

Appeal Decision

Site visit made on 4 April 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 08 May 2017

Appeal Ref: APP/N1920/W/16/3164062

Furzefield Centre, Mutton Lane, Potters Bar, EN6 3BW

- 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 E Shalal and Mr X Nikaj against the decision of Hertsmere Borough Council.
 - The application Ref 16/1493/FUL, dated 29 July 2016, was refused by notice dated 15 November 2016.
 - The development proposed is the use of part of the car park for a hand car wash service.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Appellants have questioned whether the proposed development requires planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the Appellants to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
3. At the time of my site visit the change of use had taken place along with the siting of an associated storage container on the site. Therefore, the appeal has been considered on this basis.
4. Since the Council's decision, the Hertsmere Borough Council Site Allocation and Development Management Plan (SADM) has been adopted in late November 2016. As a result, emerging policy SADM27 has been replaced by policy SADM26.

Main Issues

5. The site is within the Green Belt and so the main issues are:
 - Whether the scheme would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan;
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- If the scheme is inappropriate development, whether the harm caused 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 it.

Reasons

Whether inappropriate development

6. The National Planning Policy Framework (the Framework) establishes that new buildings are inappropriate in the Green Belt, unless they fall within exceptions detailed in paragraphs 89 or 90 of the Framework.
7. The scheme includes a storage container described by the Appellant as a temporary non-permanent structure. Taking this into account and what I saw of the container on my site visit, the development has therefore been considered as a change of use. On this basis, the scheme does not fall within any of the exceptions listed under paragraph 89 because there is no building to be considered. Nor does it fall within the exceptions listed under paragraph 90 because it would clearly not fall within the definition of any of them. On this basis, the scheme is inappropriate development.
8. Parties have considered the exception of whether the development is limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than existing development.
9. My attention has drawn to an allowed appeal at Noke Thistle Hotel in St Albans where an Inspector concluded that a change of use of a car park to a car wash service and siting of associated timber structure came within this exception. However, the timber structure/shed would have to been considered as a building under the exception above for the purposes of this appeal decision and there is insufficient information before me to assess how this was concluded.
10. Nevertheless, even if I was to consider the above mentioned exception for this scheme, an assessment would have to be made as to whether there is a greater impact on openness. In this regard, openness is an essential characteristic of the Green Belt which is commonly taken to mean the absence of built or otherwise urbanising form and not the absence of visual impact. The storage container results in additional volume. The container is adjacent to recycling facilities and a high wire fence but it is sited on a land previously open in nature. Thus there is a loss of openness, albeit small, and this exception does not apply even having carried out this alternative assessment approach.
11. Referring back to the Noke Thistle Hotel appeal decision, the Inspector concluded the scheme before her resulted in no greater impact on the openness of the Green Belt. However, the current appeal scheme differs in that the storage container has been sited on a pavement area and so it would not be replaced by parked vehicles if removed, as was the situation described in this other appeal situation. Therefore, the findings of this other Inspector on openness are of limited relevance.

12. It is accepted that the parking of vehicles in parking bays for washing has no greater impact on openness compared to those that would have been parked here in connection with the Furze Field Centre. However, this would not affect my findings that the scheme here is inappropriate development for the reasons indicated. By definition, inappropriate development would be harmful to the Green Belt and so the scheme is in conflict with the Framework and policy CS13 of the Hertsmere Borough Council Core Strategy (CS) 2013 regarding exceptions to inappropriate development.

Other considerations

13. The majority of customers are from the leisure centre and there is no significant intensification of activity on the site given the previous leisure centre customer parking. The opening times of the car wash facility coincide with those of the leisure centre. Accordingly, there would be no significant harm to the living conditions of residents in the area or severe transport impact in the vicinity. However, it would be expected with any development that neighbour's living conditions and highway capacity and safety should not be harmed. As such, the absence of harm is not a benefit and these considerations are of neutral significance.
14. Paragraph 80 of the Framework sets out the five purposes of the Green Belt. By reason of the loss of openness, albeit small, the scheme does not check the unrestricted sprawl of a large built-up area and thus there is a conflict with an identified purpose.
15. The container has been painted green and is surrounded by vehicle parking areas, recycling facilities and fencing associated with an outdoor playing facility. Views of the site from outside of the car park are limited and there is some screening from certain directions within the site. Accordingly, the development is not out of keeping with the character and appearance of the site but it is not an enhancement by reason of its utilitarian freight container design.
16. The development provides employment for 1 full time and 2 part time staff and would provide some benefit to the local economy. However such a benefit is limited by reason of the small-scale nature of the business on the site.
17. In relation to sustainable development under the Framework, some economic benefits arise for the reasons indicated. A service is provided for customers. The Appellants' appeal documentation indicates that all necessary environmental licences and requirements are being met. However, this is offset by the extent to which, with regard to the Green Belt, it would fail to perform a wider environmental role by reason of being inappropriate development and so the scheme does not represent sustainable development.

Conclusion

18. The proposal is inappropriate development in the Green Belt which is by definition harmful. Although the loss in openness is small, it is nevertheless harmful. The Framework establishes substantial weight should be given to any harm to the Green Belt.
19. In balancing the harm against the combined weight of other considerations, the economic benefits and weight to be attached to them is reduced by the proposal being small scale in nature. Accordingly, the absence of other harm

and the benefits identified fail to outweigh the harm to the Green Belt. Consequently, very special circumstances needed to justify the proposal do not exist.

20. For these reasons, the scheme is contrary to policy CS13 of the CS by reason of being inappropriate development and policy SADM26 of SADM by reason of not retaining open space in the area. There are no material considerations to indicate that the scheme should not be determined in accordance with the development plan and be refused. The scheme is not sustainable development.
21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR