



Appeal Decision

Site visit made on 2 September 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 08 October 2025

Appeal Ref: APP/Z4718/C/25/3359132

Land adjacent to Dunkirk Inn, 231 Barnsley Road, Lower Denby, Huddersfield HD8 8TX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Mark Ronan (The Bagden Group Limited) against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 13 December 2024.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the material change of use to a car park, the erection of a metal barrier and the laying of a crushed stone surface to facilitate the use.
 - The requirements of the notice are to:
 - a) Cease the use of the site as a car park.
 - b) Remove from the site the crushed stone surface and metal barrier that frames the current entrance to the car park.
 - c) Following steps (a) and (b), reseed the land, thereby returning the land to its condition prior to the unauthorised developments taking place.
 - The period for compliance with the requirements is 60 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - the removal of the word “land” from step c at section 5 of the notice and its substitution with the word “site”; and
 - the removal of the words “1) To complete step 5 (a), (b) and (c) above – 60 days after the notice takes effect” from section 6 of the notice, and their substitution with the words:
 - “1) To complete steps 5 (a) and (b) above – 60 days after the notice takes effect; and
 - 2) To complete step (c) above – 6 calendar months after the notice takes effect.”
2. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The Enforcement Notice

3. The Land adjacent to Dunkirk Inn, 231 Barnsley Road, Lower Denby, Huddersfield HD8 8TX is defined in the notice as “the site”. However, in setting out the

requirements, step c of section 5 of the notice refers to “the land”. I will therefore amend the notice to refer to the correct defined term at this section. I can do so without injustice to the main parties.

Preliminary Matters

4. The appeal was brought on grounds (a) and (g) only. However, substantive arguments made in the appeal submission amounted to an appeal on ground (f). The appellant confirmed that the appeal should also proceed on ground (f) and the Council was provided with the opportunity to comment on this approach.

Appeal A on ground (a)

5. An appeal on ground (a) is brought on the basis that planning permission ought to be granted for the breach of planning control stated in the notice. Where an appeal on ground (a) is duly made, an application for planning permission is deemed to have been made.

Main Issues

6. The main issues are:
 - (i) Whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - (ii) The effect of the development on openness;
 - (iii) The effect of the development on the character and appearance of the area; and
 - (iv) Whether any 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

Whether the proposal would be inappropriate development

7. The appeal site comprises a triangular parcel of land at the junction of Dry Hill Lane and Barnsley Road, situated in the Green Belt. A variety of development exists on the west side of Dry Hill Lane, including the Dunkirk Inn opposite the site. However, Dry Hill Lane marks the transition to a more notably open area to the east, comprising sprawling fields either side of Barnsley Road. It is in this context that the appeal site is experienced. Even noting its proximity to built form to the west, it reads as the beginning of the more rural and undeveloped landscape.
8. The development relates to the material change of use of the site to a car park in connection with Dunkirk Inn, in addition to the erection of a metal barrier and the laying of a crushed stone surface to facilitate the use. The appellant is clear that the ground (a) appeal relates to the change of use only.
9. Paragraph 154 of the Framework states that development in the Green Belt is inappropriate, albeit subject to certain exceptions, including that at paragraph 154(h)(v), being material changes in the use of land provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Accordingly, whether the development would constitute inappropriate

development will depend on whether it would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

Openness and purposes of the Green Belt

10. The Framework states that “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.” It has been established that openness has both a spatial and visual aspect.
11. The development facilitates the parking of vehicles at the site. In doing so, it creates a change in the function of the land, with a cited maximum capacity of between 25 and 30 vehicles. I note that this maximum level of parking is unlikely to be continuous, and that parking is most likely to occur during the busiest opening hours of the Dunkirk Inn. I have also had regard to the record of parking provided.
12. However, while the appellant contends that there would be no parking when the inn is closed, I observed vehicles on the site during my weekday morning time visit. Even noting the operating hours of the inn, and the use of the site in connection with it, cars would be parked at the site with sufficient frequency to cause a loss of openness compared to the previous use of the land. The positioning of the car park at a prominent corner plot within a largely undeveloped sprawl east of Dry Hill Lane, particularly during the busiest hours of the Dunkirk Inn, would be notable.
13. The appellant argues that without the development in place parking of a similar level would occur in the vicinity in any event, and provides evidence of such in the record of parking submitted. However, there is nothing substantial before me to suggest that parking would occur in the same intensive manner as the development. Noting nearby parking restrictions, sporadic or spaced-out roadside parking along surrounding carriageways would not have the same visual or spatial impact on openness as a more formalised cluster of parking immediately adjacent to the open land to the east.
14. Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment. Given the positioning and nature of the appeal site on the edge of sprawling open fields, the development would also represent an element of encroachment into the countryside.
15. Taking all of the above together, the development would not benefit from the exception at paragraph 154(h)(v) of the Framework. There is no suggestion that it would meet any other exception. Accordingly, the development would amount to inappropriate development within the Green Belt and result in harm to the openness of the Green Belt, contrary to the provisions of the Framework.

Character and appearance

16. As outlined above, the appeal site marks the transition from an area featuring elements of built form to the west towards a more sprawling and rural landscape to the east, present on both sides of Barnsley Road. Its placement on the eastern side of Dry Hill Lane visually and functionally separates it from the development on the other side, such as the Dunkirk Inn, and clearly marks it as part of the more open countryside.
17. The material change of use of the land resulting from the development creates the potential for a somewhat formalised arrangement of parking of up to 30 vehicles

within a defined area. The parking of such vehicles results in visual clutter in the immediate area and is at odds with the established open character of the land, prevalent at this side of Dry Hill Lane.

