
Appeal Decision

Site visit made on 19 September 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 05 October 2016

Appeal Ref: APP/E1855/W/16/3152598

Land at Station House, Saltway, Hanbury, Worcestershire

- 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 David Jordan on behalf of David Jordan Road Brush Ltd against the decision of Worcestershire County Council.
 - The application Ref 15/000046/CM, dated 18 December 2015, was refused by notice dated 29 March 2016.
 - The development proposed is to fully install and operate a materials recovery plant in order to process road sweepings and highway drainage clearance material within the existing distribution depot.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my visit the materials recovery plant was in place within the site and the application form indicates that the use started on 1 May 2015. I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan;
 - The effect on the openness of the Green Belt and the purposes of including land within it, and;
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

4. The appeal site is accessed from Saltway (B4090) from a large turning area which also serves the existing dwelling known as Station House and a parking area to the side of four pairs of semi-detached houses collectively known as Brickyard Cottages. The access road has a gentle downward slope in a north eastern direction towards a railway line to the east and associated infrastructure to the north of the site. The access road runs through an
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existing yard comprising a mix of hardstanding, vehicle parking, containers, skips and open storage that falls outside of the site boundary. A household recycling centre and closed landfill is adjacent to the western boundary and open countryside is located beyond the railway line to the east.

5. The main part of the site is located between the existing yard to the south and enclosed by the railway and infrastructure to the north and east. The site, historically was part of a railway goods operation and other commercial uses, and consists of an existing yard with a large building and containers grouped towards its southern extent. The remainder of the yard comprises an expanse of part concrete and part hard-core surfacing with some vehicle parking. The materials recovery plant subject to this appeal, together with associated equipment, is currently in place in the northern section. There is an existing palisade fence along the northern and eastern boundaries of the yard and a raised landscape bund with trees and hedging to the western boundary of the site. The application site is designated within the West Midlands Green Belt.

Whether the proposal is inappropriate development in the Green Belt

6. The development plan is the starting point for decision making. In this case, the development plan for the area includes the Waste Core Strategy for Worcestershire - Waste Local Plan 2012-2027 (WCS), adopted November 2012, and the South Worcestershire Development Plan (SWDP), adopted February 2016, which includes Wychavon District Council.
7. Policy WCS 13 of the WSC permits waste management facilities in areas designated as Green Belt where the proposal does not constitute inappropriate development, or where very special circumstances exist. This is supplemented by Policy SWDP 2 of the SWDP which seeks that the West Midlands Green Belt is maintained and that development proposed within the Green Belt will be considered in accordance with national policy as set out in the Framework. The appeal site is not included within the list of Major Developed Sites within the Green Belt identified by Policy SWDP 2.
8. The proposal would not fall within the forms of development identified by the Framework as not inappropriate in the Green Belt. The site would meet the definition of previously developed land in the Framework, given it consists of a permanent building and the curtilage of the developed land. However, the proposal does not fall within the exceptions of paragraph 89 which relate to new buildings or the other forms of development listed under paragraph 90.
9. I conclude that the proposal would comprise inappropriate development, which is, by definition, harmful to the Green Belt.

Openness and Green Belt purposes

10. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to prevent urban sprawl by keeping land permanently open, with openness identified as one of the essential characteristics of the Green Belt. This part of the Green Belt comprises a site that is visually contained along its southern and western boundaries and consists of an existing commercial premises and use with an associated building, hard surfacing and parking of vehicles adjacent to a railway line and additional infrastructure to the north. Consequently, the site is clearly less open than the surrounding countryside.

11. Nevertheless, the Framework makes no distinction between the importance of openness in different parts of the Green Belt, and to my mind the key determinant here, as elsewhere, is whether the proposal would materially increase the amount of built development on the site. The development involves the addition of a materials recovery plant with a maximum height in excess of 6.5m and a significant footprint on the northern half of the yard when the associated equipment is taken into account. This consists of development of an area to process road sweepings and highway drainage clearance material that was previously hard surfacing, resulting in a loss of openness.
12. The evidence before me indicates that the lawful use of the site is for distribution that is not constrained by conditions and therefore could involve outside storage and parking of vehicles on the northern half of the site. Nevertheless, it is reasonable that the frequency, distribution and intensity of outside storage and parking of vehicles within the site could be subject to significant variation, even on a daily basis, given the transient nature of a distribution use. In contrast, although the submitted plans indicate that the materials recovery plant is mobile there is no indication that it would be removed from the site or stored elsewhere when not in use. As such, it would be a constant and permanent feature within the site which would have a greater effect on openness than the fallback position of the lawful use.
13. The effect on openness would be evident from viewpoints to the east, including along Saltway, given the boundary adjoining the railway line along the northern section of the site consists of only a palisade fence. Nevertheless, given the fallback position and screening offered by existing landscaping on the southern and western boundaries that the development would be viewed against, the loss of openness would result in only moderate harm. In reaching this view, I have taken into account that additional landscaping on the eastern boundary of the site could further reduce the visual prominence of the plant and equipment.
14. As the site is previously developed land and has a lawful use that does not preclude outside storage and parking of vehicles on the northern section of the site, the proposal would not represent a harmful encroachment into the countryside. In addition, the proposal would have no detrimental impact on the other purposes of including land within the Green Belt listed at paragraph 80 of the Framework given its relative isolation from built up areas.
15. I conclude that the development would lead to a moderate loss of Green Belt openness and would therefore conflict with paragraph 79 of the Framework.

