
Appeal Decision

Site visit made on 15 May 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 24th May 2017

Appeal Ref: APP/H1515/W/17/3168306

Timmerman's Nurseries, Southend Arterial Road, West Horndon, Essex CM13 3TA

- 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 A Smith against the decision of Brentwood Borough Council.
 - The application Ref 16/01396/FUL, dated 11 October 2016, was refused by notice dated 30 November 2016.
 - The development proposed is retrospective planning permission for the change of use of part of the site for the sale and storage of up to 34 salvage cars for a temporary period of three years, retention of existing nursery business.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part of the site for the sale and storage of up to 34 salvage cars for a temporary period of three years and retention of existing nursery business at Timmerman's Nurseries, Southend Arterial Road, West Horndon, Essex CM13 3TA in accordance with the terms of the application, Ref 16/01396/FUL, dated 11 October 2016, subject to the conditions set out in the schedule attached to this decision.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on the character and appearance of the countryside.
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. The proposal relates to an area situated towards the rear of an existing plant nursery business. This operation retails plants and other garden items and

occupies a 0.8 hectare site fronting and accessed directly from the westbound carriageway of the A127 Southend Arterial Road. The entrance leads into a large forecourt car parking area beyond which there is a bungalow and shop. There are further greenhouses and other structures beyond and open areas where plants and other garden products are displayed.

4. The change of use involves the storage and re-sale of salvaged cars which have been classed insurance write-offs following accidents. No engineering work or car-breaking would be involved. Because the existing nursery business is too small to compete with larger operators in the vicinity, such as the Alton Garden Centre further east along the A127, it is not profitable and the car storage/sales venture would help make up for this. The proposal is for a temporary three year period after which the appellant hopes the site would form part of the emerging Dunton Hills Garden Village proposal to the west of Basildon which would enable the business to re-locate.
5. The site is surrounded by open countryside and falls within the Green Belt. As set out in the Framework, published in March 2012, the Government attaches great importance to Green Belts where the fundamental aim of policy is to prevent urban sprawl and keep land permanently open. The development plan is the Brentwood Replacement Local Plan (LP) which was adopted on 25 August 2005. Its Green Belt policies, whilst reflecting Government policy of that time, broadly reflect those of the current Framework.
6. The appellant accepts that the car storage proposal would not comprise one of the forms of development included in paragraph 90 of the Framework which are deemed to be not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. I must also conclude that the car storage proposed would be inappropriate development which would be, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In this respect the proposal would be contrary to LP Policy GB1 regarding new development which, within the Green Belt, will not be given planning permission except in very special circumstances.

The effect on the openness of the Green Belt

7. The car storage would be to the rear of a quite long site and screened from the road by the existing bungalow. The belt of mature conifers along the south and west sides of the piece of land where the cars are currently stored screens the use from views from the countryside on the other side.
8. In respect of occupying a piece of land in the Green Belt this area might otherwise be reasonably and lawfully used as part of the existing nursery business to store bulky garden furniture and materials. The effect of this, compared to the storage of salvaged cars, would be similar in terms of its effects on openness.
9. Because this proposal would be taking place within the well-screened confines of an existing business, and the land in question might be otherwise put to some other storage use not encroaching into the open countryside, I consider the harm to the Green Belt in respect of reducing its openness would be limited. Any harm in respect of openness would be reduced further by the proposal not involving any permanent structure and being for a temporary period of three years.

The effect of the proposal on the character and appearance of the countryside

10. For the reasons given over the effect on the openness of the Green Belt the proposal would similarly result in little harm to the rural character and appearance of the surroundings as it would not encroach into open countryside and forms part of an existing enterprise that is spatially well-defined and screened by vegetation.

Other circumstances which might provide the very special circumstances required to justify the proposal

11. The Parish Council has raised concerns over highway safety. However, the highway authority has found there to be no objection in this regard as the trips generated by the change of use would be less than a fully operational nursery and there are no recent accident records in this location. However, the lack of a highway objection would be a neutral matter in the factors which might weigh for or against this proposal.
12. There would be economic benefits in diversifying the existing operation and helping to sustain a business that is not providing much profit for the appellant. The proposal would gain the support through the Framework principles for planning decisions to encourage sustainable economic development and the effective use of previously-developed land not of high environmental value. The site would be classed as previously-developed land in being part of the curtilage of a developed site and, notwithstanding its location within the Green Belt, is not of high environmental value.
13. The appellant's case relates the site being possibly subsumed in the Dunton Hills Garden Village proposal and the position in relation to this would be clearer following the three years sought for this use after which, should this major scheme not proceed and the area remain Green Belt, the Council would have control over permitting the use to continue. The national Planning Practice Guidance advises that the circumstances where a temporary permission may be appropriate include where it is expected that the planning circumstances will change in a particular way at the end of that period.

Green Belt balance

14. As required by paragraph 88 of the Framework substantial weight is given to the harm found to the Green Belt, both from the inappropriateness of the development and for other reasons. In respect of other harm, this would arise from the proposal reducing the openness of the Green Belt. However, the degree of harm would be reduced by the proposal being visually well-screened and on a site which might otherwise be occupied by items connected with the garden centre use. That the proposal is for a temporary three year period further lessens the harm due to the effect on openness. Because the site is well screened, contained within the existing nursery business site and does not encroach into open countryside any further harm arising from the effects on the rural character and appearance of this area is limited.
15. Substantial weight is given to the Green Belt harm found, in respect of inappropriateness and other harm. However, in this case I find that harm to be limited. The economic benefits of this proposal would be sufficient to clearly outweigh the limited Green Belt harm found. Consequently, this proposal

would satisfy the development criteria for development set out in LP policy GB2 and the Framework.

Conditions

16. I have considered the conditions suggested by the Council. It is necessary to make the proposal temporary for a three year period, to identify the land to which the use is permitted in the interests of certainty and to secure that any land contamination resulting from the use is remediated once it has ceased.

Conclusions

17. I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. As a consequence and subject to the conditions specified I conclude that this appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
Appeal Ref: APP/H1515/W/17/3168306
Timmerman's Nurseries, Southend Arterial Road, West Horndon, Essex
CM13 3TA

- 1) The use hereby permitted shall be for a limited period being the period of three years from the date of this decision. The use hereby permitted shall be discontinued and the land restored to its former condition on or before 24 May 2020 in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 2) The change of use hereby permitted shall be restricted to the storage of no more than 34 salvage vehicles and to the area outlined in purple and labelled car storage and sales on the 1:500 scale site plan reference FA_143 GA.01 B.
- 3) With 28 days of the cessation of the use allowed a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority to show whether the storage of crashed motor vehicles has left contamination on the site and if so how that will be removed. The agreed remediation scheme will include a timetable for carrying out the remediation works and post work sampling to confirm completion of contamination removal. Formulation and implementation of the remediation scheme shall be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers. Should contamination be found that was not previously identified during any stage of the application hereby approved or not considered in the remediation scheme that contamination shall be made safe and reported immediately to the local planning authority. The site shall be re-assessed and a separate remediation scheme shall be submitted for approval by the Local Planning Authority. The landowner/developer shall notify the Local Planning Authority in writing of impending completion of the remediation works within one month of the completion of the said works. Within four weeks of completion of such works a validation report undertaken by competent persons in accordance with the Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers related to the agreed remediation measures shall be submitted to the Local Planning Authority for approval.

---End of conditions---