
Appeal Decision

Site visit made on 21 September 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 1st November 2016

Appeal Ref: APP/Q5300/W/16/3152918

Lindale Nurseries, Cattlegate Road, Enfield, EN2 9DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Rod Thompson against the Council of the London Borough of Enfield.
 - The application Ref: 15/04983/FUL, is dated 2 November 2015.
 - The development proposed is the erection of an agricultural storage building for the storage of farm machinery and hay made on the land.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an agricultural storage building for the storage of farm machinery and hay made on the land at Lindale Nurseries, Cattlegate Road, Enfield, EN2 9DP in accordance with the terms of the application, Ref: 15/04983/FUL, dated 2 November 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: KCC1 (Location Plan); KCC2 (Block Plan – Proposed); KCC3 (Proposed Building Elevations); and KCC4 (Floor Plan).
 - 3) No development shall take place above ground level until samples of all external facing materials have been submitted to, and approved in writing by, the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.
 - 4) The open-fronted storage shed hereby approved shall only be used for the storage of hay harvested from the site and agricultural machinery / plant as detailed within the submitted Agricultural Appraisal (November 2015) and for no other purpose whatsoever.

Application for costs

2. An application for costs was made by Mr Rod Thompson against the Council of the London Borough of Enfield. This application is the subject of a separate Decision.
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Procedural matter

3. Although this appeal is against the failure of the Council to give notice of its decision on the application within the prescribed period, I received as part of the Council's submissions a Statement of Case which sets out that had the Council been in a position to determine the application it would have refused planning permission on the grounds that the proposed development would cause harm to the openness of the Green Belt and result in encroachment of development into the open countryside. I have therefore determined the appeal on this basis.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies; and
 - The effect of the development on the openness of the Green Belt.

Reasons

Whether the proposal is inappropriate development

5. The appeal site is situated in the Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out that, subject to a number of exceptions, the construction of new buildings is inappropriate in the Green Belt. The list of exceptions includes buildings for agriculture and forestry. It is not disputed by the Council that the building is for the purposes of agriculture and the planning application was accompanied by an agricultural appraisal which concludes that the building is necessary for an agricultural operation, and is of an appropriate size and design for the intended purpose. The conclusions of the agricultural appraisal are also not disputed by the Council. From the evidence before me, and from what I saw on my site visit, I have no reason to reach a different conclusion.
6. As the proposed building falls within the list of exceptions set out in paragraph 89 of the Framework, it would not be inappropriate development in the Green Belt. It would also comply with Policy 7.16 of the London Plan 2015 and Core Policy 33 of the Enfield Core Strategy 2010 (Core Strategy) which seek to protect the Green belt from inappropriate development.

The effect of the development on the openness of the Green Belt

7. The Court of appeal found in the case of Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council and Anor (Rev1) [2016] EWCA Civ 404 that where development is found to be 'not inappropriate' applying paragraphs 89 or 90 of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. Development which forms one of the exceptions set out in Paragraphs 89 and 90, and where there is not a specific requirement to consider the actual effect on openness, is not inimical to the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open, or to the essential characteristics of Green Belts, namely their openness

- and their permanence, or to the five purposes served by the Green Belt set out in paragraph 80.
8. The exception in respect of buildings for agriculture and forestry allowed by Paragraph 89 does not require an assessment to be made of the effect of the development on openness, or the purposes of including land within the Green Belt, in order to determine whether or not the development is inappropriate. The judgment makes it clear that, in these circumstances, once it has been established that a proposed development is not inappropriate, there is no place for a subsequent assessment of the effect of the development on Green Belt openness.
 9. My attention has been drawn to two previous appeal decisions near the appeal site, specifically in relation to the openness of the Green Belt. However, these appeal decisions predate the Court of Appeal judgement in the *Lee Valley* case and, in any event, relate to development which was found to be inappropriate development and, by definition, harmful. Consequently, I do not consider that these are directly analogous to the case that is before me.
 10. The Council suggest that the hardstanding area that is present on the site, if used for the parking of farm vehicles would cause unacceptable harm to the openness of the Green Belt. This does not form part of the appeal proposal and could be used for the parking of vehicles regardless of whether the proposed building is constructed. I therefore give very little weight to this argument.
 11. I have found that the proposed building is for agricultural purposes and is therefore not inappropriate development. In the light of the *Lee Valley* judgement, I conclude that the proposed development would not cause harm to the openness of the Green Belt or conflict with the purposes of including land within it.

Other planning considerations

12. Core Policy 30 of the Core Strategy seeks a high standard of design in new developments and Policy DMD 82 of the Enfield Development Management Document 2014 (DMD) sets out detailed criteria against which development that is not inappropriate is to be assessed. The proposed building would be 22.5 metres wide, 10 metres deep and would have a monopitch roof 4.5 metres high at its highest point. It would be open fronted and constructed with concrete panels low level with metal sheeting above. The design would be typical of agricultural buildings found elsewhere. It would be located at the edge of the field adjacent to the high hedge line which forms the field boundary and which would be retained following the development. The site is largely flat and the proposed building would not be widely visible from outside the appeal site.
13. The form and design of the proposed building would be appropriate to its purpose, and to a rural area, and the siting would minimise its impact on the countryside. The colour of the external materials is unspecified in the application, however, this does not go to the heart of the proposal and could be addressed through an appropriately worded condition. I therefore find that there is no inherent conflict with Policy DMD 82.

14. Policy DMD 90 addresses appropriate uses in the Crews Hill Defined area within which the appeal site lies. This policy refers specifically to the development new garden centres, intensive livestock units and residential development. It is silent with regard to general agricultural buildings and, consequently, I do not consider that it is relevant to the proposal before me.
15. Policy DMD91 relates to improving the general appearance of the Crews Hill Defined Area. The policy requires that new development should preserve the openness of the Green Belt and sets out a number of criteria relating to design. I have found that the proposed development would not cause harm to the openness of the Green Belt and the design criteria set out in the Policy are directed primarily at commercial developments. The proposed development would retain the existing field boundary hedges and high quality external materials could be achieved through the use of an appropriately worded condition. The criteria relating to the creation of a safe pedestrian environment, refuse collection arrangements, and advertisements are not relevant to the appeal proposal.

Other matters

16. I note that the Council have not raised any concerns in respect of the effect of the development on other occupiers of premises on Cattlegate Road or the living conditions of the occupiers of nearby residential properties. I also note that they have not raised any concerns regarding highway safety. From the evidence before me and from what I saw on my site visit, I would not disagree with these conclusions.

Conditions

17. I have had regard to the list of conditions that have been suggested by the Council. In order to provide certainty as to what has been granted planning permission I have attached a condition specifying the approved drawings. As full details of the proposed materials have not been provided, in order to ensure that the proposed development is in keeping with its surroundings it is necessary to attach a condition requiring that the external materials be approved. Due to the location of the proposed building in the Green Belt, in order to prevent it being used for purposes that are not appropriate to its location, a condition restricting it to use for the storage of hay and agricultural machinery is necessary.

Conclusion

18. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out above.

John Dowsett

INSPECTOR