



Supporting Information

Building

Upper Pike Law

Scapegoat Hill

Information

The site history is material to the consideration of this application. A recent appeal decision made the following conclusion with regard to green belt policy: -

Whether Inappropriate Development

Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. The Framework states that openness and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects.

5. Paragraph 154 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than in a number of exceptions.

6. The exception at paragraph 154 d) allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Criterion b of Policy LP57 of the 2019 adopted Kirklees Local Plan Strategy and Policies (the LP) includes a similar exception.

7. There appears to be agreement between the main parties that the proposed building would not be materially larger than the building that would be replaced. I have no reason to take a different view. However, the main parties disagree about the use of the building currently on the site.

8. The appellant has provided information from the previous owners of the site about its uses. This states that the building was originally constructed as a kennels in the late 1950s. It was then used for personal storage before being used for storage in connection with a building/roofing business until around 2008. It was then used by the family for storage for around a further eight years. From that time the building has been used less intensively for storage purposes by the family.

9. No lawful development certificate to establish the lawful use of the building is before me. On the balance of probability and on the available evidence before me, it has not been sufficiently proven that the building has been used for B8 storage continuously for 10 years. The appellant has not therefore reasonably made the case that the building has a lawful B8 storage use.

10. As such, I am not satisfied that the proposed building would be in the same use as the one that would be replaced. Consequently, the proposal would not be compliant with the first test of paragraph 154 d) and Policy LP57b.

11. The proposal can also be considered in relation to exception g) of paragraph 154 of the Framework, and Policy LP59 of the LP, which allow for the redevelopment of previously developed land and brownfield sites respectively. These exceptions require consideration of whether the proposal would have a greater impact on the

openness of the Green Belt than the existing development in terms of paragraph 154 g), and in the case of Policy LP59 whether the existing footprint is exceeded. Policy LP59 also requires that regard is had to relevant design policies to ensure that the resultant development does not materially detract from its Green Belt setting. In addition, the policy states that redevelopment should not result in the loss of land that is of high environmental value which cannot be mitigated or compensated for. There is no evidence to indicate that the site is of high environmental value.

12. The Council contends that hardstanding has only recently been introduced at the site without planning permission to support the proposal. The appellant states that there has been no new hardstanding created, rather the areas of hardstanding and access have just been cleared of vegetation. The hardstanding areas at the site may/may not be lawful. Nevertheless, I have assessed the proposal on the basis of what has been applied for, which is the demolition of an existing storage building and the erection of a new storage building, and two parking spaces. The application form states that no new or altered vehicular or pedestrian access to or from the public highway is proposed and no new public roads would be provided within the site.

13. The definition of previously developed land in the Framework's glossary excludes land that is or was last occupied by agricultural buildings. The Council considers that the building's previous use was more akin to agriculture. However, no clear evidence is presented to substantiate this position. In addition, I note the appellant's evidence which contends that the building has never been used for this purpose. Based on the available evidence, in my view, the site could be reasonably classed as previously developed land.

14. As noted above, the proposed building would not be materially larger than the building that is on the site, it would have the same footprint and it would be in the same location. Although no detail of the two parking spaces is provided, a condition could ensure that they would be located near to the building. In my judgement, the inclusion of two parking spaces and the associated vehicle movements would not intensify the use of the site to the extent that it would result in a development with a greater impact on openness than the existing development in either spatial or visual terms, notwithstanding its elevated position.

15. The exception at paragraph 154 g) of the Framework and Policy LP59 of the Local Plan do not require an assessment of the effect of a proposal on the purposes of the Green Belt. Nevertheless, the Council has cited a concern that the hardstanding/access would represent an encroachment into the countryside. However, as set out above, I have assessed the proposal on the basis of the development that has been applied for which is the new building and two parking spaces. For the same reasons as set out above, this would not represent an encroachment into the countryside.

16. *While there may be some intensification of the site compared to the current situation, it would not materially detract from the site's Green Belt setting, nor would the form and scale of the building.*

17. *Based on the evidence before me, I have found that the proposal would not meet the requirements of paragraph 154 d) of the Framework and Policy LP57 of the LP, but it would meet the requirements of paragraph 154 g) of the Framework and Policy LP59. Consequently, I conclude that it would constitute a type of development that is not inappropriate in the Green Belt. The proposal would therefore accord with the requirements of chapter 13 of the Framework and Policy LP59 of the LP, as summarised above. It would also accord with the design objectives of chapter 12 of the Framework and Policy LP24a of the LP which requires that development respects and enhances the character of the townscape, heritage assets and landscape amongst other matters.*

Thus we can conclude that the proposed new building is appropriate development.

The appeal was eventually dismissed on highway safety grounds. On this matter the Inspector concluded: -

19. *Based on the Council's assessment, the access would require a 43-metre visibility splay in both directions. However, there is no information to demonstrate that this would be achievable. Furthermore, it is unclear from the submitted evidence whether vehicles would be able to exit the site in a forward gear. While only two parking spaces are proposed, the possibility of vehicles exiting and entering the site at the same time cannot be ruled out. The Council's evidence sets out that the access is indicated as three metres wide. This would not be sufficient to allow for two-way vehicle movements in and out of the site, giving rise to the potential for a vehicle to have to wait on Slaithwaite Gate, nor is it clear whether emergency vehicles would be able to gain access.*

20. *Given the characteristics of the access and the highway in the immediate vicinity, it is important that the access for the proposal is acceptable to ensure that the development does not represent a significant risk to highway safety for road users including pedestrians and to the free flow of traffic. However, based on the evidence before me, I cannot be satisfied that the required visibility distances could be achieved at the site. Without further clarity on the required visibility splays and how they could be achieved, and the nature of the manoeuvring that may be required for vehicles, including emergency vehicles, the proposal would significantly increase the potential for conflict between road users.*

21. *I therefore conclude that the proposal would result in an unacceptable impact on highway safety. Accordingly, it would conflict with the highway safety requirements of Policy LP21 of the LP, the 2019 Kirklees Highway Design Guide Supplementary Planning Document and chapter 9 of the Framework.*

To address this matter we have commissioned a plan from highway consultants to show the appropriate sight lines, turning and parking spaces. This is submitted with the application.

*AKPlanning
147 Lane Top
Linthwaite
Huddersfield HD7 5SG*

*Contact: Andrew Keeling
E-mail: andrew@akplanning.co.uk
Mobile: 07500965645*



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Chartered Town Planner