



Appeal Decision

Site visit made on 26 February 2026

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 13th April 2026

Appeal Ref: APP/P4225/W/25/3374113

Nicky's Café, Ripponden Road, Delph, Littleborough, Sowerby Bridge OL3 5UN

- 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 Ms Jackson against the decision of Rochdale Metropolitan Borough Council.
 - The application Ref is 22/01575/FUL.
 - The development is described as the use of land for siting of a shipping container café.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The container café exists on site and is therefore retrospective development. I have removed the word 'retrospective' from the development description as this is not an act of development. For certainty, I have determined the appeal on the basis of the drawings submitted.
3. The appeal site lies within the South Pennine Moors Special Area of Conservation (SAC) and the South Pennine Moors Phase 2 Special Protection Area (SPA), both of which are European Sites protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). One of the Council's reasons for refusal concerns the development's potential adverse effect on the integrity of the SAC. Where development may pose a credible risk to the conservation objectives of a European Site, the Habitats Regulations require the competent authority to undertake a formal Habitats Regulations Assessment (HRA) before determining it. This process assesses whether the development may result in significant effects on the European Site, either alone or in combination with other plans or projects. I address this matter under 'other matters'.

Main Issues

4. The main issues in determination of the appeal are:
 - whether the development is inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework dated December 2024 (the Framework), including where relevant, the effect on openness and purpose;
 - the development's effect on the character and appearance of the surrounding area; and
 - if the development is found to 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 required to justify the development.

Reasons

5. The appeal site comprises a largely surfaced parking area accessed from Ripponden Road. A blue coloured shipping-container café (café), together with a standalone portable toilet, a storage unit and a small area of outdoor seating, is positioned to one side of the parking area. The Windy Hill Transmitting Station lies nearby, and the parking area is intersected by the route of the Pennine Way National Trail (Pennine Way). The site is within the Green Belt.
6. The café operates on a limited-hours basis, with on-site signage indicating opening times of 8 am to 2 pm Monday to Friday and 10 am to 2 pm Saturday and Sunday. It is stated that the applicant previously provided a mobile café service from a transit van, but this was replaced by the café to offer shelter during periods of harsh weather. The café now provides shelter, refreshments and toilet facilities for walkers, runners, cyclists, farmers, lorry drivers and other road users in the locality.
7. Although the café is not fixed to the ground, has no service connections and is capable of removal by crane, its scale, form and set position on the site gives it, as a matter of fact and degree, a sufficient degree of physical presence and permanence and it alters the character of the land. The café therefore constitutes operational development. On this basis, I have considered the development as comprising of both a change of use of the land and operational development.

Whether inappropriate development

8. The Government attaches great importance to Green Belts, whose essential characteristics are their openness and their permanence. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
9. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It further sets out at Paragraphs 154 and 155, exceptions where development may be regarded as not inappropriate.
10. Saved Unitary Development Plan 2006 (UDP) Policy G/D/2 seeks to protect the Green Belt from inappropriate development and maintain openness and separation between urban areas. Policy JP-G9 of the Places for Everyone Joint Development Plan Document 2022-2039 (DPD) reiterates the purposes of the Green Belt and the benefits of its appropriate use. While broadly aligned with the Framework, these policies are less detailed regarding the exceptions. I therefore afford greater weight to the Framework.
11. In relation to the exemptions set out in Paragraph 154, while the specific lettered exemptions are not detailed, the appellant refers to exemptions concerning the provision of appropriate facilities for outdoor recreation, the re-use of previously developed land, and material changes of use of land.
12. Paragraph 154(b) details that development is not inappropriate if it provides appropriate facilities for outdoor recreation. While the café is used by some engaged in outdoor recreation, the evidence indicates that a principal function is also to serve passing road users. When combined with its limited operating hours,

the development cannot reasonably be regarded as a facility genuinely or primarily supporting outdoor recreation. It therefore fails to meet this exemption.

