
Appeal Decision

Site visit made on 8 August 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 21st August 2017

Appeal Ref: APP/M1900/W/17/3173631

Dog Kennel Farm, Charlton Road, Hitchin, Hertfordshire SG5 2AB

- 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 William Taylor against the decision of Hertfordshire County Council.
 - The application Ref 1/2975/-16, dated 31 October 2016, was refused by notice dated 23 February 2017.
 - The development proposed is described as '1 no. proposed security shelf to enclose units on site, to stop unauthorised access to site and allow and encourage more businesses to occupy the site. Thus increasing employment in the Green Belt without decreasing the area of grazing land and without losing the visual effect of countryside'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made by Mr William Taylor of the above address with Mr Nicholas Bramwell stated as being the agent. The appeal was made by Mr Bramwell with Mr Taylor subsequently writing to the Planning Inspectorate to authorise this. However, the appeal must continue in the name of the applicant Mr William Taylor.

Application for costs

3. An application for costs was made by Hertfordshire County Council against the appellant. This application is the subject of a separate Decision.

Main Issues

4. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies.
 - The effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the adjacent conservation area.
 - The effect on users of the right of way crossing the site.
 - The effect on the water environment.

- The effect on biodiversity.
- If the proposal were to be inappropriate development in the Green Belt whether the harm for this reason, and any other harm, would be clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Background

5. The proposal relates to an area of about 2.73 hectares within a larger grassed field that runs alongside the Charlton Road; a short distance to the south of the built up area of Hitchin. It is proposed to import 31,995m³ (53,258 tonnes) of inert waste soil arising from local building contracts to spread over the site which rises towards the south west. The infill would be spread to a maximum depth of 2 metres increasing towards the western side of the site to create a shelf adjacent to the buildings at Dog Kennel Farm. These buildings are accessed from a farm track along the northern boundary of the appeal site running west from a junction with the Charlton Road.
6. The application estimates the volume of material imported would require 11 daily vehicle deliveries over a total of 240 days. The resultant soil shelf, coupled with a gate, will provide improved security for Dog Kennel Farm and the businesses located there and allow for the two new business units sought, as well as acting as a shield from the noise generated by these activities. Once the development is complete the site will be re-seeded as grassland.

Whether inappropriate development in the Green Belt

7. The appeal site falls within the Metropolitan Green Belt. As set out in Part 9 of the Framework, the Government attaches great importance to Green Belts where the fundamental aim is to prevent urban sprawl by keeping land permanently open and where inappropriate development should not be approved except in very special circumstances. This proposal might be considered an engineering operation which paragraph 90 of the Framework states to be a not inappropriate form of development provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
8. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from or the absence of development. The importing of a significant amount of inert material would result in an overall increase in the land levels and this would clearly reduce the openness of the Green Belt. The proposal would be contrary to the purpose of the Green Belt to assist in safeguarding the countryside from encroachment which the addition of the inert waste soil would amount to.
9. Consequently the proposal would be inappropriate development within the Green Belt which would, through paragraph 87 of the Framework, by definition result in harm. The harm caused both through the inappropriateness of the development and the loss of openness to the Green Belt would be significant and to which substantial weight must be given. For these reasons the development would conflict with the aims of the Framework and of Waste

Policy 6 of the Hertfordshire Waste Development Framework¹ (HWDF) and saved Policy 2 of the North Hertfordshire District Local Plan² (LP) which seek to protect the Green Belt from harm and preserve its openness.

Character and appearance of the area and conservation area

10. Paragraph 81 of the Framework seeks to retain and enhance Green Belt landscapes. The site lies within the Langley Valley landscape character area as defined by the North Hertfordshire local Landscape Character Assessment. The area is described as a '*large scale rolling landform. Predominantly in arable land use but with pockets of grazing ... Field sizes vary with extensive arable land to the southwest of Hitchin and smaller fields associated with grazing land. Hedges generally well-trimmed with remnant mature trees.*'
11. This proposal would modify the site contours providing a more evenly rising slope away from the road leading abruptly to a steep embankment which would appear both artificial and incongruous, contrasting harmfully with the surrounding gently rolling landscape. That most of the land filling would be beyond the brow of the hill as viewed from the road would not overcome the impacts of the development which would be visible from other points. As a consequence the proposal would not satisfy the requirements of the Framework or those of HWDF policies 4 and 11 and LP Policy 16 in respect of protecting landscape character.
12. The adjacent hamlet of Charlton is a designated Conservation Area but the proposal would be sufficiently apart to have only a neutral effect upon this heritage asset and therefore would succeed in preserving its character and appearance.

Effect on users of right of way

13. Paragraph 75 of the Framework states that planning policies should protect and enhance public rights of way and access and that local authorities should seek opportunities to provide better facilities for users. A public footpath runs across the appeal site and the appellant advises that the use of this will be unaffected by the operations. However, it is not indicated on the plans and no details are provided as to how users might be protected from the works proposed.
14. The Council's evidence is that the footpath will need to be diverted and this matter has not been addressed. The proposal fails to show how this Right of Way, and access to it, will be protected during the construction phase. I am not persuaded the proposal would ensure that the interests of users of this footpath are not adversely affected or, should this not be possible, that good quality, safe and convenient alternative provision is made. Consequently the proposal would conflict with the aims of the Framework and the requirements of HWDF Policy 15 and give rise to harm as a consequence.

The effect on the water environment

15. The Framework establishes the role of planning to prevent development contributing to unacceptable levels of water pollution and to ensure in this

¹ Hertfordshire Waste Development Framework – Waste Core Strategy and Development Management Policies Development Plan Document 2011-2026 adopted November 2012.

² North Hertfordshire District Local Plan No 2 with alterations – April 1996

respect it is appropriate for its proposed location. According to the Environment Agency (EA) the appeal site is located in a vulnerable ground water area above a Principal Aquifer within a Source Protection Zone 2. The EA objects to the proposal as there is insufficient information provided to demonstrate that the risk of pollution to controlled waters is acceptable.

16. The appellant advises that as only clean material will be used and EA Environmental Permitting will be met the project would not cause harm in this respect. However, I agree with the Council that adequate details to quantify, address and mitigate the risk of water pollution would be necessary before planning permission can be granted. In the absence of this information the development would be contrary to the advice of the Framework and conflict with HWDF policies 11 and 16. Consequently the development would result in harm through not adequately addressing the risk of water pollution.

The effect on biodiversity

17. An area of wet woodland, which is a Local Wildlife Site (LWS), lies immediately to the north of the access track forming the northern boundary to the appeal site. Other than the concerns already addressed over pollution to the water environment the evidence suggests that there would be no direct harm to the biodiversity in the LWS. However, I agree that the lack of any measures to enhance biodiversity, such as the planting of hedging and semi-mature trees along the access, would be contrary to the aims of paragraph 109 of the Framework, HWDF policies 4, 11, 19 and LP Policy 14. Such measures would also provide landscape and security benefits and the absence of these, and other details such as how the removed topsoil would be reinstated to secure adequate grassland cover, results in harm due to the failure to adequately mitigate the effects on the natural environment.

Other considerations

18. I am not persuaded the proposal provides any material benefits in better sound proofing the activities at Dog Kennel Farm, as there is no evidence of noise disturbance to any nearby occupiers. The increased security provided by the soil shelf might help to reduce the incidence of crime suffered at this site but this could equally be met by other less environmentally harmful measures. Therefore, I can only give very limited weight to these benefits and to that of the site being better placed to encourage further employment and economic development.

Conclusion

19. I find that the other considerations in this case do not clearly outweigh the Green Belt and further harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. I conclude therefore that the appeal should be dismissed.

Jonathan Price

INSPECTOR