
Appeal Decision

Site visit made on 15 September 2016

by Jane Miles BA (Hons) DipTP MRTPI

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

Decision date: 16 November 2016

Appeal Ref: APP/J1535/W/16/3151154

Brooklyn Nursery, Mott Street, Waltham Abbey, Essex E4 7RW

- 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 Purdey Ltd & P Pizzo, S Pizzo, S Gillani, A Gillani against the decision of Epping Forest District Council.
 - The application ref: EPF/2833/15, dated 4 November 2015, was refused by notice dated 5 January 2016.
 - The development proposed is demolition of existing glasshouse and erection of 5 residential dwellings and 2 storey office extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In the light of a recent Court of Appeal¹ judgment the Council has confirmed it does not wish to pursue its third refusal reason relating to the lack of provision for affordable housing. Thus I have not considered this matter further.

Reasons

Background & main issues

3. The appeal site is in the Metropolitan Green Belt and the Council's first refusal reason is based on a finding that the proposals would be inappropriate development in the Green Belt and, as such the appeal scheme would conflict with saved Policy GB2a of the Epping Forest District Local Plan (1998) and Alterations (2006) (LP). That finding has three strands, having regard to paragraph 89 of the *National Planning Policy Framework* which lists exceptions to the long-established principle that construction of new buildings should be regarded as inappropriate in the Green Belt. The first strand is that, because the glasshouse is an agricultural building, the appeal site does not fall within the *Framework* definition of previously developed land. Secondly the proposed extension to the existing office building would result in a disproportionate addition over and above the size of that original building. Finally the scheme would not constitute limited infilling in a village.

¹ Secretary of State for Communities and Local Government v West Berkshire Council and Reading Borough Council [2016] EWCA Civ 441

4. The appellants' statement of case includes the sentence "the appellants argue that the *NPPF* allows for limited infilling in villages", but it is not explicitly suggested either that the appeal scheme would constitute such infilling or that the proposals would not be inappropriate development in the Green Belt. Rather the appellants' case focuses mainly on the various considerations which they consider amount to very special circumstances to justify the scheme. I therefore find no reason to disagree with the Council's finding that the scheme would be inappropriate development in the Green Belt. As set out in the *Framework* such harm is, by definition, harmful to the Green Belt and in addition substantial weight is to be given to any harm to the Green Belt.
5. Thus the **first main issue** to consider in this appeal is the proposals' effect on the openness of the Green Belt and on the character and appearance of the surrounding area. The **second main issue** is whether the harm arising from inappropriateness and any other harm is clearly outweighed by other considerations, thereby amounting to the very special circumstances needed to justify the proposals.
6. It is also relevant to note at the outset that the Council cannot currently demonstrate a five-year housing land supply. Therefore, as set out in *Framework* paragraph 49, relevant policies for the supply of housing should not be considered up-to-date. In addition the approach to decision-making set out in paragraph 14 should be followed. This includes the proviso that planning permission should be granted unless specific policies in the *Framework* indicate development should be restricted.
7. The examples of 'specific policies' listed in Footnote 9 to paragraph 14 include those relating to land designated as Green Belt. Consequently the appellants' view² that the absence of a five-year housing land supply creates a presumption in favour of the appeal scheme will not necessarily apply in this case. Depending on the outcome of the second main issue, it may or may not then be necessary to assess whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole.

Openness of the Green Belt; character and appearance of surrounding area

8. The site is in a relatively rural location alongside a narrow lane which has some street lighting but no footways. In addition to development on and immediately adjacent to the appeal site there are a few scattered dwellings along the lane together with some other existing or former glasshouse/nursery sites and, at the junction with the A112 to the west, a public house. The appeal site does not currently have its own access to Mott Street and consequently it is only the upper parts of the existing glasshouse building which are currently visible from the lane above the boundary vegetation.
9. Despite its relatively modest height, the glasshouse is a structure of significant size, amounting to approximately 2751sq.m and covering some 70-75% of the site. This and some small ancillary buildings mean most of the appeal site is not 'open' in the Green Belt sense of being free of buildings or structures. The appeal proposals would markedly reduce the footprint of built development on the appeal site, which might in some circumstances be a benefit in terms of openness. In this case however any resultant gain in openness would be more

² Made with reference to a recent appeal decision, ref: APP/J1535/W/153134332, dated 13 April 2016

than offset by the significantly greater height of the two-storey dwellings and two-storey office extension (relative to the glasshouse) combined with the substantially more solid form of the proposed buildings (compared with the lightweight and translucent glasshouse).

10. Moreover creating the access onto Mott Street would open up views into the proposed residential area from the lane. In public views from the lane the height and solidity of the buildings would have a more visible impact in terms of openness than the lightweight and translucent glasshouse through which the sky can be seen.
11. The net effect of the proposed development would therefore be a material reduction in the Green Belt's openness. Bearing in mind that openness is an essential characteristic of Green Belts that reduction would cause serious harm to the Green Belt, thereby conflicting with the *Framework*. I find that to be the case irrespective of the mixed character of the site's surroundings and of the limited contribution the existing site makes to the openness and purposes of the Green Belt. I have borne in mind also the various extracts from case law included in the appellants' statement of case³.
12. Turning to matters of character and appearance the existing glasshouse is largely unused and is described in some documents as derelict but, at the time of my visit, it was reasonably intact and tidy⁴. Moreover the combined effect of boundary vegetation and the 'see-through' nature of a glasshouse is such that the building currently has relatively little impact on the character and appearance of the street scene. I have borne in mind that its condition might deteriorate over time and/or the vegetation could be removed in future. Even so, bearing in mind also that glasshouses are an established feature of this locality (albeit most are set back behind frontage development) I find the existing glasshouse's impact on the area's character and appearance to be neutral, rather than negative as the appellants maintain.
13. The design of the proposed office extension follows that of the existing and immediately adjacent single storey building. Thus I find that it would have little if any harmful effect on the character and appearance of its surroundings, despite its greater height.
14. The five dwellings around a short cul-de-sac would however be a form of development in depth which is untypical of the established pattern of the existing sporadic residential development along this part of Mott Street. Most of the existing dwellings are on individual and well separated plots, accessed directly from the lane⁵. These scattered dwellings do not appear to be within any village boundary. In this context such a close-knit grouping of five substantial new dwellings, combined with the extent of hard-surfacing for the cul-de-sac and parking areas, would introduce a much more urban character into a relatively rural setting. That markedly different character would be apparent from Mott Street in views along the cul-de-sac, despite the proposals for landscape screening.
15. For these reasons I find the proposed housing development would appear incongruous in its site-specific context, even though the design and layout

³ Bearing in mind that some of those extracts appear to be quotes from the claimants' cases rather than from the final judgments

⁴ And the site owner's letter at Appendix C to the appellants' statement of case explains why this is so

⁵ Some of which are illustrated in photographs accompanying the appellants' statement of case

considered independently of the site context is attractive, and despite support from the Parish Council in terms of improvement of the street scene. I conclude therefore that the group of five two-storey dwellings would detract from the surrounding area's established character. It would conflict in this respect with saved LP Policies CP2 and DBE1 and with elements of the *Framework*, most notably the expectation in its core planning principles that account should be taken of the different roles and character of different areas.

Other considerations; very special circumstances

16. The appellants' maintain the site in its current condition is not 'open' and does not add any value to the Green Belt. That may be so but, for the reasons already given, the proposed development would reduce the Green Belt's openness still further, thereby causing harm. The preceding paragraphs also explain why I do not agree the development would improve the appearance of the street scene, or that it would be development within a village boundary.
17. Several of the appellants' points relate to the glasshouse and land not being commercially viable and to the lack of any demand for it in its current condition, as demonstrated by a marketing exercise. Responses from local residents offer a contrary view, but their anecdotal references to interest being expressed in use of the glasshouse are not supported by any substantive evidence. In any event, even though the site does not fall within the *Framework* definition of previously developed land, the appeal scheme would still be a redevelopment which would make more efficient use of land. That is a factor which carries some modest weight in favour of the proposals.
18. The office extension would facilitate expansion of a local business (Purdey Ltd), helping to secure its long term future and to provide local employment and training opportunities. The new dwellings would make a small contribution to housing supply in a district with a severe shortage of housing land. The Council maintains additional dwellings in this location would not be sustainable because of a lack of local facilities and public transport links. However the extent to which it has taken account of detailed information on such matters in the Transport Statement submitted with the application is unclear. From that information I find insufficient grounds to conclude accessibility to facilities and public transport would be so poor as to weigh against the proposals.
19. In addition, as I understand it, the housing and office elements of the proposed redevelopment are linked because the former is intended, in effect, as enabling development for the latter. However, whilst I do not doubt the benefits of the office extension for Purdey Ltd, the effects that failing to secure the extension would have on the company's prospects is less clear. Taking account of all factors noted in this and the preceding paragraph I find it reasonable to give moderate weight to the social and economic benefits likely to result from the office and residential developments.
20. In summary therefore substantial weight must be given to the harm arising from inappropriateness and the harm the proposal would cause to the openness of the Green Belt and to the area's character and appearance. In terms of other considerations I give moderate weight to the social and economic benefits of making more efficient use of the site to provide additional office accommodation and the five new dwellings that would also contribute to housing supply. Having found nothing else of substance to weigh in favour of the appeal scheme I conclude the harm I have identified is not clearly

outweighed by other considerations. Thus it follows that very special circumstances to justify the proposal do not exist.

21. The appeal proposals would therefore conflict with the development plan and with specific policies in the *Framework* which indicate that development should be restricted. Thus the proposals would not constitute sustainable development and it is not necessary to consider whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole. It follows therefore that the appeal must fail.

Jane Miles

INSPECTOR