



Appeal Decision

Site visit made on 12 December 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2024

Appeal Ref: APP/Z4718/W/23/3321121

Unit 4, The Old Stone Yard, Near Bank, Shelley, Huddersfield, Kirklees HD8 8LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Luke Hilton of Beneficial against the decision of Kirklees Council.
 - The application Ref 2022/62/91176/E, dated 4 April 2022, was refused by notice dated 31 October 2022.
 - The development is the retention of workshop/storage building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the main issues below are considered. Therefore, it has not been necessary to seek further comments from the main parties in respect of the amended Framework. References in the decision are to the December 2023 Framework.
3. The workshop/storage building has been constructed on the site. I am therefore determining this appeal based on retrospective development.

Main Issues

4. The main issues are:
 - whether the development is inappropriate development in the Green Belt, including its effect on openness;
 - the effect of the development on the character and appearance of the area; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Whether Inappropriate Development

5. The appeal site comprises an area of land that formed part of a larger site granted planning permission in 2018 for a change of use from stone yard to

tree/log storage yard¹ in connection with the existing arboricultural depot that lies to the east (the 2018 planning permission). The building is in the northern part of the site. The parking and turning area to the west of the building is laid with crushed stone. Beyond this, the site's western boundary is formed by a timber fence of around two metres in height, with a hedgerow planted alongside. A similar height of fence runs just to the south and east of the building. There is a tall coniferous hedge along the northern boundary of the site.

6. Paragraph 154 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt apart from some exceptions. The exception at paragraph 154 g) allows for the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. Policy LP59 of the 2019 adopted Kirklees Local Plan Strategy and Policies (the Local Plan) allows for the partial or complete redevelopment of brownfield sites, provided that the extent of the existing footprint is not exceeded; and redevelopment does not result in the loss of land that is of high environmental value. The policy also states that regard should be had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting.
7. There appears to be no dispute between the main parties that the site is previously developed land and that its redevelopment would not result in the loss of land that is of high environmental value. I have no reason to take a different view.
8. The main parties agree that the 2018 planning permission is extant by virtue of the laying of a concrete base. The log store and 1.8 metre high palisade fencing has not been constructed. The building that has been constructed at the site is unauthorised. Thus, it is common ground that what is lawfully at the site now is the concrete base because of its connection with the part implementation of the 2018 planning permission.
9. The building that is the subject of this appeal occupies the footprint of the concrete base approved under the 2018 planning permission. It therefore could be described as not exceeding the existing footprint as required by Policy LP59 of the Local Plan.
10. The submitted evidence indicates that the site was used for the external storage of materials which included several skips/metal storage containers. While these will have had some effect on the openness of the Green Belt, the site would nevertheless have retained a relatively open nature.
11. The development is not particularly prominent in the surrounding area. This is due to the screening provided by the tall coniferous hedge along the northern boundary of the site and the nearby built development, which includes the industrial/commercial buildings at Barncliffe Mills.
12. Notwithstanding the above, the building is visible from the more elevated locations to the north including certain vantage points at the southern edge of Shelley and the more northerly stretch of the Public Right of Way (PRoW) that extends from Long Moor Lane and runs to the east then north of the site. In

¹ Planning Permission reference 2018/90242

such views, it is the upper most part of the building that is visible, due mainly to the screening effect of the coniferous hedge. From vantage points along Long Moor Lane to the south, there are views of the building against the backdrop of the coniferous hedge and the rising ground to the north, which reduces its prominence to an extent. The dark colour of much of the building helps to integrate it within the landscape. From closer vantage points, intervening vegetation, buildings, and fencing result in filtered views of the development. This includes from Brook House Lane and stretches of the PRow.

13. Nonetheless, the coniferous hedge, which makes a notable contribution to the screening of the development, will not endure forever. Its possible removal or death would reduce the screening of the site and increase its visual prominence in the surrounding area and any future new planting would likely take some time to reach maturity.
14. Even if the hedge was to endure, there is still some, albeit modest, visibility of the development from certain public vantage points in the area. There is therefore some limited impact on the visual aspect of openness. Openness also has a spatial aspect. The scale and massing of the building results in this part of the Green Belt being less spatially open than it was prior to the development taking place.
15. The development therefore leads to a loss of openness compared with what is lawfully at the site now and the previous condition of the site. As such, it does not benefit from the exception in paragraph 154 g) of the Framework.
16. The Council's officer report refers to the exception at paragraph 154 d) of the Framework when summarising the assessment of the previous application² submitted for the development. As the 2018 planning permission building has not been built, there is no building to replace and so the exception cannot apply. Even if one was to take a different view in this regard, the exception would still not be met as the building that has been constructed is in a different use to the log store and, for the reasons outlined above, is materially larger.
17. Accordingly, I conclude that the development is inappropriate development in the Green Belt and is inherently harmful to it.

Character and Appearance

18. The appearance and use of the development is akin to that which would be typically found on an urban industrial estate. This gives a more urbanised feel to the site compared to the open character of the landscape to the north. However, the western and southern boundaries of the site are close to the buildings at Barncliffe Mills that are clearly industrial/commercial in nature. To the east are three buildings that are also industrial/commercial in nature.
19. From many vantage points in the surrounding area including stretches of the PRow, the main road and the edge of Shelley, the building is seen in the same view as these industrial/commercial buildings. Consequently, the building would not appear as an alien or unexpected feature, including to users of the PRow.
20. The design, scale and massing of the building would not be incongruous given its setting close to these industrial/commercial buildings, many of which are

² Application reference 2021/90237

larger in scale. As noted above, the building is relatively screened in the surrounding landscape by the coniferous hedge and the dark cladding used further minimises its visual impact.