18. For the reasons given, the development results in significant adverse harm to the character and appearance of the area. As such, it fails to comply with Policy LP24 of the Kirklees Local Plan and the provisions of the Framework insofar as they seek to ensure that the form, scale, layout and details of development respects the character of the landscape.

Other considerations

19. The appellant refers to a landscaping scheme in respect of the development. This incorporates numerous elements, to include grasscrete surfacing, lawn seed mix to verges, proposed scrub mix and tree planting, and retention of existing trees nearby. However, even if I were to agree that this could be the subject of a condition attached to a planning permission in respect of the whole or part of the development, it would not overcome the harm identified.
20. While the grasscrete is noted, irrespective of its finish it would result in a permanent footprint for the development that would still facilitate the parking of numerous vehicles at the site, in turn impacting the spatial openness of the land and failing to respect the character of the immediate vicinity. While views would be screened and filtered by the proposed planting, on the information provided I cannot be certain of the extent of such screening. Nevertheless, in closer range views at the access to the site the development and its facilitation of car parking would remain visible, contributing to an impact on openness and surrounding character. As such, I attach limited weight to this landscaping scheme and its associated benefits, including biodiversity net gain, given that it would not overcome the identified harm.
21. The appellant points out that the development provides safe and secure car parking for customers and staff of the Dunkirk Inn, a local pub and community hub with food offering that provides economic benefits to the staff employed and local suppliers used. It is contended that the car parking facilitated by the development is essential to the viability of the pub, particularly the food offering, which provides a community value and would likely fail without the development. I do not doubt the economic and community importance of the pub, and note the records provided that the existing car park does not always meet demand. Nevertheless, there is limited substantive evidence to demonstrate that the food offering of the pub is dependent on the development to the extent that there would be significant impacts on the viability of the establishment or economic benefits to the local community without the development in place. Accordingly, this attracts limited weight.
22. I have had regard to both the Highway Statement and the Parking Report provided by the appellant, and note that the existing car park at the site appears at times to be unable to accommodate the parking requirements of the pub. The appellant contends that the development would alleviate on-street parking, resulting in highway safety improvements. Given the nature of the immediate road network and the speed limits of the surrounds, I agree that this would be a benefit of the scheme that, on the information before me, attracts moderate weight.
23. It has been raised that the development would provide benefits to customers with blue badges with regard to providing dedicated, useable, and convenient parking bays. The Public Sector Equality Duty (PSED) contained in the Equality Act 2010,

sets out the need to eliminate unlawful discrimination and to advance equality of opportunity. I have determined the appeal having due regard to the stated aims of the PSED but am satisfied that a refusal to grant planning permission based on the legitimate planning concerns identified would not be contrary to those objectives.

Green Belt balance

24. The development is inappropriate development in the Green Belt, and causes harm to the openness of the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I have also found harm results to character and appearance. Even when taken cumulatively, the other considerations advanced in support of the scheme do not clearly outweigh the harm identified. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

25. For the reasons given above, I conclude that the appeal on ground (a) should not succeed, and I shall refuse the deemed application for planning permission.

Appeal on ground (f)

26. An appeal on ground (f) is brought on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either: (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach. Section 173(4) is clear that a notice can remedy the breach of planning control by: making the development comply with the terms of any planning permission which has been granted in respect of the land; by discontinuing any use of the land; or by restoring the land to its condition before the breach took place. Given the requirements of the notice before me, its purpose is to remedy the breach of planning control.
27. It is necessary to consider whether there is any obvious alternative or lesser step which would achieve the purposes of the enforcement notice. In this regard, the appellant has put forward the potential of the landscaping scheme. I have assessed the planning merits of this above, and determined that it would not overcome the harm alleged in the enforcement notice.
28. From my observations the only way to remedy the breach would be to cease the use of the land as a car park and to remove all features facilitating this use and return the land to its prior condition, as outlined in the requirements of the notice. Given the purpose of the notice, these requirements are not therefore excessive.
29. The appeal on ground (f) therefore fails.

Appeal on ground (g)

30. An appeal on ground (g) is brought on the basis that the time period for compliance in the notice falls short of what should reasonably be allowed.
31. The enforcement notice gives 60 days for compliance, whereas the appellant has requested 9 months. In arguing that this is unreasonable, the appellant refers to the need to seek contractors with appropriate plant and machinery. In respect of steps a and b of the notice, there is nothing compelling before me to suggest that this

could not be achieved within the given time period. This would ensure that the identified planning harm is dealt with in the necessary expedient manner.

32. However, step c of the notice relates to reseeding the land, which the appellant contends can only be sown between March – April or September – November. I further recognise that for the sowing to take place, the first two steps of the notice need to have been completed. Given the timing of this appeal, it is not certain that this could be achieved within the 60 day timeframe provided, such that it is reasonable for this to be extended. I will therefore vary the time period for compliance in respect of step c only to a period of 6 months. This will ensure that the current use shall cease and the facilitating development will be removed within the 60 day period but that additional time will be given for the reseeding of the site. I can make this variation without injustice to the main parties.

33. The appeal on ground (g) therefore succeeds to a limited extent.

Overall Conclusion

34. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

C Rafferty

INSPECTOR