

Appeal Decision

Site visit made on 27 September 2016

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 October 2016

Appeal Ref: APP/G2245/W/16/3152330

**Telecommunications Equipment at Telephone Exchange, School Lane,
West Kingsdown, Kent TN15 6JL**

- 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 "Telephone Exchange" against the decision of Sevenoaks District Council.
 - The application Ref SE/16/00840/FUL, dated 16 March 2016, was refused by notice dated 26 May 2016.
 - The development proposed is erection of 2 single storey out buildings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application form refers to the appellant as Mr m ct on behalf of the company called Telephone Exchange. It was clarified at the site visit that the reference to Mr m ct on the form was a clerical error and that the appellant is 'Telephone Exchange'.

Main Issues

3. The site is situated within the Metropolitan Green Belt. As such, it is necessary firstly to establish whether or not the appeal proposal would represent inappropriate development in the Green Belt before considering "any other harm" including the effects on the openness of the Green Belt.
4. If it is inappropriate development, paragraph 87 of the National Planning Policy Framework (NPPF) says that would be, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances will not exist unless the potential harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations (NPPF, paragraph 88).
5. Therefore the main issues in this appeal are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and any relevant development plan policies;
 - (b) The effect of the appeal proposal on the openness of the Green Belt and the purposes of including land within it;

- (c) The effect of the appeal proposal on the character and appearance of the area; and
- (d) If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify it.

Reasons

- 6. The appeal site is situated within the Metropolitan Green Belt to the south of the A20 at its junction with School Lane at the eastern periphery of the settlement of West Kingsdown. The appeal site comprises part of a parcel of land which is presently to bare earth and enclosed on 3 sides by reasonably tall solid timber fencing. The southern boundary is a tall established hedge which separates the site from the adjacent telephone exchange which consists of a large single storey exchange building, a small battery room and masts with ancillary equipment.
- 7. To the east is a small informal green area which serves as a memorial garden adjacent to the junction with School Lane and beyond the verdant grounds and building of the Abbey Court care home. To the west there are a small number of larger individual dwellings largely enclosed by trees and hedging although a small parcel of grassland separates the appeal site from the nearest dwelling to the west. To the north of the A20 there is a tighter pattern of housing, which together with The Portobello pub form a clearer built edge to West Kingsdown at this location in contrast to the more scattered peripheral pattern of development and verdant context south of the A20 including the appeal site.

Inappropriate Development

- 8. Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt. Paragraph 89 lists a number of exceptions and paragraph 90 of the NPPF identifies certain operational and other forms of development that are also not inappropriate in the Green Belt. The appeal proposal is best understood as two single storey buildings to house an array of equipment and facilities for computer hosting, server housing and network access (to facilitate data storage and enable high speed broadband). The proposal is not covered by any of the possible exceptions to inappropriate development referred to in paragraphs 89 and 90 of the NPPF.
- 9. The Local Planning Authority's (LPA) decision refers to Policy LO8 of the Sevenoaks District Local Development Framework Core Strategy Development Plan Document 2011 (the CS) which seeks to maintain the extent of the Green Belt. This policy provides no local elaboration or exceptions on inappropriate development to supplement those in the NPPF. Reference has also been made to the Sevenoaks District Allocations and Development Management Plan Development Plan Document 2015 (the ADMP). This document has been prepared in the light of the NPPF and I note Policy GB8 provides additional detail for permitting limited extensions to non-residential buildings in the Green Belt. Whilst there would be some shared components with the existing exchange complex in terms of access, parking and cable connectivity, the appeal proposal would not be within the curtilage of the existing facility and would not constitute a physical extension to any existing building. Accordingly, the proposed development would not comply with the provisions of Policy GB8.

10. Bringing all of this together, the appeal proposal must therefore be regarded as inappropriate development in the Green Belt.

