

Exceptional Circumstances - Mineral Working in the Green Belt

The site is located within the Green Belt. The National Planning Policy Framework (NPPF), paragraph 142 confirms that 'minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs'. Further, the NPPF (paragraph 144) confirms: 'when determining planning applications, local planning authorities should give great weight to the benefits of the mineral extraction, including to the economy'.

Section 13 of the NPPF covers Green Belt land Paragraph 147 of the National Planning Policy Framework (NPPF) states:

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 148 states:

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special 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.

Paragraph 137 of the NPPF sets out 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'.

Mineral extraction is in principle not inappropriate in the Green Belt provided it preserves openness and does not conflict with the purposes of Green Belt (NPPF Paragraph 150).

On July 22nd 2019, the Ministry of Housing, Communities & Local Government, published updated Online Guidance 'Advice on the role of the Green Belt in the planning system'. This included the following guidance (Paragraph: 001 Reference ID: 64-001-20190722, Revision date: 22 07 2019):

The screening mounds are required to a height of a maximum of 5m in height to enable full storage of topsoil and subsoil which is stripped from the site and stored until required for restoration.

The screening mounds also act as a visual barrier to the quarry workings and also benefit for noise attenuation purposes.

Also, to be considered is the extension area is allocated in the Kirklees Development Plan as a minerals area of search and planning permission will be expected to be granted if proposals accord with the development principles and technical reports that are required along with the relevant development plan policies

National Planning Practice Guidance (NPPG) provides guidance on the application of the NPPF and NPPG for the Natural Environment (MHCLG, 2016) promotes landscape character assessment as "a tool to help understand the character and local distinctiveness of the landscape and identify the features that give it a sense of place". This is considered relevant due to the history of opencast quarrying in the vicinity of the proposed site and has been undertaken for decades.

The bunds are seeded to grass at the earliest opportunity so they do not look like an alien feature within the landscape. They are also temporary, albeit for long term duration of up to 25 years.

Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to: openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume; the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and the degree of activity likely to be generated, such as traffic generation’.

The LVIA submitted with the application identifies how the ability to see and perceive any change to the openness of the Green Belt would be limited and that the visual effects are limited and localised such that the openness will be preserved.

The issue of effects on openness is a matter of judgement, in the context of the site and the proposal and in the knowledge of the typical effects of mineral extraction, such judgement to be assisted and informed by the approach in other decisions and appeals.

The proposal is a temporary but long term development use for 25 years with a full restoration scheme with an increase in biodiversity as a consequence. The site is agricultural land and this will be fully reinstated upon completion of the workings.

The benefits of the proposal are great in terms of the need for the brick clay, maintenance of appropriate supply, limitations on suitable local alternatives, the acknowledged policy safeguarding of the site because of the importance of the mineral and the economic benefits associated with brick production. These amount to very special circumstances that clearly outweigh any inappropriateness and any other harms, even if the scheme was judged not to meet the terms of Green Belt policy which is not accepted.

This application represents the continuation of supply of an important raw material for the construction industry, in a mineral search area in the Local Development Plan. If the application is not permitted, this would lead to a significant loss of future fireclay and brickshale which could supply the brick factories for the next 25 years. This would lead to a disruption of raw materials to supply the construction sector at a time when government policy is seen to encourage economic growth and investment.

