



Appeal Decision

Site visit made on 24 May 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2022

Appeal Ref: APP/L3245/W/21/3279076

Tong Hill Farm, Hubbal Lane, Tong, Shifnal TF11 8PW

- 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 Bradford Rural Estates against the decision of Shropshire Council.
 - The application Ref 21/00817/FUL, dated 19 January 2021, was refused by notice dated 18 May 2021.
 - The development proposed is the change of use of hardstanding and buildings (Agricultural) to General Industrial (Class B2) and Storage (Class B8) uses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of the site visit I noted that the development has been implemented. The application has been submitted retrospectively and I have dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect of the development upon the living conditions of existing occupiers;
 - Whether the development preserves or enhances the character or appearance of the Tong Conservation Area (CA);
 - The effect of the development upon highway safety; and
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the development.

Reasons

Whether the development is inappropriate development and the effect upon openness

4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is regarded as inappropriate save for a number of specified exceptions.
5. One such exception is the re-use of buildings provided that the buildings are of permanent and substantial construction, and they preserve the Green Belt's openness and do not conflict with the purposes of including land within it. The second is the material change in the use of land.
6. The Framework states that one of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects.
7. Policy CS5 of the Shropshire Core Strategy (2011) (CS) relates to development in the Green Belt and states that proposals will be assessed in accordance with national guidance. Policy MD6 of the Shropshire Site Allocations and Management of Development Plan (2015) (SAMDev) sets out that development on previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development, provided the development is for employment will be supported.
8. The appellant advises that the site is used for the storage and refurbishment of portable site accommodation, storage and welfare units. This includes the outdoor storage of units and containers in the yard. Whilst the yard is screened by buildings and landscaping the units and containers were clearly visible from within the surrounding area at the time of my site visit.
9. I find that the outdoor storage of units and containers has a substantial impact on openness in both visual and spatial terms. I am not satisfied that the proposed landscaping scheme or a condition limiting the height of stored containers, along the lines of that suggested by the appellant, would offset the impact on openness.
10. I acknowledge that previous agricultural activities would have involved the outdoor storage of goods, materials and machinery. However, this would be entirely appropriate and in keeping with the surrounding area given its previous use as a farmstead. In my view the presence of stored units and containers compromises openness to a greater extent. The development has a substantial impact on openness in both visual and spatial terms contrary to the aims and objectives of the Framework.
11. With regard to the potential for a fallback position and the use of the site for purposes falling within Class R. I am not aware that prior approval has been granted for such a development and I therefore afford this matter only limited weight in coming to my decision. Furthermore, I have determined this appeal on its own individual planning merits.
12. Consequently, the development constitutes inappropriate development as set out in Paragraph 147 of the Framework, Policy CS5 and SAMDev Policy MD6.

Living conditions of existing occupiers

13. The development results in heavy goods vehicles (HGV) transporting cabins and containers to and from the site through the village. The appellant's highway evidence indicates that whilst there would be a modest reduction in the overall number of movements passing through the village the development results in a small increase in HGV movements in the area.
14. In my view the type and frequency of HGV movements through the village is likely to generate greater noise and increased disturbance to occupiers of nearby residents, particularly as a number of dwellings sit on the roadside. The uncertain and arbitrary timings of the movements is likely to be more noticeable having an unacceptable impact on the living conditions of occupants in terms of noise and disturbance.
15. I acknowledge that the former agricultural activities would have resulted in a degree of noise and vehicle movements through the village. However, the development generates an increase in activity which is different in nature to agricultural uses. This results in noise and disturbance that is above and beyond what the residents would have been accustomed to in this sensitive rural location. The proposal is therefore harmful to the living conditions of nearby occupants. Whilst a condition could be imposed to limit the hours of operation to normal working hours it would not overcome the harm that I have identified.
16. I conclude that the harm caused by the noise and disturbance associated with HGV movements through the village affects the living conditions of existing occupants. As such, the development is contrary to Policy CS6 which, amongst other things, seeks to ensure that all development safeguards residential and local amenity.

Heritage impact

17. The CA comprises Grade I listed St. Bartholomew's Church which sits in a spacious setting dominating its immediate setting and a cluster of dwellings that make up the core of the village. The informal, spacious, and organic layout of the buildings and their well-preserved traditional architecture contribute to the significance of the CA. Beyond the buildings to the east is a large coppice of trees that leads to Tong Hill Farm and an agrarian landscape which provides an important setting to the village. The village is largely devoid of traffic due to the presence of the A41 bypassing the village resulting in a pleasant peaceful rural character.
18. I acknowledge that there is a general hum emanating from road traffic on the M54 and A41, but this is no more than background noise and, in my view, does not detract from the sense of peacefulness experienced when walking through the village and the surrounding area. In contrast the development results in HGV and vehicle movements through the core of the village and the associated noise and disturbance detracts from the peaceful rural character of the village.
19. Reference has been made to the horse riding centre generating noise, but there is nothing to suggest that this is no more than a low key use in keeping with its rural environment. Whilst there is no doubt that farm traffic would have travelled through the village the HGV movements and traffic are not in keeping with the rural character of the area.

20. Whilst the Council's Conservation Officer did not raise heritage concerns to the application this does not alter my findings in respect of this issue.
21. In light of the above I find that there is some, albeit limited harm to the CA. In accordance with Paragraph 202 of the Framework, it is for the decision maker, having identified harm to designated assets, to consider the scale of that harm. In this case I conclude that the proposal would lead to less than substantial harm to the significance of the CA. This harm should be weighed against the public benefits of the proposal including, where, appropriate, securing its optimum viable use, which I now turn to.
22. No public benefits have been presented by the appellant therefore taking into consideration the points above I find that the harm to the CA clearly outweighs the public benefits of the proposal. As such, it would fail to preserve or enhance the character or appearance of the CA contrary to Policy CS17 and SAMDev Policies MD2 and DM13 which, amongst other things, seek to protect and enhance the historic environment.

Highway safety

23. Hubbal Lane is a single width country lane that extends through a cluster of buildings sitting at the edge of the road and through a large coppice with grass verges, high banks and trees close to the road. Hubbal Lane is a no-through road that serves the site, residential dwellings and farmland. There is also a bridleway public right of way that extends along it and past the appeal site used by pedestrians and horse riders. Due to the alignment of the road forward visibility through the coppice is limited.
24. There are no passing places along the road and there is evidence of vehicle overrun from areas of eroded verges. Despite the Council's contention it does not appear to be causing land slippage along the road.
25. Hubbal Lane due to its narrow width and limited forward visibility is not conducive for the level and type of traffic using the road. The increased number of HGVs using the road and the lack of forward visibility is likely to result in conflict between vehicles travelling in different directions as well as pedestrians and riders, irrespective of speed. Given the narrow width of the road and the high banks the development is likely to lead to vehicles having to reverse along sections of the road to allow traffic to pass compromising highway safety.
26. The frequency of traffic using the road and the absence of road traffic accidents in the last 5 years does not alter my conclusion that the type of traffic activity and lack of visibility adversely affects highway safety.
27. The appellant has drawn my attention to the previous agricultural use of the site. However, this would largely be seasonal and therefore the frequency of traffic would fluctuate and would not be all year round. Furthermore, occupants and users of Hubbal Lane would be used to experiencing some farm traffic.
28. The proposed package of highway works would not, in my judgement, result in a meaningful improvement of the highway. I am not satisfied that the passing places would improve traffic movements as visibility is still restricted due to the alignment of the road and conflict between vehicles would likely continue. Moreover, given the high sided banks and presence of trees either side I am not satisfied that the passing places could be constructed or that they would have an appearance that would be in keeping with its rural location. Having

regard to the Planning Practice Guidance¹ I am not satisfied that the package of highway works could be secured by condition or that they would be reasonable or enforceable.

29. As such, I conclude that the development is contrary to Policy CS6 which, amongst other things, seeks to ensure that all developments are safe and accessible.

Other Matters

30. The appellant has made reference to permission for the re-use of buildings at Tong Hill Farm for industrial and storage and distribution uses. However, based on the limited information before me it is apparent that the circumstances in each proposal are materially different and is not a reason, on its own, to allow unacceptable development. In any event it is incumbent upon me to assess the merits of the proposal before me and every appeal must be considered on its own merits, as I have done.

Conclusion

31. In line with the Framework the proposal would be inappropriate development in the Green Belt. It would also result in the loss of openness. I attach significant weight to this harm, as required by paragraph 148 of the Framework. I have also found harm with regard to highway safety, living conditions of residents and the historic environment.
32. There are no other considerations in this case that would clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
33. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR

¹ Paragraph: 009 Reference ID: 21a-009-20140306