Openness

11. Openness in Green Belt terms is defined as representing an absence of built or otherwise urbanising development. It is an essential characteristic and openness is a concept which goes beyond whether or not a development would be visible. Whilst the appeal site is enclosed by solid timber fencing and tall established hedging along the southern and eastern boundaries it is presently a site where there is no development or land cover, with the evidence before me indicating that before the site was cleared it sustained a crop of Christmas trees. The appeal proposal would introduce two sizeable buildings on the undeveloped site. Whilst the buildings would be single storey, the proposed ridge height would be detectable above the existing and proposed boundary fencing treatments and through the existing largely deciduous hedging.
12. The open character of the site can be readily appreciated from London Road (the main A20), particularly from the northern carriageway and footway closest to the housing and pub where there are longer viewpoints over the frontage fence across the site and towards undulating, wooded countryside beyond. Notwithstanding the backdrop of the masts and antennae of the exchange and the proposals for additional landscaping, the appeal proposal would perceptibly introduce a notable volume of additional built footprint where there is presently none. As such the proposed outbuildings would have a significantly harmful impact on the openness of the Green Belt at the appeal location.

Character and Appearance

13. Overall, there is only a small level of development south of the A20 in this part of West Kingsdown such that the undeveloped character of the appeal site positively contributes to this intervening area between the settlement and the patchwork of larger, open fields and woodland beyond. The appeal proposal would result in two commercial buildings with a strong utilitarian appearance which would be perceptible as being within the countryside.
14. I recognise that the appeal proposal would not involve the removal of any mature trees and could utilise existing mature hedging to the east and south as well as the solid timber fencing which surrounds the site and adjoining land to the north. I also recognise that the details of any landscaping scheme could be secured by condition. However, I find that the scale, massing and appearance of the proposed commercial buildings would be unsympathetic to the rural character of the appeal location. I also find that the proposed landscape layout if implemented would further erode the rural qualities of the appeal location by introducing a style of boundary commonplace in residential and other built-up environments.
15. Any alternative meaningful landscaping scheme that would complement the surrounding rural, verdant qualities would be likely to take a considerable period of time to become established and would do little, in my view, to mitigate the harmful consolidating effect that would arise from the perceptible intrusion of the appeal proposal into what is a prominent undeveloped gap between School Lane and the nearest dwellings to the west on London Road.

16. As was pointed out on the site visit, and as the LPA acknowledge, the site is not in the Kents Downs Area of Outstanding Natural Beauty. However, for the reasons given above the appeal site is part of the wider countryside at this peripheral part of West Kingsdown where there remains a prevailing verdant and undeveloped character which would be harmfully eroded by the appeal proposal.
17. I therefore conclude that the appeal proposal would be significantly harmful to the character and appearance of the area and would not represent an upgrade generally of the visual amenity of the area as the appellant submits. In this regard it would also conflict with the purpose of the Green Belt to safeguard the countryside from encroachment. It would be contrary to CS Policies LO8 and SP1 which seek, amongst other things, to conserve the countryside and local landscape character through the responsive design of new development. It would also conflict with the design principles in ADMP Policy EN1 including respecting the character of the site and surrounding area. Consequently, the appeal proposal would fail to accord with the objective of the NPPF at paragraph 17 to secure high quality design and to take account of the different roles and character of different areas.

Other considerations

18. It is submitted that the appeal proposal would enable the supply high speed broadband (4G) to West Kingsdown and surrounding communities by an alternative supplier. It would also offer computer hosting, serving housing and network access in an environment that would offer commercial security to users as well as being in a low profile environment in terms of terrorism.
19. As demonstrated by the generic evidence provided by the appellant it is incontrovertible in this day and age that the quality of broadband service is integral to economic vitality and competitiveness, education and to household's ability to access services and goods¹. I also note the submissions before me that there is a desire at various levels of government for the provision of alternative cable networks for the supply of broadband to increase competition in this sector. The appellant submits that there is not 4G provision in West Kingsdown and refers to a "strong need". Whilst, I have very little evidence to verify what the current level and quality of broadband coverage is in West Kingsdown or what the "strong need" refers to, I nonetheless have had regard to the NPPF at paragraph 46 which advises that competition between different operators should not be prevented by the planning system and that the need for a telecommunications proposal should not be questioned. Accordingly, I attach appreciable weight to the benefit of alternative high speed broadband provision in the West Kingsdown area.
20. The appellant's telecommunications consultants advise that there is no capacity within the existing exchange to house alternative providers and that is not feasible to extend or remodel the existing exchange. However, there is very little evidence to validate this, including any evidence of a request to or a response from the exchange operators to use or adapt the existing exchange or any analysis of the capability of the existing exchange site which sits on a sizeable parcel of land. The NPPF at paragraph 43 refers to "telecommunications and high speed broadband" (my emphasis) and advises that sites should be kept to a minimum and that existing sites should be used

¹ As recognised by the NPPF, paragraph 42

unless justified. In my view the evidence before me provides insufficient justification that the existing exchange complex cannot be utilised.

21. Similarly, there is little evidence of any investigation of alternative premises in the area. I have noted that 93% of the District is Green Belt but re-using other commercial premises in West Kingsdown, including those in the Green Belt, may not necessarily be inappropriate. No details are provided of what search for alternative sites was undertaken which significantly limits the justification for selecting a new site in the Green Belt.
22. I have noted the appellant's evidence regarding the practicalities of establishing alternative broadband networks and the inherent advantage of the appeal site being adjacent to the existing exchange in terms of being able to directly connect into the existing cable network. However, the appellant submitted at the time of the application in March 2016 that "another site in the community could be utilised" although this would require extensive work for cabling². I recognise that it is now the appellant's position that the cost of connecting to another site would be prohibitive. Again, I have very little evidence to demonstrate that an alternative site would be unviable in this regard and consequently attach very little weight to the submissions on the connectivity and viability of the appeal site.
23. With regards to the proposed computer hosting and server housing in a secure commercial environment for businesses, I have no persuasive evidence that the appeal site has unique attributes such that it is one of only a very limited pool of low profile sites that would justify the release of Green Belt for such a use. Accordingly, I attach very little weight to the benefit of the appeal proposal in providing secure, low profile data storage.
24. The appellant also refers to the benefit of the appeal proposal in providing shared and enhanced on-site parking including for the existing exchange. I noted that there is linear off-road parking at the existing exchange. I have no evidence that this is insufficient or that the exchange requires regular maintenance or visits. Accordingly, I attach very little weight to this benefit.

Other Matters

25. I am mindful that the appellant sought for this appeal to be determined by way of a hearing and on page 3 of the appeal statement explained that the very special circumstances (benefits) would be "discussed in detail and evidence given at the hearing". However, the appeal statement does address the asserted benefits of the scheme and I am also satisfied that in submitting their final comments the appellant's have had the opportunity to amplify their case for selecting the appeal site in response to the LPAs reason for refusal and appeal statement. I am also aware that the appellant perhaps envisaged a more interactive site visit to explain its case. However, the appeal process should be front-loaded with as much evidence and justification at the start rather than towards the end of the process. In this regard the site visit is not the appropriate stage to introduce new or expanded evidence. I have dealt with the appeal on the basis of the written evidence before me and the particular circumstances at the appeal site and have been able to reach a conclusive decision.

² Page 3, Section 2 of Planning Statement, Indalo Property Services, March 2016

26. I have also had regard to the appellant's point that case law requires a balancing exercise in considering very special circumstances and on this basis the Secretary of State has allowed development that is harmful to the Green Belt where there would be a "substantial benefit". The appellant briefly refers to a 1500 home proposal in Gloucestershire of which I have very few details. In any event it appears to have very limited comparison to the specific circumstances of the appeal proposal.
27. Similarly, both parties refer to an earlier appeal decision in 2011 on adjoining land for a dwelling³. I have considered that decision and the plan provided at Appendix 3 of the appellant's final comments. It is a decision of some age, for a different scheme on an adjoining site. Consequently, it has limited comparison although similar conclusions have been drawn regarding the local character. Moreover, I have determined the appeal proposal on the evidence before me including the more recently adopted development plan documents and the particular circumstances and characteristics of the appeal proposal which are to the south of this earlier appeal site.

Conclusions

28. The proposed development would be inappropriate development, which the NPPF at paragraph 87 confirms is by definition harmful to the Green Belt. In addition there would be a material loss of openness and a wider harm to the character and appearance of the area. The NPPF at paragraph 88 states that substantial weight should be given to any harm to the Green Belt. I have given appreciable weight to the benefits of alternative high speed broadband provision but for the reasons given above I find only limited weight can be attributed to the other considerations given in support of the proposal. On balance I conclude that when taken together, the extent of the benefits arising from the scheme would not clearly outweigh the harm to the Green Belt and the identified other harm the proposal would cause. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt.
29. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Spencer

Inspector.

³ APP/G2245/A/10/2138042