



Appeal Decision

Site visit made on 2 January 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/B3438/W/23/3321349

New Street, Biddulph Moor, Nr Biddulph, Staffordshire, ST8 7NL

- 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 Tony Smith [MCL Ltd] against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2022/0454, dated 29 July 2022, was refused by notice dated 9 November 2022.
 - The development proposed is described as 'removal of trees and forming new private access drive to dwelling. Closing off existing access via industrial yard on health and safety grounds.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development on the banner heading above is taken from the planning application form, as there is no evidence before me that the appellant agreed to the amended description on the Council's decision notice. I have determined the appeal accordingly.
3. In December 2023 the Government published a revised National Planning Policy Framework (the Framework). Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. Consequently, the views of the parties have not been sought in this instance. I have referred to the updated paragraph numbers where relevant.
4. The Biddulph Neighbourhood Plan (BNP) has been 'agreed' through a public referendum but has yet to be formally 'made' by the Council. Given the advanced stage of preparedness, I am satisfied that I can attach significant weight to the policies within the BNP. I have taken the parties comments into account in coming to this view.
5. The appellant submitted an amended proposed site plan¹ with their appeal statement to include the retention of tree T13 and the provision of replacement tree planting. The amendments are therefore minor and the Council and interested parties have had opportunity to consider the amended plan during the appeal process. No party would therefore be prejudiced by the acceptance of this plan, in addition to those submitted with the original application.
6. Furthermore, an Ecological Baseline Audit Report by Charnia Ecology (2023) was submitted by the appellant to address the Council's third reason for refusal in relation to the effect of the proposal on protected species and biodiversity. In

¹ Drawing number 1005 101 Rev A.

considering this information the Council has confirmed that it no longer wishes to defend this reason for refusal. I see no reason to come to a different view. As this matter is no longer in dispute, the main issues in relation to this appeal are;

- i) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- ii) The effect of the proposal on the character and appearance of the area, with regard to the impact on trees; and
- iii) If the development is inappropriate, whether the 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 proposal.

Reasons

Inappropriate Development

7. The appeal site is located within the Green Belt. Policy SS10 of the Staffordshire Moorlands Local Plan 2020 (LP) sets out that development proposals within the Green Belt will be strictly controlled allowing only for exceptions as defined by Government policy.
8. Although the paragraph numbers with regard to Green Belt matters have changed within the recent update to the Framework, the exceptions remain the same. Thus, Policy SS10 of the LP is consistent with the Framework with regard to development within the Green Belt.
9. The Framework states at paragraph 155(e) (formerly 150e), that development including the material change of use of land is not inappropriate, provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. These purposes amongst other things, include safeguarding the countryside from encroachment. It has spatial and visual aspects and is a matter of planning judgement.
10. The dwelling of Parkhall Cottage lies to the west of the appeal site, which forms part of a wider industrial complex. The vehicular access to this property from New Street is shared with the manufacturing company and obtained through an area used for the manoeuvring of goods and vehicles.
11. The proposal would see the creation of a separate access road for the dwelling routed around the southern boundary of the industrial site and into adjacent land comprising redundant kennel buildings, before turning northwards to the dwelling. This latter part of the track lies on land outside of the appeal site, the lawfulness of which is disputed by the parties. However, it is not for me to determine its lawfulness as part of this s78 appeal. Nor am I required to determine whether those works could constitute permitted development under Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015.
12. Whilst the western section of track appears to be an essential part of the project overall, it is located outside of the site edged red and therefore the appeal site. Despite this rendering the proposed track as a 'road to nowhere,' the appeal remains to be determined and I can only consider what is before me.

13. The section of access road proposed within the site edged red would predominantly utilise an existing area of hard standing currently used for car parking. As such it would not cause countryside encroachment. Being located at ground level and adjacent to existing hardstanding the access road would not have a perceptible impact upon the openness of the Green Belt.
14. The Council suggests that the proposal would result in the displacement of parked cars and external product storage elsewhere within the grounds of the industrial complex. Be that as it may, planning permission appears to already exist for a large car park in the area where the reconfigured car parking would be located², although the full details have not been presented. Furthermore, there is no evidence before me that there are any planning conditions or restrictions to prevent the external storage of product or materials within the appellant's landownership or that such storage is limited to a particular area. Even if the proposal was to result in the displacement of parking and storage within the industrial site, it would be unlikely to affect the openness of the Green Belt given the existing situation. Consequently, on the evidence presented, the proposal would preserve the openness of the Green Belt.
15. For these reasons, the proposed development would not be inappropriate development within the Green Belt. It would therefore accord with paragraph 155e) of the Framework and Policy SS10 of the LP. A case for very special circumstances is not therefore required.

Character and Appearance

16. As described above, the appeal site forms part of a wider industrial complex comprising 2 large buildings used for manufacturing and storage purposes along with associated areas of hardstanding given over to external storage, car parking and manoeuvring activities. In public views from the public right of way (PROW) that extends northwards from New Street, it therefore has an obvious commercial appearance on the fringe of Biddulph Moor, with the wider verdant countryside setting readily apparent all around. The tree-lined driveway of which the appeal site forms part, is an attractive feature that contributes positively to the rural character and verdant appearance of the area.
17. To facilitate the creation of a new vehicular access track, a cluster of trees are proposed for removal within the south-eastern corner of the existing car park. The majority of these trees are included in Tree Preservation Order (TPO) No. SM.208. The TPO is understood to have been made for the contribution of the trees to amenity and their structural landscaping value in screening the buildings, open air storage, loading/unloading operations and car parking associated with the industrial use of the site³.
18. Policy NE2 of the LP requires existing healthy trees to be retained and integrated within a proposed development unless the need for and benefits of the development clearly outweigh their loss. It goes on to require new developments to provide tree cover that secures a good level of sustainability through tree retention, planting and soft landscaping, including where possible the on-site replacement of any trees with sufficient tree planting to replace or increase the canopy cover on-site.

² Planning application reference number SM/8484 for a replacement factory building and 00/00324/FUL for the variation of parking arrangements to provide 50 spaces.

³ As cited in the Council's arboricultural advice submitted in conjunction with its statement of case.

19. The appellant's Arboricultural Report (AR)⁴ classifies 2 trees in the B1 category of moderate quality with a suggested lifespan of more than 20 years (T10 and T13), the latter of which is now proposed for retention⁵. However, the majority of the affected trees were categorised as category C1 value (T5, T7, T8, T9 and T11) of low quality with a remaining contribution of 10+ years. Some of these trees have been affected by poor pruning works.
20. Despite this, it was clear from my observations that the trees have an important collective value in forming an enclosed semi-wooded area of planting that serves to filter and soften views at the entrance to the industrial complex. When the trees are in leaf⁶ they would largely screen the site from views obtained from New Street. As such, I find that the value of the trees given their collective protected status, has been understated within the AR. Moreover, it is clear that the trees are capable of surviving for a number of years without the development proposed.
21. Even if the trees to the east of the existing vehicular access would remain, removing the cluster of trees from the south-eastern corner of the car park would undoubtedly open up views down into the industrial site, particularly in those from the access point off New Street. In such views, the swathe of car parking and white plastic wrapped pallets would become more obvious against the lush backdrop beyond. Whilst such views would be relatively localised, I find the proposed tree removal would nonetheless increase the visual impact of the existing industrial development on the surrounding area, harming the verdant rural character of the area.
22. The amended site plan indicates the provision of 2 replacement trees, 1 at either corner of the revised car parking area on land outside of the appeal site, but owned and controlled by the appellant. The plan is indicative without a detailed specification of the proposed planting.
23. Two replacement trees in divorced positions would not adequately mitigate the loss of a larger cluster of trees, forming part of a wider tree belt, even with additional low-level planting. I am not satisfied that this matter could be adequately dealt with by planning condition given that much more substantial mitigation would be required by Policy NE2 than is currently proposed. Although the appellant's landownership is relatively extensive, it is clearly a working site. It is not readily obvious therefore, where additional tree planting for softening and screening purposes as a tree belt could be accommodated to allow the specimens to grow to their full potential, without needing to reconfigure the proposed access and car parking arrangements.
24. The proposal would result in the loss of trees that would have a moderately harmful effect on the character and appearance of the area. As such, it fails to accord with Policies DC1, DC3 and NE2 of the LP which seek amongst other things, to support high quality development that adds value to the local area and which respects and enhances local landscape character, the site and its surroundings. The proposal also fails to accord with policies NE1 and NE2 of the BNP which seek to ensure new development preserves and takes opportunities to enhance the rural character of the area and supports sensitively designed landscaping to create an appropriate transition to the rural environment.

⁴ By Tree Heritage Ltd dated 27 July 2022.

⁵ Amended Proposed Site Plan drawing number 1005 101 Rev A.

⁶ As shown in the Council's photographs (IMG 7845.JPEG) supplied with its Statement of Case.

Other Considerations

25. As I have found that the proposal would not be inappropriate development within the Green Belt, a case for very special circumstances is not required.

Other Matters

26. It is suggested that health and safety concerns justify the proposal, including the loss of trees. The driveway to Parkhall Cottage is accessed through the industrial site and across a manoeuvring and turning area, an unusual arrangement for a private dwelling.
27. Nonetheless, vehicle speeds within the site are generally low, assisted by physical measures such as speed bumps, 10mph road markings and signage with a warning light on the approach road. The PROW is well signposted and a hatched area and clearly marked crossings are provided for pedestrians.
28. Although a snapshot in time, I observed that within the manoeuvring area, visibility of oncoming traffic is generally good, such that vehicles using this area and those trying to egress from Parkhall Cottage would have a reasonably good view of each other. Forklift trucks frequently traversed this area, the drivers of which were clearly operating in the knowledge that there could be pedestrians and other vehicles also negotiating this area. Such use would not appear to prevent a vehicle egressing from Parkhall Cottage for a particularly long period. In addition, there appeared to be sufficient space within the driveway of the dwelling for vehicles to turn around to leave in a forward gear. Furthermore, larger vehicles were loaded/unloaded to the north-east of Park Hall Cottage on the raised terrace, which is largely physically separated from the turning area, so as to minimise potential conflict.
29. I do not underestimate that the industrial complex is clearly a very active operation. However, there is no substantive evidence before me that the access to Parkhall Cottage is inherently unsafe for either the existing occupants, or the workers or visitors to the industrial site. Despite the suggestion that 'near misses' have occurred and that the appellant has been working with the Health and Safety Executive to reduce the perceived hazard of the access to the dwelling, no such evidence has been presented for me to consider.
30. The proposed development may provide comfort to the existing occupants of the dwelling, but this does not justify the harm identified, particularly to protected trees. Reference is also made to there having been a number of failed solutions to the perceived access problems. There is however, no evidence before me that the proposal is the only way to minimise any risk to the occupants of the dwellings or staff and visitors to the industrial premises.
31. As it has not been demonstrated that there are overriding health and safety reasons to justify the proposal, I attach limited weight to this matter.

Planning Balance and Conclusion

32. I have found that the proposed section of driveway within the appeal site would not amount to inappropriate development within the Green Belt. However, the proposal would result in moderate harm to the character and appearance of the area, with particular regard to the loss of a number of protected trees. Policy NE2 of the LP requires existing healthy trees to be retained and integrated within a proposed development unless the need for and benefits of the development clearly outweigh their loss. In the absence of any compelling

evidence regarding the health and safety implications for the neighbouring dwelling and industrial site, limited weight is attached to this matter.

33. Consequently, the need for the development does not clearly outweigh the loss of the trees or the wider harm to the character and appearance of the area. The proposal would therefore conflict with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR