



Appeal Decision

Site visit made on 17 December 2024

by **Zoë Franks, Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 19 MARCH 2025

Appeal Ref: APP/R4408/C/23/3332852

Hay Green Barn Hay Green Lane, Birdwell, Barnsley, S70 5XE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Ronald Walker against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The notice was issued on 9 October 2023.
 - The breach of planning control as alleged in the notice is the material change of use of the Land for the siting and use of the land for human habitation of a chalet/lodge.
 - The requirements of the notice are to cease the use of the Land and remove the chalet/lodge along with any associated items from the Land.
 - The period for compliance with the requirement is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (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.
-

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the land for the siting and use of the land for human habitation of a chalet/lodge at Hay Green Barn, Hay Green Lane, Birdwell, Barnsley, S70 5XE as shown on the plan attached to the notice and subject to the condition set out in the attached schedule.

Ground (a) and the deemed planning application

2. The appeal site is in the Green Belt. The appellant accepts, as do I, that the development falls within the definition of inappropriate development provided by the National Planning Policy Framework 2024 (“the Framework”), and Policy GB1 of the Barnsley Local Plan 2019 (“the BLP”).
3. The development causes harm to the openness of the Green Belt, in both visual and spatial terms.
4. The main issues are therefore:
 - The effect of the development on the character and appearance of the area;
 - The living conditions of the occupiers of adjoining properties; and
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations to amount to the very special circumstances required to justify the development.

The Development and Site

5. The notice alleges the material change of use of the appeal site for the siting and use for human habitation of a chalet/lodge. The structure, which it is accepted falls within the definition of a caravan, is sited in an enclosed section of the wider parcel of land. It is mostly bounded by existing hedgerow. The appeal site is accessed via a gate from the track on the wider site.
6. Whilst the appellant is not arguing that the appeal site is part of a larger planning unit, they are asking that the wider site is taken into account when weighing other considerations as to amount to the very special circumstances in Green Belt terms.

Character and appearance of the area

7. The notice alleges the material change of use of the appeal site and the siting of the caravan on this part of the wider site has created a new planning unit with the solely residential use. The chalet is clad in brown coloured timber boarding with dark UPVC windows and steel cladding to roof. Whilst the chalet is only single storey and therefore mostly hidden by the hedgerow boundary to the appeal site, the material used is incongruous when viewed next to the more traditional stone and slate used in the adjacent houses.
8. Most of the views of the development are from within the privately owned wider site, but it can also be seen from the adjacent properties and from the footpath and properties further to the west. However, considering the views from the west in particular which are filtered through the trees, and the development is viewed in the context of the other surrounding houses, agricultural buildings and the pre-existing caravan and other associated structures. Whilst it is possible to see the chalet, it does not cause significant harm in terms of the character and appearance of the area as it is only single storey with the longer views mainly of the low-level steel roof. It does not look very different from the range of other structures in the vicinity other than in the immediate views of the entire structure from close proximity.
9. There is some conflict with Policy GB3 of the BLP which provides that the proposed new use of land should respect the character of existing buildings. The development does respect the character of the existing buildings through its scale massing and residential use, but not through the use of the wooden cladding. However, the appellant proposes additional planting around the appeal site to include native trees and hedgerow (which can be secured through the imposition of a condition). This will provide screening for the adjacent dwellings and a stronger green edge to further soften the impact of the development on the wider area.
10. I therefore give this harm limited weight due to the restricted views, proposed additional landscaping particularly in relation to the adjacent houses and fact that it does sit well within the existing layout of buildings due to its location on the site and low level design.

Living conditions of the occupiers of adjoining properties

11. Whilst this consideration was not included in the notice as a reason for its issue, it has been raised in submissions. However, it is unclear what this harm would be as

the chalet is only single storey and behind and an established hedgerow. Whilst it is close to the eastern boundary of the site it is next to the thick hedgerow at that point and, there is no information before me to show that there could be overlooking or that a residential use would be materially different to that of the existing houses.

12. There would be some views of the development from the adjoining houses particularly from the upstairs windows of those properties, but these would be interrupted by the well-established hedges, trees and other foliage and the proposed landscaping scheme will assist further. I do not therefore find that harm is caused to the living conditions of the occupiers of the adjoining properties.

Other considerations

13. The wider site includes a caravan which has been used for human habitation, as well as hardstanding and several other structures. The evidence provided by the appellant, which has not been contradicted or challenged by the Council during this appeal, is that there has been a caravan sited in that location for the purposes of human habitation for longer than 10 years, and that the use of that parcel of land in that way is therefore immune for enforcement action. As there is nothing before me to suggest otherwise, I accept the appellant's case in relation to the siting of this caravan and use of that part of the site.
14. The views of this existing caravan and decking with the hardstanding and other associated structures (including shed, chicken coop, and dog kennels as well as stored items and container) are on the edge of the wider site and much more prominent than the appeal development, and also cause greater harm to the openness of the Green Belt.
15. I saw this part of the wider site during the site visit, and it appears untidy and cluttered, and causes harm to the openness of the Green Belt, as can also be seen in the photographs submitted in this appeal. It is located on the edge of the site next to the open countryside. There are unrestricted views of it from outside of the site over some distance, especially when compared to the appeal site which is within the middle of the larger landholding and mostly screened by hedgerow.
16. The appellant argues that the existing caravan could be replaced by the much larger chalet structure as this falls within the definition of caravan, and that as this is a much more prominent position on the wider site more harm would be caused to both the openness of the Green Belt and character and appearance of the area if this were to happen. This is not a fallback position as such, and indeed the appellant is not saying that this would be his intention.
17. However, as this land is in the control of the appellant, they propose that this area can be cleared and a landscaping scheme implemented which will improve the openness of the Green Belt and the appearance of the site when viewed externally. They have provided a landscaping plan of this proposed scheme which could be secured by the imposition of a condition and maintained thereafter. I therefore attribute considerable weight to these positive considerations.
18. Such a landscaping scheme would also provide benefits in terms of biodiversity net gain, and the Council do not dispute that the gain would be more than the required 10% for both habitat and hedgerow units (a 17% and 44% gain

respectively). This is therefore at a higher level than that required by statute and a benefit of the proposal to which I attribute moderate weight.

19. Whilst the development took place without planning permission, the enforcement regime is remedial rather than punitive, and the purpose of enforcement action is to achieve an outcome which is acceptable in planning terms.
20. Concerns regarding the drainage arrangements for the development, both surface water and foul water, have been raised but any concerns can be adequately addressed through the imposition of a condition requiring an appropriate drainage scheme to be agreed, implemented and maintained if so required.

Green Belt Balance

21. The Framework advises that: “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open: the essential characteristic of Green Belts are their openness and permanence.” The development is inappropriate and harmful to the Green Belt and, should not be approved except in very special circumstances which 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.
22. I therefore attribute substantial weight to the harm to the Green Belt including harm to its openness, and I have also found limited harm caused to the character and appearance of the area as set out above.
23. To be weighed against this is the benefit to Green Belt which can be secured by the removal of the pre-existing white caravan, hardstanding and associated structures. This caravan is more visually intrusive and in a more prominent position, and therefore harms the openness of the Green Belt more significantly than the appeal development. I attribute considerable weight to the fact that the removal of this caravan and associated structures can be secured by grant of permission for the appeal development which will result in the consolidation of the buildings and use of the site. This will reduce the harm to openness and encroachment into the Green Belt.
24. I also attribute moderate weight to the biodiversity net gain which is in excess of that which is required by statute, and significant weight to the overall improvement of the wider site by the landscaping scheme which will contribute generally to the character and appearance of the area.
25. The other considerations in this case outweigh the harm identified. Looking at the case as a whole, very special circumstances exist which justify the development.

Conclusion on ground (a)

26. Whilst there is some conflict with the BLP as set out above, this is outweighed by material considerations including the Framework which indicate that this decision should be taken otherwise than in accordance with the development plan. The appeal on ground (a) therefore succeeds and the deemed planning permission is granted with the condition as set out below.

Condition

27. The condition is required to ensure that the drainage is properly considered and any necessary provision made, and to secure the benefits to the Green Belt, character and appearance of the area and biodiversity net gain which make the very special circumstances necessary to justify the development are secured and retained.
28. The condition includes a sanction due to the retrospective nature of the development. This requires the development to cease if the condition is not met within the given timescales.

Conclusion

29. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed.
30. In these circumstances the appeal on ground (g) does not fall to be considered.

Zoë Franks

INSPECTOR

CONDITION

- 1) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for: i) the landscaping scheme to include Drawing PWP 831 001 Landscape Strategy and 104-98-04A Site Plan as Proposed; and ii) the surface water and foul water drainage shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall be retained thereafter.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.