21. Overall, the design, scale and massing of the development is appropriate given the character and appearance of the surrounding area in which it would be viewed. I therefore conclude that the development is appropriately designed and, in this regard, does not harm the character or appearance of the area. The proposal therefore accords with Policy LP24 of the Local Plan, which requires proposals to promote good design by ensuring the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape amongst other matters. It also accords with the design objectives of chapter 12 of the Framework.

Other Considerations

Fallback Position – the 2018 Planning Permission

22. As noted above, there is no dispute between the main parties that the 2018 planning permission remains extant. Based on the evidence before me, there is a prospect that the 2018 planning permission may be fully implemented. This fallback position is a material consideration to which I afford significant weight.
23. Relative to the 2018 planning permission development, the appeal development has a significantly greater volume. Furthermore, the permitted log store would be open on its two longer sides. While there may be times when it would be full of logs, there would be times when it is not. It would appear as a less substantial structure than the building that has been constructed, which is predominantly natural stone on its front elevation and mainly dark coloured metal cladding to the side and rear elevations.
24. I find that the appeal building is materially larger than the log store. The building's volume diminishes the openness of the Green Belt compared to the log store. The 2018 planning permission development would therefore be less harmful to the openness of the Green Belt when compared to the appeal development. In this regard, I do not afford the fallback position significant positive weight in the overall planning balance.

Employment

25. The Council highlights that the Local Plan expects the employment land requirement to be met through land allocations and the development of vacant land in Priority Employment Areas. The site does not fall into either of these categories.
26. The appellant identifies several sites in the Council's 2019 Employment Land Supply Review as being available within the relevant ward, but states that these are not suitable for their requirements. The reasons given for this position is that the appellant operates their existing business from their wider site located just to the east of the appeal site, which benefits from planning permission for their current tree/log storage operations and existing infrastructure for the processing of logs and firewood. In addition, it is stated that the identified sites in the Employment Land Supply Review are restricted in terms of parking, access, and lack of outdoor space, and many are close to residential areas.

27. However, the appeal building is currently being used by a company that produces handmade products such as organic soaps and candles, not the appellant. Furthermore, the submitted evidence suggests that the intention is to continue with this type of economic model for the building rather than it being used by the appellant. As such, I give limited weight to the argument concerning the benefits to the appellant offered by the site over the other available employment sites. Furthermore, while appreciating that there may be a demand for units such as that which is the subject of this appeal, there is no clear evidence before me that there are no other suitable employment sites in the local area which can accommodate small to medium-sized and start-up businesses.
28. The appellant considers that the development could result in employment of between three to six people. I have no reason to doubt what is said about employment generation and it is an economic matter that I give moderate positive weight in the planning balance.

Existing Development

29. There are three buildings to the east of the site that lie within the Green Belt and which the appellant contends are precedents for allowing the development. The Council's officer report identifies that these buildings are occupied by a company that produces festive decorations (unit 1); Beneficial Tree Care Ltd and Beneficial Estates Ltd (unit 2); and a company that makes pizzas and a distiller (units 3a and 3b). The submitted evidence sets out that unit 1 was an existing building granted planning permission for a change of use from storage to stone cutting. Permissions for the other buildings are identified as being granted in 2002³ for a stone cutting industrial unit and in 2016⁴ for two single storey storage/workshop units for the arboricultural depot that had been permitted on part of the stone yard in 2011.
30. The appellant also highlights the planning permission granted to infill former ponds to the west of the site as a development that impacted the open-air character of the area. In that case, the Council considered that the development would preserve the openness of the Green Belt and its purposes and so would not be inappropriate development.
31. The context for these other buildings and development is not therefore directly analogous to the appeal development, which I have, in any event, considered on its own planning merits.

Sustainability

32. I note the sustainability measures identified by the appellant. This includes sourcing the stone locally to reduce transport distances, the use of local contractors at the construction stage, insulation levels over and above general requirements and infrastructure within the building to enable connection to solar panels.
33. However, energy saving measures would generally be expected with a new development. Only a relatively small amount of stone has been used in the building. While the use of local contractors is a positive consideration, the

³ Reference 2001/93336

⁴ Reference 2015/93091

benefits associated with this will have been short lived. Consequently, I give these matters very limited weight.

Visual Enhancements

34. The appellant's photographs illustrate that the site has been cleared of stone, containers, and general waste. However, clearance of the site would likely have been required to much the same extent to enable the implementation of the 2018 planning permission. The site has likely been enhanced through the planting undertaken at least to a degree and this carries some positive weight.

Planning Balance and Conclusion

35. The development is inappropriate development in the Green Belt. I attribute substantial adverse weight to this matter. Although I have found that the development would not cause harm to the character and appearance of the area, this is a neutral factor in the planning balance. I conclude that the harm by reason of inappropriateness in the Green Belt would not be clearly outweighed by the other identified considerations so as to amount to the very special circumstances required to justify the development. The development therefore conflicts with the requirements of Policy LP59 of the Local Plan and chapter 13 of the Framework as summarised above.

36. Accordingly, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR