



Appeal Decision

Site visit made on 4 March 2025

by **K Savage BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 April 2025

Appeal Ref: APP/P3040/W/24/3352323

Fosseway Service Station, Nottingham Road, Cropwell Bishop, Notts NG12 2JU

- 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 Tom Jeremiah (Welcome Break) against the decision of Rushcliffe Borough Council.
 - The application reference is 24/00348/FUL.
 - The development proposed is demolition of existing two forecourt buildings and erection of one replacement forecourt shop building; new timber compound; new substation with enclosure; installation of jet wash and electric vehicle charging bays with associated forecourt area alterations, parking and other associated external works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing two forecourt buildings and erection of one replacement forecourt shop building; new timber compound; new substation with enclosure; installation of jet wash and electric vehicle charging bays with associated forecourt area alterations, parking and other associated external works, at Fosseway Service Station, Nottingham Road, Cropwell Bishop, Notts NG12 2JU, in accordance with the terms of the application, Ref 24/00348/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs has been made by Welcome Break against Rushcliffe Borough Council. This is the subject of a separate decision.

Preliminary Matter

3. On 12 December 2024, an updated National Planning Policy Framework (the Framework) was published. The main parties have been able to comment on the revised Framework and I have taken the responses into consideration.

Main Issues

4. The appeal site lies within the Green Belt. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies and the provisions of the Framework;
 - The effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area;
 - If the proposal would be 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 it.

Reasons

Whether Inappropriate Development

5. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate unless certain exceptions apply, including (g) limited infilling or the partial or complete redevelopment of previously developed land (PDL) [...] whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
6. The Council assessed the proposal against the previous version of the Framework, wherein the relevant test at criterion (g) was that development would not have a greater impact on the openness of the Green Belt than the existing development.
7. The site contains a petrol filling station with a number of single storey buildings, a large forecourt laid to hardstanding, a tall, flat canopy structure over the pumps, external storage areas and various minor, functional structures typical of a petrol station. The main building has suffered extensive fire damage, with its pitched roof completely lost and only the exterior walls still standing. The service station presently operates from a temporary cabin next to the main building, with a second building on the opposite side in use as a Greggs bakery.
8. The proposal seeks a new service station building and revised layout to the facility, including two jetwash bays to the front of the site, electric vehicle (EV) charging stations to the rear and a repositioned and redesigned canopy. A one-way system of access and egress is also proposed that would take vehicles around the proposed main building.
9. The Council determined that the site did not meet with the exception at Paragraph 154(g) as parts of the proposed layout, namely the EV charging spaces, substation, cabinets and part of the circulation road, would extend beyond the existing built area into open land at the rear which it does not regard as PDL. This was also the Council's position in a previous application determined in 2018.
10. From my observations, the grassed area to the rear of the fire-damaged building and temporary cabin, although falling within the red line of the appeal site, appears to have no functional connection to the use of the land as a petrol filling station, and it is not clear that it forms part of its curtilage. The appellant accepts in its statement of case that the site is 'overwhelmingly' PDL but that there are elements of the appeal scheme 'beyond the previously developed land.' As the proposal would extend to previously undeveloped parts of the site, I find that it would not properly meet with the definition of PDL set out in the Framework, and thus would not meet with this exception to inappropriate development.
11. Paragraph 155 of the Framework has introduced the concept of 'grey belt' land, which is land in the Green Belt comprising PDL and/or any other land that, in either case, does not strongly contribute to any of the Green Belt purposes (a), (b), or (d) in Paragraph 143. It states that commercial development in the Green Belt is not inappropriate on grey belt land where it would not (a) fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) where there is a demonstrable unmet need for the type of development proposed and (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.

12. Having regard to the site's location adjacent to an A road, its compact size and distance to the nearest settlement, it does not contribute strongly to the relevant Green Belt purposes and would accord with criterion (a).
13. In terms of criterion (b), the appellant has advanced evidence of need in the form of a shortfall of EV charging stations along the A46 in the vicinity of the site, and the need to provide such facilities in line with requirements of Department for Transport (DfT) guidance (Circular 01/22). The proposed upgrading of the facilities generally on site following the fire damage is also cited. Whilst the provision of EV charging is beneficial, the evidence before me of an unmet need for this is limited to a map extract that does not clearly demonstrate the extent of any shortfall in provision. Moreover, although I accept that the longstanding presence of roadside facilities at the site indicates it is serving a need, I am not persuaded this is evidence of an *unmet* need, which indicates a wider shortfall in provision. Indeed, the Council points to permission having been granted for a service station at the A606 junction some 8km to the south, and another roadside facility exists less than 5km to the north at the junction with the A52. As such, there is provision along this stretch of the A46 at a greater frequency than advocated by the DfT guidance. Therefore, I find criterion (b) has not been met.
14. Paragraphs 110 and 115 refer to the use of sustainable modes of transport. The nature of the use as a roadside services requires a location close to the main road network, and thus away from settlements. The provision of EV charging would however accord with the aims of these paragraphs to offer a genuine choice of transport modes and prioritise sustainable modes. In these respects, criterion (c) would be met. However, it is required that all three criteria are met, and so the proposal would not meet with the exception to inappropriate development at Paragraph 155.
15. For these reasons, I conclude that the proposal would constitute inappropriate development within the Green Belt.

Openness

16. 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. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
17. The appeal site contains a number of structures that would be replaced by structures of a similar nature, albeit in a revised layout and different detailed design. A significant extent of the layout would continue to be open, hard surfaced parking and circulation areas that would maintain a sense of openness through the site. However, the proposed main building would be larger than the main existing building on site. At 4.8 metres, the building would be taller than the previous, which was 3.3 metres to the flat roof, and 4.5 metres to a small, pitched section. However, it would also consolidate the existing buildings and the cabin into a single structure occupying a more concentrated footprint.
18. Elsewhere, the proposed forecourt canopy would be smaller in area but would stand some 1.3 metres higher than the existing. The addition of the jetwash bays and a plant room to the front of the site, and the extension of the grounds to the rear to accommodate the EV charging area, substation and enclosed compound, would add to the array and spread of structures on site.

19. Viewed collectively, the proposed development would exceed the existing in overall height, massing, spread across the site and in the number of structures. However, as it would involve structures being replaced and/or moved, with massing increasing in places and reducing in others, the differences in spatial terms would be relatively modest. The overall perception would still be of a central main building, forecourt canopy and various, smaller structures spread across open areas of hardstanding. Visually, the differences in form and layout between the existing and proposed facilities would not appear significant given the use of the site would remain the same and the immediate context includes large scale development across the roundabout, and the expansive nature of the agricultural hinterland and adjacent road infrastructure.
20. Overall, I find that the proposal would have a greater effect on openness than the existing facility, but the extent of this, in both spatial and visual terms, would be limited.

Character and Appearance

21. The site is long established as a roadside filling station, but its present appearance detracts due to the fire damage suffered to the main building, and the subsequent need to use a temporary portacabin and external areas for storage of materials.
22. The proposal would rationalise the layout of the site, with a single, central main building containing the shop, bakery, toilets and office. It would have a compact, flat roof shape and contemporary appearance utilising dark grey metal and timber effect cladding, a glazed front elevation and fascia panels to three sides, which would display retailers' names subject to separate advertisement consents. The design is reflective of many modern and updated service stations, and would represent a visual enhancement over the existing site.
23. The Council is nonetheless critical that the side elevation of the main building would face the roundabout and would present a plain, metal-clad façade to the road, with no articulation except for the advertising fascia panels and thus lacking visual interest and failing to effectively address the streetscene. However, there is no streetscene in the normal sense of the word. It is not part of an urban environment, but a roadside one. Surrounding buildings are largely functional in nature and appearance. The 2018 scheme, whilst addressing the roundabout, was also recessed deep into the site behind the canopy and forecourt. In the present scheme, the identity of the site as a service station would continue to be immediately apparent to drivers on approach due to the characteristic forecourt canopy and totem pole signage. The fact that the main building would not directly address the roundabout would have no tangible bearing on the overall high quality, modern appearance of the site.
24. The location of the jetwash bays to the front of the site is further raised as a concern. Although visible on approach, they would be ancillary in form and scale, appearing as a simple rectangular enclosure from the roadside. They would be sited neatly towards the front corner with other functional installations such as a plant room, and an air/water/vacuuming area. These and other additions, such as the EV charging areas to the rear, would represent expected functional elements of a roadside service station that would not appear uncharacteristic and would not demonstrably detract from the overall appearance of the development.

25. In reaching a view, I have had regard to the previous permissions. Both involved larger buildings than now proposed, and each would have had a comparatively greater visual impact. Nonetheless, the Council considered each favourably in terms of their design, with the 2018 scheme described as a 'significant improvement' to the appearance of the site. Notwithstanding the Council's view that the policy context has changed since 2018 with an increased emphasis on design quality, I have found its concerns with the main building's orientation and the jetwashes unwarranted. I accept that the proposal would not provide the same landscaping to the front of the site as the 2018 scheme did, but in these respects the proposal would be neutral as the existing site does not benefit from any notable planting. Nonetheless, it would be possible to secure some soft landscaping by planning condition.
26. A key difference of the current proposal is the deleterious condition of the site, and the need for it to be renovated. The proposal would address this and very clearly upgrade the appearance of the site. Whilst the Council may prefer the design of the previous schemes, I must consider what is before me, and in these respects, I cannot agree with the Council's position that the proposal would result in a more harmful appearance compared to the existing fire-damaged site.
27. Overall, I find that the proposal would accord with the aims of the Framework to achieve high quality design, notably in terms of functioning well and adding to the overall quality of the area. Consequently, I conclude that the proposal would enhance the character and appearance of the area and so would accord with Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy (December 2014) (the CS) in terms of making a positive contribution to the public realm and sense of place, and Policy 2 of the Local Plan Part 2 (October 2019) (the LPP2) which supports proposals where, among other things, scale, density, height, massing, design, layout and materials are sympathetic to the character and appearance of neighbouring buildings and the surrounding area.

Other Considerations

28. Although not shown to be addressing an unmet need in terms of Paragraph 155, the proposal would nevertheless add to the range of roadside facilities available on the strategic road network (SRN), in line with DfT guidance. The Council also accepts that the proposal would increase economic activity locally through creating additional employment and providing a convenience store for residents in the immediate area, similar to benefits considered sufficient under earlier applications to demonstrate very special circumstances. Notably, in this case, the proposal would replace the fire damaged building and enable the operator to improve trading levels which have suffered since the fire and secure the long-term future of the site. These are factors each attracting considerable weight in the proposal's favour.
29. The Council points to EV charging being a requirement of the Nottinghamshire County Council Highways Design Guide, but so far as I can glean from that document, EV charging provision is required in line with the Building Regulations. With 6 EV charging spaces out of 20 total, the proposal would appear to exceed the requirements of Part S of the Building Regulations. This aside, the proposal would add to the network of EV charging facilities, in line with a key aspiration of the Framework to promote sustainable transport. Consequently, I afford this factor considerable weight.

30. The Council did not oppose the application in respect of the effect on neighbours' living conditions. Some concern has been raised regarding noise from the operation of the jetwashes affecting the adjacent residential dwelling and holiday accommodation. The bays would be set in from the site boundary and no concern has been raised by the Council's Environmental Health department in respect of noise, subject to conditions controlling the hours of operation. I concur that the noise from pressure washers into the late evening and/or early morning could be disruptive to neighbours, but use during the day would not cause harm, given the site is busy with vehicular traffic and there is constant traffic noise from the A46.
31. No harm has been identified in respect of ecology, access or highway safety. Indeed, the proposed one-way layout is considered to be an improvement. I have no reasons to conclude otherwise in these matters, which are neutral considerations in the planning balance.

Whether very special circumstances exist

32. The proposal would cause harm to the Green Belt by way of inappropriateness, to which I afford substantial weight in accordance with the Framework. There would be limited harm to openness. The Framework adds that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
33. Set against the identified harms, and contrary to the Council, the proposal would be appropriate in its design and would represent an enhancement to the character and appearance of the area compared to the existing site. In addition, the site's redevelopment has been accepted twice previously by the Council and similar economic benefits would accrue from this proposal. It would also provide new EV charging facilities for the SRN. Importantly, the proposal would redress substantial fire damage to the site. The proposal would also not demonstrably offend any of the five purposes of the Green Belt.
34. Taken together, I find that these considerations clearly outweigh the totality of harm to the Green Belt. Consequently, I find that the very special circumstances necessary to justify the proposal exist.

Conditions

35. A condition setting out the approved plans is necessary to provide certainty. Conditions are also needed to secure details of the external materials to the various structures, and a scheme of landscaping, to ensure a satisfactory appearance to the site. Details of proposed ecological enhancements on site are required to promote biodiversity.
36. It is required that details of the means of disposal of foul and surface water drainage are provided to address flood risk. Details of the jet wash facility are required to ensure it operates safely, and a further condition is needed to restrict its hours of operation to prevent harm to neighbours' living conditions from use during the night and early morning. For the same reason, and also to protect biodiversity, details of external lighting on the site are required.
37. To ensure the development operates as proposed, a condition is required to ensure the retail part of the scheme does not operate until the petrol filling station is operational, and that it remains ancillary to the filling station. Finally, it is

necessary that the EV charging points are installed prior to the development being brought into use, to deliver a specific benefit of the scheme and to promote sustainable transport.

38. National Highways recommended a condition requiring a Construction Traffic Management Plan (CTMP) to mitigate impacts on the A46. However, the scale of the development is relatively small, and there is ample space on site for unloading and storage of materials, parking and other facilities. Given this, there is unlikely to be any impediment from vehicles being parked on the road. Moreover, construction traffic movements would effectively replace regular customer traffic during the works, and given the size and capacity of the surrounding road network there is unlikely to be a material worsening of traffic or risk to the safe operation of the highway. Consequently, a CTMP condition is not required.

Conclusion

39. As I have found above that very special circumstances exist to justify development in the Green Belt, the proposal would ultimately accord with national policy set out in the Framework and Policy 21 of the LPP2 which sets out that applications for development in the Green Belt will be determined in accordance with the Framework. I have otherwise found the proposal acceptable and there are no material considerations which indicate that a decision should be made other than in accordance with the development plan, taken as a whole.
40. Therefore, the appeal should be allowed, subject to conditions set out in the attached schedule.

K. Savage

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers:
 - WPS-WEL-025-P-20 Rev D (Location and Block Plan);
 - WPS-WEL-025-P-21 Rev A (Existing Site Layout Plan);
 - WPS-WEL-025-P-22 Rev A (Existing Site Elevations);
 - WPS-WEL-025-P-24 Rev A (Existing Building Plan);
 - WPS-WEL-025-P-23 Rev D (Proposed Site Layout Plan);
 - WPS-WEL-025-P-25 Rev B (Proposed Site Elevations);
 - WPS-WEL-025-P-26 (Proposed Building Plan);
 - WPS-WEL-025-P-27 Rev A (Proposed Building Elevations);
 - WPS-WEL-025-P-27 (Proposed Building Elevations 1 of 2);
 - WPS-WEL-025-P-28 (Proposed Building Elevations 2 of 2);
 - WPS-WEL-025-P-29 Rev A (Sub Station, LV Switchgear, & NB Station);
 - WPS-WEL-025-P-30 (Plant Room Detail).
- 3) The development hereby approved shall not progress above Damp Proof Course until such time that details of external materials to be used on the service station building, canopy, jet wash facilities and any other ancillary structures has been submitted to and approved in writing and the development shall be carried out in accordance with the details as approved.
- 4) The development hereby approved shall not progress above Damp Proof Course Level until such time as a scheme of ecological enhancements has first be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented and maintained in accordance with the approved details and delivery timings.
- 5) The development shall not be brought into use until details of facilities for the disposal of foul and surface water drainage have been installed in accordance with details to be first submitted to and approved in writing by the Borough Council. The approved foul and surface drainage provision shall be retained to the agreed specification for the lifetime of the development.
- 6) The development hereby permitted shall not be brought into use until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the Borough Council:
 - a) full details of tree planting;
 - b) planting schedules, noting the species, sizes, numbers and densities of plants;
 - c) finished levels or contours to include the proposed mounding to the southern boundary;
 - d) the retention of the hedgerow to the western boundary
 - e) a landscape management plan and schedule of maintenance.

The approved landscape scheme shall be carried out in the first tree planting season following the substantial completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Borough Council gives written consent to any variation.

- 7) The jet wash shall not be brought into use until the following details have been submitted to and approved in writing by the Borough Council, and the jet wash shall be operated in accordance with the approved details:
 - Detailed drainage design.
 - Measures to contain overspray within the designated car wash area.
 - Working methods and management of the facility.
 - Equipment to be used.
 - 8) The jet wash facilities shall only be used between the hours of 0700 and 2300 hours each day.
 - 9) The proposed retail element of the scheme shall only be brought into use after the petrol filling station has been constructed and brought into use. The retail element shall thereafter remain ancillary to the main use of the site as a petrol filling station.
 - 10) Prior to the installation of security lighting/floodlighting details of any such lighting shall be submitted to and approved in writing by the Borough Council, together with a revised illuminance plot designed minimise the impact on the adjoining property. The lighting shall be installed only in accordance with the approved details.
 - 11) The development hereby permitted shall not be brought into use until electric car charging points have been installed in accordance with drawing WPS-WEL-025-P-23D A1. The charge specification shall comply with the Building Regulations 2010, Infrastructure for the charging of electric vehicles, Approved Document "S". The facility shall be retained thereafter.
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