Other considerations

16. The appellant's evidence indicates that the materials recycling plant has been set up in order to undertake trial runs to establish the effectiveness on the process and to enable its operation to be demonstrated as part of seeking permission to retain and operate it on site. In such circumstances, the proposal consists of intentional unauthorised development in the Green Belt. The Planning Policy Statement on Green Belt protection and intentional unauthorised development issued on 31 August 2015 relating to the determination of planning applications and appeals received from 31 August 2015 makes intentional unauthorised development a material consideration.
17. The Government is particularly concerned about harm that is caused by intentional unauthorised development in the Green Belt. This is a matter which

I therefore attach significant weight and consequently little weight can be given to the potential need to dispose of the specialist equipment already purchased if the appeal is dismissed. The recent Government consultation on proposed changes to national planning policy can be given little weight at this time.

18. The development would assist the delivery of sustainable development by recovering waste materials, which otherwise would be disposed of to landfill. The proposal would, therefore, make a positive contribution to the objectives of the National Planning Policy for Waste in terms of the waste hierarchy which prioritises re-use and recycling over disposal. It would also contribute to Worcestershire's equivalent self-sufficiency in waste management capacity in accordance with Policy WCS 15 of the WCS.
19. With regard to the above, the WCS sets out a Geographic Hierarchy for waste management facilities comprising of 5 levels with the highest being Level 1. The site is located in Level 5. Policy WC 3 of the WCS permits waste management facilities that enable re-use or recycling at all levels of the geographic hierarchy where it is demonstrated that the proposed location is at the highest appropriate level of the geographic hierarchy. In this respect, there would be economic and environmental benefits of a localised facility with close proximity to the A38 and A46, as opposed to the higher levels in the hierarchy in more distant urban locations. However, the weight that can be afforded to the waste management and locational benefits of the site is reduced by the absence of substantive evidence relating to the availability, or otherwise, of alternative sites for a localised facility in locations that are not designated as Green Belt.
20. The development would have economic benefits in supporting the existing employment of the appellant's business on a site that has a lawful employment use. The proposal therefore accords with Policy SWDP 12 of the SWDP relating to employment in rural areas. The associated benefits however are attributed only moderate weight, as there is no evidence before me that a net increase in local employment would arise from the development or that existing employees could not otherwise be redeployed if the appeal is dismissed.
21. A noise survey has been provided relating to monitoring undertaken during the morning of 26 February 2016 at the nearby residential properties at Station House and Brickyard Cottages. The survey indicates that the properties are subject to significant baseline levels of noise arising from road traffic, together with the proximity to the railway line and household waste recycling centre. Furthermore, when the materials recycling plant was operational the noise levels recorded at the residential properties was not higher. The Council has provided no contrary evidence. I, therefore, consider that the proposal would not have a harmful effect on the living conditions of occupiers of nearby properties, subject to controls on hours of operation in evenings, at night time and at weekends when a quieter noise environment could reasonably be expected. However, the absence of harm is a neutral factor.
22. The absence of adverse impacts relating to highway safety, existing access arrangements and rights afforded to Network Rail, biodiversity, flood risk, drainage and the interrelationship with pollution control of the adjacent landfill site, subject to the imposition of conditions where necessary, are also neutral factors which do not weigh in favour of the proposal.

23. The appellant has suggested that there is a fallback position that as the site is previously developed land, alternative proposals could be brought forward for buildings in accordance with the exceptions listed under paragraph 89, bullet point 6 of the Framework. However, the partial or complete redevelopment of previously developed sites is subject to proposals not having a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. I therefore give little weight to a potential fallback position in this respect, as planning permission would be required with necessary assessment of the suitability of a proposal in the first instance.
24. If the appeal is dismissed, the owners may wish to find an alternative use for the site. In this respect, given the existing lawful use for distribution there is a fallback position of the site being used more intensively than could be controlled through the grant of planning permission for the development before me. This fallback position is afforded significant weight given the potential harm that could arise in terms of increased traffic movements and noise impact on the living conditions of occupiers of neighbouring properties relating to hours of operation.

Conclusion

25. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There would also be moderate harm to openness. Significant weight is given to the harm identified being caused by intentional unauthorised development. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
26. I give significant weight to the potential harm that could otherwise arise from the fallback position of a lawful distribution use that is unconstrained in terms of intensity of use and hours of operation. I give moderate weight to the waste management benefits in environmental terms and economic benefits associated with the ongoing support for a rural business and existing local employment relating to the scale of the development and use of previously developed land. I give little weight to the possibility of alternative development proposals and the potential need to dispose of the specialist equipment already purchased. A number of neutral factors have also been identified which do not weigh in favour of the proposal.
27. Having taken all of the above into account, I find that the other considerations in this case do not clearly outweigh the substantial weight to be given to the totality of harm to the Green Belt and the significant weight afforded to the harm having been caused by intentional unauthorised development in the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. I conclude that the proposal, therefore, conflicts with Policy WCS 13 of the WSC, Policy SWDP 2 of the SWDP and the Framework when taken as a whole.
28. For the reasons given above, the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR