
Appeal Decision

Site visit made on 1 August 2017

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 5th September 2017

Appeal Ref: APP/P4415/W/17/3174191

Brampton Villa, Penny Hill Lane, Rotherham, S66 9BQ

- 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 West Midlands Sectional Building Ltd, against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2016/1489, dated 7 November 2016, was refused by notice dated 3 February 2017.
 - The development proposed is demolition of existing prefabricated building and erection of industrial unit.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing prefabricated building and erection of industrial unit at Brampton Villa, Penny Hill Lane, Rotherham, S66 9BQ in accordance with the terms of the application Ref RB2016/1489, dated 7 November 2016, and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by West Midlands Sectional Building Ltd against Rotherham Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue for this appeal is whether or not the proposal would be inappropriate development in the Green Belt.

Reasons

4. The appeal site extends to some 1.4ha and contains industrial units and warehouses. It is in a rural area between the villages of Ulley and Brampton-en-le-Morthen surrounded by fields other than Brampton Villa, a dwelling at the entrance to the site. The M1 Motorway is approximately 150m to the west.
5. Planning applications and appeals should be determined in accordance with the development plan¹ unless material considerations indicate otherwise². The appeal site and surrounding land is in the Rotherham Green Belt. Policy CS4 of

¹The development plan for the area includes the Rotherham Core Strategy 2014 (the CS); Saved Policies of the Rotherham Unitary Development Plan 1999 (the UDP); and the emerging Rotherham Local Plan Publication Sites and Policies 2015 (the LPPSP).

² Section 38 of the Planning and Compulsory Purchase Act 2004

the CS says that the Green Belt will be protected from inappropriate development as set out in national planning policy, which at the present time is set out in the National Planning Policy Framework (the Framework). Amongst other things Policy CS4 says that opportunities to support and enhance the beneficial use of the Green Belt will be pursued in the future.

6. Policy SP2 of the emerging LPPSP includes provision for appropriate new buildings in the Green Belt if they are well-related to existing buildings and of a size commensurate with the established functional requirement. Policy SP9 sets out that limited infilling (defined as development between existing permanent buildings) or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings), may be considered acceptable, provided that they would not have a greater impact on the openness of the Green Belt and the purposes of including land within it, than the existing development. Both of these Policies require that, in summary, the sizes, positions and designs of new buildings ensure that any harm or potential harm to the openness of the Green Belt is minimised.
7. The fundamental aim of Green Belt policy as set out in the Framework is to prevent urban sprawl by keeping land permanently open. The Framework seeks to protect Green Belts for the five purposes set out in Paragraph 80. The most relevant purpose in relation to this appeal is to assist in safeguarding the countryside from encroachment. Paragraph 89 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt. Exceptions to this are set out in a list of bullet points.
8. The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, is listed as an exception at bullet point 4 of Paragraph 89. The proposed building would be some 5.2m to eaves height, some 6.5m to the ridge and would have a footprint some 80% larger than the building it would replace.
9. Although no volumetric measurements have been provided the size of the proposed building would be likely to significantly exceed the 10% guideline for volume increase set out in the Rotherham Metropolitan Borough Council Interim Planning Guidance 'Development in the Green Belt' 2014 (the IPG). Although the Framework gives no size guidelines I conclude that the proposed building, on the balance of probabilities, would be materially larger than the one it would replace and would not fall within this exception.
10. Bullet point 6 of Paragraph 89 provides for the 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 purposes of including land within it than the existing development. This sixth exception makes no mention of the size of building relative to that being replaced and makes no mention of volumetric comparison.
11. The industrial building which would be demolished is centrally located within the site. It is surrounded by other buildings of different sizes which together amount to some 3,500 square metres³. The largest has a floor area of some 1560 square metres, high loading bay doors and a pitched roof. The open areas of the site are hard surfaced. As well as the buildings there are neatly parked

³ Paragraph 4.19 of the Planning Appeal Statement

storage containers. As the proposal would replace a permanent building and be in the same light industrial use⁴ I conclude that it falls within the definition of re-development of previously developed land.

12. The proposed building would be of similar design to others on the site although it would have a significantly larger footprint than the existing building and there would be an increase in built development. However, it would be in the middle of an extensive complex and would amount to approximately 6%⁵ increase in the total floor area on the site.
13. I acknowledge that harm to openness can occur regardless of whether a development can be seen within the surrounding area or not. However, the determining factor is whether the proposal has a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development⁶. I am also mindful that in the Turner case⁷ the Judge found that the concept of openness in the Green Belt is not narrowly limited to the volumetric approach and visual impact is also a factor.
14. Due to the size and heights of the surrounding buildings the proposal would, in my judgement, be subservient to the overall development within the site. It would not encroach on the countryside or add to urban sprawl. Accordingly I conclude that, on balance, this particular proposal would have no greater impact on the openness of the Green Belt or the purposes of including land within it than the existing overall development. The proposal therefore falls within the exception at bullet point 6 of Paragraph 89. For these reasons I conclude that it would not be inappropriate development in the Green Belt. Therefore no special circumstances need to be demonstrated to justify the proposal.
15. Due to the activity at the site, its well-maintained appearance and the numbers of vehicles that I observed during my visit it appears the premises are in beneficial use. The proposal would expand this beneficial use in accordance with Policy CS4. I find no conflict with Policy CS4 or the emerging Policies SP2 and SP9.

Other Matters

16. I have taken account of Policy EC1.1 of the UDP which seeks to safeguard existing industrial sites and the proposal would in my view assist in that. I have no evidence to indicate that the appeal site has been allocated for other purposes within the development plan and therefore Policy EC1.2, which relates to inappropriately related industry or business, would not seem to apply. In any event I am also mindful that the Council has raised no concerns in relation to the impact on the living conditions of local residents, including the occupiers of Brampton Villa which shares the entrance to the appeal site, to the proposed layout and design or the impact on the character and appearance of the local area. I see no reason to come to any different views on these matters.
17. Concern has been raised about the possible increase in traffic as a result of the proposal. The Council raises no objections on highways grounds and on the basis of the evidence before me I see no reason to reach a different conclusion.

⁴ Paragraph 2.10 of the Planning Appeal Statement

⁵ Paragraph 4.19 of the Planning Appeal Statement

⁶ Planning appeal ref APP/N4720/C/13/2194416

⁷ Turner v SSCLG [2016] EWCA Civ 466

Conclusion

18. For the reasons set out above, and taking into account all other relevant matters raised, I conclude the proposal would not be inappropriate development in the Green Belt and would not conflict with the development plan taken as a whole. The appeal should succeed and planning permission should be granted.

Conditions

19. I have considered whether conditions should be imposed in the light of the Framework and the National Planning Practice Guidance. As well as the standard condition specifying the time limit for commencement of development, compliance with the approved plans is necessary to provide certainty. A condition requiring the submission of details of external materials including colour is necessary and reasonable in the interests of the appearance of the area. A condition controlling the use of the building is necessary in the interests of the living conditions of occupiers of nearby properties and accords with the description of the proposed use as set out in the evidence.
20. Conditions requiring the provision of bat boxes and to ensure appropriate disposal of surface water is necessary in the interests of biodiversity and to protect ponds, drains and the Local Wildlife Site at Brampton Common in accordance with the advice of the Council's Ecological Development Officer.

SHarley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL05 1 and PL05 2.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the building hereby permitted, including colour, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The premises shall be used for light industrial use and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 5) Prior to the first occupation of the building hereby permitted a scheme to demonstrate the satisfactory disposal of surface water including oil interceptors shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out and maintained in accordance with the approved details.

- 6) Prior to the first occupation of the building hereby permitted, a scheme for the provision of bat boxes within the appeal site shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall then be undertaken in accordance with the agreed details.

End of Schedule of conditions