
Appeal Decision

Site visit made on 24 May 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 05 July 2017

Appeal Ref: APP/J1915/W/17/3169571

**Waterford Quarry, Bramfield Lane, Waterford, Hertford, Hertfordshire
SG14 2QF**

- 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 Brendan Mitchell (BP Mitchell Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2173/FUL, dated 21 September 2016, was refused by notice dated 13 December 2016.
 - The development proposed is horse stabling and exercise manège on a restored former landfill site.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development in the banner heading above from the planning application form. However, I have corrected a minor error in the spelling of manège.

Main Issues

3. 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)¹ and any relevant development plan policies;
 - The effect on the openness of the Green Belt and the purpose of including land within it; and,
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development, effect on openness and Green Belt purposes

4. The appeal site covers approximately 0.2 hectares but is part of a reclaimed landfill site covering some 56.4 hectares. It lies to the south of Bramfield Lane

¹ Published 2012

not far from the rural settlement of Waterford. Although part of the site, the appellant advises that the appeal land itself did not receive landfill. Much of the wider site has been restored to grassland. The appeal site is in the south east corner of a field with immature woodland providing some screening to the south. The character of the area is rural with open fields stretching into the distance and some areas of woodland. The appeal site lies within the Metropolitan Green Belt.

5. It is proposed to construct a row of stables with a manège to exercise and train horses. Policy GBC1 of the East Herts Local Plan Second Review April 2007 (LP) states that the construction of new buildings within the Green Belt will be inappropriate unless certain exceptions are met. One of those exceptions refers to *'essential small scale facilities for outdoor sport and outdoor recreation.'*
6. The LP pre-dates the Framework by some years. In such circumstances, paragraph 215 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The exception contained in policy GBC1 of the LP is similar to an exception contained in the second bullet point of paragraph 89 of the Framework, which also refers to the provision of facilities for outdoor sport and outdoor recreation.
7. Whilst the Framework exception does not include a requirement for such a facility to be 'essential', it does require that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Therefore, policy GBC1 is not fully consistent with the Framework. Consequently, I give it more limited weight and will consider the matter primarily in terms of relevant policy in the Framework, which is a significant material consideration in all planning decisions.
8. In relation to paragraph 89, the proposed stables would be a building, as would the fence around the manège, as the term 'building' refers to any structure or erection and therefore includes fences. The facility would be for outdoor sport and recreation and its design appears appropriate for that purpose.
9. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open. Additional bulk and physical presence may affect openness which can also have a visual aspect, although the absence of visual intrusion or public views does not in itself mean that there is no impact on openness.
10. The stable building would be approximately 30 metres long, up to 5.5 metres wide and 3.3 to the ridge of its pitched roof. It would also have hardstanding to the front. Although relatively low and timber clad, the introduction of a building of that size and bulk onto a site with no significant existing built forms would have an adverse effect on openness.
11. Moreover, the creation of the associated manège, with its 1.5 metre high fence enclosing an area of some 1,600 square metres, would also adversely affect openness but to a more limited degree. In addition, although private rather than commercial, the use of the facility would involve cars and horse boxes accessing the site and parking in what is currently an open agricultural field. Although the vehicles would be likely to be limited in number and present for a temporary period, they would add to the harm to openness.

12. Policy GBR1 'Green Belt' of the emerging East Herts Draft Plan (2016), rather than specifying its own criteria, refers instead to the relevant provisions of the Framework. Although, as it is yet to be examined, that emerging plan can be given only limited weight, it does indicate the direction of travel of the Council in relying on the principles stated in the Framework with regard to Green Belt policy.
13. The appellant refers to a legal judgement², although no copy has been supplied, and its conclusion regarding the relevance of a material change of use in deciding if a proposal would be inappropriate development. My findings on 'inappropriate development' are not dependent on 'change of use' in its technical sense. Therefore, I do not consider the judgement, as elucidated by the appellant, to be directly relevant to my analysis of this appeal.
14. Cumulatively, I conclude that the proposal would result in a material loss of openness in the Green Belt and constitute encroachment into the countryside, thereby contravening one of the five purposes of the Green Belt, as set out in paragraph 80 of the Framework. Consequently, the proposal would fail to meet the relevant exception in paragraph 89 of the Framework. Given that, it follows that it would also conflict with policy GBC1 of the LP, albeit I have given that policy limited weight. Therefore, the proposal would be inappropriate development in the Green Belt.

Other considerations

15. Policy CFLR6 of the emerging development plan allows for small scale equine development subject to various criteria, including minimising visual intrusion. Paragraph 19.7.3 of the supporting text of that policy indicates that commercial equine development in the Green Belt would need to demonstrate 'very special circumstances', in accordance with the NPPF, but it makes no mention of private or domestic equine development. From this the appellant deduces, presumably on the basis of omission, that a distinction is being drawn between horse stabling for commercial use and that for private use, as in the appeal proposal. However, criterion 'g)' of the policy itself plainly states that proposals must not conflict with other policies within the plan. Therefore, any proposal, be it commercial or domestic, would still need to comply with policy GBR1 of the emerging development plan, which in turn refers out to the Green Belt provisions of the Framework. Therefore, I disagree with the appellant's interpretation. In any event, as stated above, that emerging development plan is yet to be examined and can, therefore, be given only limited weight.
16. Reference is also made by the appellant to Policy LRC5 of the LP, which refers to the provision of suitably located facilities for informal recreation in the Green Belt, where appropriate and providing there are no significant adverse effects on the natural environment or local amenity. The material loss of openness in the Green Belt, which I have identified, would be a significant adverse effect on the natural environment, so the proposal would conflict with the policy. In any case, the terminology of policy, as elaborated, would not appear to be wholly consistent with the Green Belt provisions of the Framework and, therefore, I give it limited weight.
17. Paragraph 81 of the Framework encourages local planning authorities to, amongst other things, look to provide opportunities for outdoor sport and

² The Rookery Estates judgement [2016] EWHC 595 (Admin)

recreation in the Green Belt. The proposal would provide such an opportunity. That is a positive factor in its favour, although as the facility is said to be solely for private use and for a maximum of four horses, the opportunity would be restricted to a relatively low number of people. Therefore, I give it limited weight.

18. The appellant suggests that the proposal would have social benefits, including increased participation in outdoor sports and activities and encouraging healthier lifestyles. The Design and Access Statement refers to the intended use as limited to the appellant and his immediate family and I recognise that the proposal would be of value and personal benefit to them. The planning system is more generally concerned with the wider public interest, unless exceptional personal circumstances or need can be evidenced. However, 'social' implies a benefit to wider society, which the private nature of the proposed development would not offer. Therefore, I also give that aspect minimal weight.
19. As the Council make the point that it may, in theory, be possible to erect a fence of the height proposed under permitted development rights, I have considered that as a 'fallback' position. However, given that the purpose of the fence is directly connected to the development as a whole, I consider it is unlikely to be implemented on its own. Even if was, in isolation, it would not cause the same level of harm as the proposed development. Consequently, I give that factor minimal weight.

Conclusions

20. I have already identified that the proposal would be inappropriate development. The Framework indicates, at paragraph 87, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that there would be material harm to openness and encroachment into the countryside.
21. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that '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. As I have identified harm to the Green Belt I must give it substantial weight.
22. The other considerations, analysed in some detail above, were given minimal or limited weight. Therefore, in my view, the other considerations do not, either individually or cumulatively, clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR