
Appeal Decision

Site visit made on 13 June 2017

by Harold Stephens BA MPhil DipTP MRTPI FRSA

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

Decision date: 21 June 2017

Appeal Ref: APP/N4205/W/17/3170006

Land to the south of Firwood Fold Industrial Estate, Thicketford Road, Bolton BL2 3TR

- 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 Taem Ltd against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 96748/16, dated 9 June 2016, was refused by notice dated 2 September 2016.
 - The development proposed is a pet crematorium and garden of remembrance with associated access road and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this appeal are:
 - whether the development would constitute inappropriate development in the Green Belt;
 - the effect of the development upon the openness of the Green Belt;
 - the effect of the development on the character and appearance of the area and the visual amenities of the Green Belt;
 - the effect of the proposal on flood risk and land drainage;
 - the effect of the proposal on air quality;
 - the effect of the proposal on land contamination; and
 - if the development is inappropriate, 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

3. The appeal site comprises an open field in a river valley with residential properties located at a higher level to the east and west with some residential properties fronting Thicketford Road. Access to the site is via the estate road access which leads from Thicketford Road to Firwood Fold Industrial Estate. The
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site falls within the Green Belt. Part of the site is located within a flood plain and it is adjacent to the Firwood Fold Site of Biological Interest.

4. The proposal seeks full planning permission for a pet crematorium which measures about 21.5m x 20m with a roof height of about 8.1m excluding the chimney, which would extend to about 10m. The building would be constructed using bricks and grey roof tiles. A new access point would be created off the existing access road and 12 car parking spaces would be provided. A garden of remembrance is proposed to provide an area for quiet reflection.
5. The statutory development plan for the area includes Bolton's Core Strategy which was adopted in March 2011 and Bolton's Allocations Plan which was adopted in December 2014. Relevant policies in the Core Strategy include Policy CG1- Cleaner Greener; Policy CG2 - Sustainable Design and Construction; Policy CG3 - Built Environment; Policy CG4 - Incompatible Uses; Policy P5 Accessibility; Policy S1 Safe; and Policy RA1 - Inner Bolton. A relevant policy in the Bolton's Allocations Plan is Policy CG7AP - Green Belt. The National Planning Policy Framework (NPPF) published on 27 March 2012 is a material consideration in this case.

Whether Inappropriate Development or Not

6. There is no dispute between the parties that the proposal constitutes *inappropriate* development in the Green Belt where strict policies of restraint apply. The NPPF confirms at paragraph 79 the longstanding principle that Green Belts are of great importance and that their essential characteristics are their openness and permanence. Paragraph 80 sets out the 5 purposes of Green Belt and paragraphs 87-88 of the NPPF state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "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.
7. Paragraph 89 of the NPPF states that a LPA should regard the construction of new buildings as inappropriate in Green Belt. It includes a number of exceptions including the following:

"provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it"

8. Whilst I accept that use of land for a cemetery is an appropriate use in the Green Belt in the context of national and local planning policies, it is clear to me that a crematorium is not an appropriate use within the Green Belt. Plainly the proposal is contrary to Policy CG7AP which seeks to protect Green Belt land from inappropriate development in line with the NPPF. The proposal does not constitute one of the exceptions under paragraph 89 of the NPPF as it comprises an industrial process. I conclude that the proposal comprises inappropriate development in the Green Belt.

Openness

9. Paragraph 79 of the NPPF states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Indeed, one of

the essential characteristics of Green Belts is their openness. Paragraph 80 of the NPPF sets out the 5 purposes of including land in the Green Belt. One of these is to assist in safeguarding the countryside from encroachment. The Appellant considers that any loss of openness would be minimal and would not materially harm the purposes of the Green Belt. Furthermore, it is argued that the majority of the site would remain open – the footprint of the proposed building is about 430m² and this represents about 3.6% of the appeal site area.

10. Openness means the absence of buildings or development. It is epitomised by the lack of buildings. Openness is capable of being judged by way of the development's physical characteristics, including volume, footprint and spread of development and also the degree to which a reduction in openness would be perceived. Bearing in mind the volume and footprint of the proposed building together with the 10m high chimney, it is clear to me that this proposal would be perceived as leading to a material reduction in openness in this part of the Green Belt. I conclude that the proposal would not assist in safeguarding the countryside along this part of the river valley which would cause significant additional harm to the openness of the Green Belt and to one of the purposes of including land in the Green Belt.

Character and appearance and visual amenities

11. Core Strategy Policy CG3 seeks to ensure that development proposals conserve and enhance local distinctiveness. It is argued that the visual impact of the building would be reduced as it is smaller in scale in the context of existing industrial sheds and given there are existing mature trees to the north east and west of the site. The site is effectively open land characterised by open grassland surrounded to the west by a steep embankment with residential properties overlooking the site. The site is essentially in the flood plain or river valley of Bradshaw Brook. Whilst there are a number of industrial buildings sited to the north of the site, the appeal site and the surrounding land to the south, west and east has all the characteristics of an agricultural river valley.
12. In terms of design and form, the appeal building would be substantial and would occupy a relatively elongated site. It would provide for a large building with a substantial chimney. Given the topography of the site, with steep embankments to the east and west, this would make the proposal more visually intrusive when viewed from the closest residential properties and the adjoining informal footpaths. When combined with the overall character of the area the proposal would have a significant visual impact within the site and wider area to the detriment of the character, appearance and setting of the river valley in which it is situated. It would be contrary to Core Strategy Policy CG3 and to advice in the NPPF notably Section 7. I conclude that the proposal would be detrimental to the character and appearance of the area and the visual amenities of the Green Belt.

Flood risk and land drainage

13. Core Strategy Policy CG1 seeks to ensure that development in the rural areas of the Borough would safeguard biodiversity and the GMEU has stated that there are no objections to the proposal in relation to the potential impact on the adjoining Site of Biological Interest. Core Strategy Policy CG1 also seeks to ensure that development proposals reduce the risk of flooding in Bolton and

downstream. The Appellant states that the proposed crematorium building falls outside the flood risk area. However, I note that this is contrary to the Environment Agency Flood Risk plans which show the site as being at risk from fluvial flooding. The Appellant has submitted a Flood Risk Assessment (FRA) which concludes that provided the recommended mitigation measures are implemented the risk of the proposal from over ground flooding could be reduced to a level not considered significant.

14. However, the Environment Agency (EA) has assessed the information submitted with the original application in relation to flood risk and the additional information submitted including the FRA prepared by ADS Structural Rev C dated 5 April 2016. The EA has confirmed that the information submitted is insufficient to support the proposal and it formally objects to the proposal. Particular reference is made to the failure to consider how people would be kept safe from flood hazards; the identification of a safe access/egress route for flood emergency planning; and showing that flood risk would not be increased elsewhere.
15. The EA's formal objection to the proposal is a material consideration and a planning condition would not be acceptable. The site is in Flood Zone 3a which indicates a High Probability of flooding. In the absence of any firm indication how people would be kept safe from flood hazards during a flood event, and with the precautionary principle in mind, I cannot be sure that local residents would be safe from the risks associated with flooding. I conclude that the proposal would be in conflict with Core Strategy Policy CG1 which seeks to reduce the risk of flooding and to guidance in the NPPF which amongst other matters requires that a site specific FRA must demonstrate that the development will be safe.¹

Air Quality

16. Core Strategy CG4 seeks to ensure that new development proposals are compatible with surrounding land uses and occupiers by way of amenity, privacy, safety and security. The Council's main concern with the proposal is the impact of the proposed emissions from the cremation of animals. The Appellant has submitted an Air Quality Assessment which Pollution Control Officers have stated is insufficient to fully assess the proposal. However, I note that as the cremator is rated with a destruction capacity of less than 50 kilogrammes per operational hour, the process falls outside the provisions of the Environmental Permitting Regulations. In addition, from the evidence that is before me including central government environmental guidance, there would be an insignificant impact on local air quality in consequence of operation of a small pet cremator. I conclude that the emissions to air could be adequately controlled by planning conditions.

Land contamination

17. The EA also raised an objection to the proposal in relation to the risk of contamination of Controlled Waters given the sites historic use as bleach works with filter beds, tanks, reservoirs and sluices. The EA has provided advice that in order to overcome the objection in relation to land contamination the Appellant should provide information to satisfactorily demonstrate to the LPA

¹ NPPF paragraph 102

that the risk to Controlled Waters has been fully understood and can be addressed through appropriate measures. It advises that this information should include a Preliminary Risk Assessment (PRA) as outlined in the document 'CLR11 Model Procedures for the Management of Land Contamination'. I appreciate that in previous planning applications for a pet crematorium on the appeal site the issue of land contamination was not raised. However, given the historic use of the site as bleach works and the EA's objection, a planning condition requiring a preliminary risk assessment would be necessary in this case. I conclude that the concerns about land contamination could be adequately controlled by planning conditions.

Other considerations

18. The Appellant has argued a number of points which are considered to weigh in favour of the proposal. It is claimed that the impact on the purposes of Green Belt would be minimal. Further, it is claimed that there is a demonstrable need for a pet crematorium within the Bolton area and the tests outlined for the siting of human crematoria under the Crematorium Act 1902 should be applied. The size and locational requirements have been taken into account when alternative sites were investigated. It is stated that a 1.2 has site is required and that the development would be seen as an extension to the Firwood Fold Industrial Estate. The Appellant has also included a report detailing alternative sites that were considered and why there are no sequentially preferable sites available outside the Green Belt. I note that the nearest pet crematoria are in Rossendale, Chorley and Rochdale.
19. I have already established that the proposal is an inappropriate use in the Green Belt and that it would not assist in safeguarding the countryside along this part of the river valley which would cause significant additional harm to the openness of the Green Belt and to one of the purposes of including land in the Green Belt. Moreover, it would be detrimental to the character and appearance of the area and to the visual amenities of the Green Belt.
20. The Appellant has applied the same constraints for site suitability as for the cremation of humans to pets. This may not be relevant. Furthermore, no evidence has been provided that the appeal site is the most suitable. It is claimed that there are no sequentially preferable sites but no evidence has been submitted which provides a rigorous site search in the North West region other than sites within a 5 mile radius of Bolton with no evidence of which specific sites were assessed.
21. The Appellant refers to an appeal decision in Halstead, Kent where an Inspector considered the provision of a crematorium (human) with a garden of remembrance and car park.² I note that the circumstances in the Halstead case were very different to the current appeal. In the Halstead case the Appellant demonstrated a quantitative and qualitative need for the proposal and the lack of alternative sites combined with visual improvements to the site constituted very special circumstances which justified allowing the development. In my view, the Appellant has not demonstrated a quantitative and qualitative need for such a proposal, the lack of alternative sites or that

² APP/G2245/A/14/2217055

there would be any visual improvements in the appearance of the site if permission was granted for the proposal.

Overall balance and Conclusion

22. The proposal represents inappropriate development in the Green Belt and would be contrary to Policy CG7AP of Bolton's Allocations Plan and to guidance contained within the NPPF. The NPPF provides that inappropriate development is harmful by definition and that substantial weight should be given to any harm. In this case the proposal would cause significant additional harm to the openness of the Green Belt and to one of the purposes of including land in the Green Belt in that it would not assist in safeguarding the countryside. Moreover, the proposal would be detrimental to the character and appearance of the area and to the visual amenities of the Green Belt. This would be contrary to Core Strategy Policy CG3 and to advice in the NPPF notably Section 7. These factors add to the harm that would occur. Further, the proposal would be contrary to Core Strategy CG1 because insufficient information has been provided with regard to flood risk and surface water drainage which weighs significantly and negatively against the proposal.
23. The fact that I found that the concerns in relation to air quality and land contamination could be dealt with by planning conditions provides limited weight in favour of the proposal in the overall balance. Nevertheless, I do not consider that these matters, either separately or cumulatively, would be of sufficient weight to clearly outweigh the totality of the harm arising by reason of inappropriateness and the other harm identified. As such, the development cannot be justified on the basis of very special circumstances. The proposal is in overall conflict with the development plan and the NPPF. Having considered these and all other matters raised, including the case law referred to, I find nothing of sufficient materiality to lead me to a different conclusion. I conclude that the appeal should be dismissed.

Harold Stephens

INSPECTOR