13. Development is also not inappropriate under Paragraph 154(g) where it involves the redevelopment of previously developed land and would not result in substantial harm to the openness of the Green Belt. Likewise, Paragraph 154(h)(v) applies to material changes of use that preserve openness and do not conflict with the purposes of including land within the Green Belt. Although the site is previously developed and the development constitutes a material change of use, the café is a conspicuous and unsympathetic built form in the open landscape, even allowing for the transmitter, signage, parked vehicles and the influence of the M62 corridor. The Planning Practice Guidance (PPG) confirms that assessing openness requires consideration of both spatial and visual impacts. The café does have a materially greater spatial and visual impact from that of the general appeal site's transient vehicle activity, and there is no evidence that the former mobile café amounted to more than a temporary presence. While the café's spatial openness impact is limited, its visual impact is much more pronounced. When viewed from the adjacent road, public footpath and parking area, the visual openness impact is substantial. Taken together, openness is not preserved and is substantially harmed. As such, the development does not meet these detailed exemptions.
14. The appellant also raises the development as falling within the grey-belt exception. Paragraph 155 of the Framework, advises that commercial and other development in the Green Belt should not be regarded as inappropriate where: (a) the development would utilise grey belt land and not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan; (b) there is a demonstrable unmet need for the type of development proposed; (c) the development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.
15. Grey belt is defined in the Framework as land within the Green Belt comprising previously developed land or land that does not strongly contribute to certain Green Belt purposes, excluding land covered by footnote 7.
16. Although the main parties dispute the development's effect on the SPA and SAC and whether it would satisfy the grey belt criterion referenced in footnote 7, even if it was assumed that it did, and that the remaining grey belt criteria were also met, there is nonetheless no persuasive evidence that the scheme would address a demonstrable unmet need of the type required by Paragraph 155(b).
17. While the café provides a convenient facility and is evidently popular with a large number of visitors and users of the Pennine Way, as reflected in the significant number of supporting third-party representations, its operation is confined to limited hours. Although the appellant asserts that toilet facilities are available at all times, the portable toilet was locked at the time of my visit, suggesting this welfare provision cannot be relied upon consistently. Other than the expressions of support, no substantive evidence has been provided to demonstrate the existence of an unmet need, or to explain why reasonable alternative arrangements, such as a mobile catering unit, could not provide similar facilities and services. The limited hours during which the facilities operate are not explained. This restriction does not sufficiently demonstrate the café is generally providing a sustained public need but instead suggests its operation is driven largely by commercial considerations. While the development meets a degree of demand and provides welfare and

safety benefits when open, demand alone does not amount to an unmet need. Had a genuine unmet need existed, it would be reasonable to expect it to arise generally throughout the day and for the facility to operate consistently in order to meet it. Furthermore, while the development does support events along the Pennine Way, these are only occasional. This limited and temporary demand also does not amount to evidence of an unmet need.

18. Even if the remaining criteria in Paragraph 155 of the Framework were met, the absence of any demonstrable unmet need means that this exception is not satisfied.
19. For the above reasons, the development fails to meet the exceptions set out in Paragraphs 154(b), 154(g), 154(h)(v) and 155 of the Framework. No alternative exception has been identified, and I see no reason to question this. Accordingly, the development constitutes inappropriate development in the Green Belt.

Openness and purposes

20. The Framework identifies openness as an essential characteristic of the Green Belt. While the PPG confirms that openness has both spatial and visual dimensions, it also indicates that factors such as the duration of the development, the extent to which its effects can be remedied, and the level of activity it generates may also be relevant.
21. As set out earlier, when the effect on the spatial and visual dimensions of openness are taken together, openness is substantially harmed. Further to this, although the café operates only during limited periods, those periods are likely to generate additional vehicle movements and associated activity, which further diminish openness. While the café does have a somewhat temporary appearance, the fact that it remains in situ means that this harm to openness endures.
22. Paragraph 143 of the Framework sets out the five purposes of the Green Belt. While the development does not affect most of these, it does introduce an additional, highly visible and unsympathetic built form into an otherwise open setting already influenced by the transmitter, road signage and vehicle activity. Its presence further contributes to the encroachment of development into the countryside and therefore conflicts with the Green Belt purpose of safeguarding the countryside from encroachment.
23. Overall, taking the above together the development substantially harms openness and harms the purpose of the Green Belt.

Character and appearance

24. The appeal site occupies an exposed and open position with wide views across an undulating moorland landscape, reflecting its landscape character area of Open Moorlands and Enclosed Upland Fringes (West and South Pennines). Although the nearby transmitter is a prominent and discordant feature, the M62 is within sight and road traffic and parked vehicles already detract to some extent from the landscape, the wider setting remains largely open and rural in character.
25. Against this backdrop, the café, with its utilitarian form, size and blue external finish, is a conspicuous, unsympathetic and visually intrusive addition to the parking area, introducing a further element of urbanising clutter into the landscape. It is not a sensitive or respectful addition. Even if finished in green, as suggested

by the appellant, its bulk and design would not enable it to blend successfully with the moorland surroundings or materially reduce its visual impact. While larger vehicles occasionally parked on the site may partly mask its presence, such screening is in all likelihood incidental and short-lived and does not represent a reliable or acceptable form of mitigation.

26. Although my visit provided only a snapshot in time, there were only a few vehicles parked on the area and the café appeared, as a dominant and visually obtrusive feature. Furthermore, its condition, including weathered external paintwork, damaged seating and untidy signage, exacerbated its visual prominence and detracted further from the character and appearance of the area.
27. While it is argued that the development is preferable to a more elaborate architectural design, this does not overcome the harm identified to the character and appearance of the area. Moreover, the use of a planning condition to control the colour or signage of the café would not remedy the fundamental harm arising from its form, scale and presence.
28. Accordingly, the development harms the character and appearance of the surrounding area. It conflicts with Policies DM1, P2 and P3 of the Rochdale Adopted Core Strategy 2016 (RCS), Policies JP-P1, JP-G1 and JP-G5 of the DPD, and Section 12 of the Framework, which together seek high-quality design that protects and enhances local character, landscape and environmental quality.
29. The appellant refers to Policy BE/2 of the UDP. However, no evidence has been provided to demonstrate that this policy is saved and is to be read alongside the RCS. In any event, even if it were relevant, the development does not amount to good design.

Other considerations

30. I have taken into account the 523 third-party representations supporting the development in my assessment of these other considerations.
31. The development provides a degree of social, welfare and safety support, particularly during periods of inclement weather, for road users, users of the Pennine Way and for occasional events, such as the Spine Race, along the route. It also enhances the amenity of the parking area by offering what is indicated to be reasonably priced food and drink and, when available, toilet facilities throughout the day and night. I recognise the considerable public support for the café, including supporting comments from several members of the Mountain Rescue Team. However, while the value of the café's services is acknowledged, they are offered only for limited periods and are not generally available during large portions of the day and evening. This markedly reduces the weight that can be attributed to these benefits. Furthermore, it has not been demonstrated that these services could not reasonably be delivered through alternative, less harmful means or arrangements. Accordingly, these benefits attract moderate weight in favour of the development.
32. The development may also assist in discouraging littering, fly-tipping and other forms of misuse of the parking area. While it is suggested that the development has CCTV, from my visit I observed little evidence of this and no supporting details have been provided. While anecdotal evidence is presented of the misuse that has occurred at the parking area, there is no substantive evidence presented to

demonstrate that the site experienced significant problems of this nature prior to the development. Given also the restricted operational hours, any deterrent effect is likely to be intermittent and only a partial benefit. Taking these factors together, I afford moderate weight to this benefit in favour of the development.

33. The café is an independent rural business that provides employment and a contribution to the Rochdale economy, including supporting tourism and the visitor economy. However, no detailed evidence has been provided to substantiate the level of these benefits. Given the limited commercial scale and operational nature of the development, any economic, tourism and visitor benefits are likely to be very modest when considered in the context of the Borough as a whole. Furthermore, there is little to demonstrate that such benefits could not be reasonably achieved through alternative and less harmful means. I therefore attach limited weight in favour of the development to these benefits.
34. It is also claimed that a Green Belt location is necessary due to the alignment and remoteness of the Pennine Way and that no suitable alternative sites are available. However, this assertion is not supported by any compelling evidence. No locational assessment has been provided to demonstrate why the development must be sited at this location, nor why alternative arrangements could not be used. In the absence of such evidence, I give this limited weight in favour of the development.

Planning Balance

35. The appellant points to a range of development plan policies to support the development. These include Policies SO1 and E2 of the RCS, which seek to promote a prosperous economy and support job creation, and Policies E5 and E6, which encourage development within the South Pennine Moors that supports the visitor economy, diversifies the rural economy and enhances the recreational and tourist value of the area, including the Pennine Way. Reference is also made to UDP Policy RE/5 which is in part replaced by Policy G6 of the RCS and which supports sustainable tourism and improved access from urban areas, including along the Pennine Way. UDP Policy RE/7 is also referred to however, it relates specifically to development within defined outdoor recreation areas and is not applicable to the development. While the other policies are relevant in principle, they do not provide blanket support for development and must be read alongside the wider development plan and national policy, including these affording a high level of protection to the Green Belt and the character and appearance of the area.
36. The development harms the character and appearance of the area and is inappropriate development. It substantially harms openness and harms the purpose of the Green Belt. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt, including harm to its openness.
37. The other considerations advanced in support of the development attract limited to moderate weight when assessed individually. Even when taken cumulatively, they amount to no more than moderate overall weight in favour of the development. This is insufficient to clearly outweigh the identified harm to the character and appearance of the area and to the Green Belt. Accordingly, the very special circumstances required to justify inappropriate development in the Green Belt has not been demonstrated.

Other Matters

38. As set out earlier, the appeal site lies within a SPA and SAC, and the Habitats Regulations requires a HRA must be undertaken where a credible risk that the conservation objectives of a European Site would be undermined by a proposed development. Although the responsibility for carrying out the HRA rests with the competent authority, the Regulations allow it to request any information reasonably necessary to complete that assessment. In this case, the appellant did not provide the shadow HRA requested by the Council, who were the competent authority at the application stage, and no HRA was completed.
39. Even though the appellant argues that the surfaced nature of the site and the absence of ground disturbance, services, or drainage work mean that no likely significant effects are arising, Natural England (NE) advised that the development could give rise to potential significant effects on the integrity and conservation objectives of the SPA and SAC. As such and with no evidence to the contrary, a credible risk to the SPA and SAC cannot be ruled out.
40. The requirement for a HRA is statutory and applies regardless of the scale or type of development if a credible risk has been identified. It therefore cannot be regarded as disproportionate or unreasonable.
41. The fact that the Greater Manchester Ecology Unit raised no general ecological objections does not remove the obligation to undertake a HRA where a credible risk has been identified.
42. Accordingly, I cannot be satisfied, beyond reasonable scientific doubt, that the development is not harming the integrity or conservation objectives of the SAC as raised by the Council. Notwithstanding this, for the purposes of this appeal I am the competent authority, and were I minded to allow it, I would be required to reach such a conclusion before granting permission. However, as I am dismissing the appeal for other substantive reasons, it is not necessary to consider this matter further, as doing so would not alter the outcome.

Conclusion

43. For the reasons given above and considering all other matters raised, I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR