as long as there is no significant increase in traffic movements within residential areas, and no significant adverse impact on residential amenity or the visual character of the surrounding area. There is no substantive evidence before me that the development would have an adverse impact in respect of traffic in residential areas, residential amenity, or the character and appearance of the area. A lack of harm in those respects is a neutral matter in the overall balance. Nevertheless, the development plan therefore provides some "in principle" support for the appeal scheme, though this of course would not on its own outweigh the conflict with national Green Belt policy.

12. As I have indicated above, the boundary of the 2015 outline permission encompasses the appeal site. The indicative layout plan approved as part of the 2015 outline permission³ showed an existing spoil heap (presumably related to the site's opencast mining past) to be removed, and indicated that it would become an area of employee and visitor parking. Although the entirety of the site covered by the 2015 outline permission was – and remains – within the Green Belt, the Council approved that scheme having given considerable weight to the economic benefits arising from a significant employer being able to create and sustain high-quality employment opportunities for local people.
13. The reserved matters applications which followed the 2015 outline permission⁴ did not include the development of the area which now forms this appeal site for the originally anticipated parking areas. The deadline for submission of further reserved matters applications in respect of the 2015 outline permission has passed. Nevertheless, the development plan is unchanged since the 2015 outline permission was granted and, although the Framework has been amended frequently since then, to my mind none of the changes which have been made have altered matters to the extent that might have led the Council to reach a different decision in 2015. It seems to me therefore that the principle of developing the appeal site for parking and similar uses remains acceptable in the light of current local and national planning policy, subject to it again supporting the delivery of significant economic, social or environmental benefits along the lines accepted by the Council in 2015.
14. The appellant company produces uPVC and manufactures windows and doors. Business turnover doubled from £75 million in 2018 to £150 million in 2023, and employee numbers increased from 400 to 600 between 2021 and 2023. The appellant's evidence is that the vehicle parking facility is an essential part of supporting and securing this growth, by providing safe access and parking for employees, and providing secure off-street parking (including overnight) for additional lorries. It also stated that 100 parking spaces on the company's site have been lost as a result of it developing of a new mixing plant on its site, in which it has invested £3 million. It is evidently therefore a business which has made, and has the potential to continue to make, a considerable contribution to the economic and social development of the borough; in facilitating the efficient and safe operation of the appellant's business operations the appeal scheme would support this. I consider that these economic and social benefits carry very substantial weight in favour of the development.

Other Matters

15. I have had regard to the submission made by an interested party during the appeal. Some comments related to Green Belt matters which are addressed above; others related to the retrospective nature of the planning application, and enforcement matters about the use of the appeal site and the associated warehouse site. While I note these comments, they are not directly related to the planning matters at issue in this appeal.

Green Belt Balance

16. Paragraph 153 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. It goes on to state that "very special

³ Block Plan, Drawing 1072 Revision C dated June 2014

⁴ LPA Refs: AVA/2015/1252 and AVA/2017/0061

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. The scheme before me is inappropriate development in the Green Belt, and has led to a moderate loss of openness. These matters carry substantial weight.

17. The development would not cause unacceptable harm in respect of character and appearance, residential amenity, or highway safety, and there would be no conflict with development plan policies on these matters. A lack of harm in these respects is a neutral factor in the overall balance.
18. I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. The proposal would therefore comply with the Green Belt aims of the Framework, and consequently would be acceptable.

Conditions

19. The Council’s decision to refuse planning permission was made by its committee, contrary to its officers’ recommendation that permission should be granted subject to appropriate conditions. That has had no bearing on my assessment of the main issues, but the Council did not separately suggest conditions in the event of my allowing the appeal. I have therefore relied on the conditions proposed in its officer report; I infer from the evidence before me⁵ that these are acceptable to the appellant. I have considered the conditions having regard to the tests in the Framework and advice in the Planning Practice Guidance. Where necessary I have made changes to the wording of conditions in the interests of clarity and effectiveness.
20. As the development has begun, the otherwise-standard commencement time limit condition proposed by the Council is not necessary. In the interests of certainty, it is appropriate that there is a condition requiring that the development is carried out and retained in accordance with the approved plans (1).
21. A condition in respect of the placement and number of HGVs parked on the site (2) is necessary to ensure that the development is retained as applied for. Condition 2, and a condition in respect of lighting on the site (3) are also necessary to protect amenity for occupiers of nearby residential areas in accordance with Saved Policies TP1 and EN16 of the AVLPP. I have not imposed the suggested clause in Condition 3 which would have required any “periodic adjustments required by the Local Planning Authority” to be implemented, as no clear justification was put forward for what appears to me to be an onerous and unreasonable requirement.
22. Finally, a condition requiring the parking facility to remain ancillary to the associated warehouse premises (4) is necessary in the interests of highway safety and residential amenity. I have not, however, included the name of the operating company in the condition, as no explanation was provided as to why it was necessary to “personalise” it in this way; I have instead for clarity linked the condition to the original outline planning permission which approved the warehouse building.

⁵ Paragraph 6.7 of Appeals Statement of Case

Conclusion

23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, I conclude that the appeal should be allowed.

M Cryan

Inspector