
Appeal Decision

Site visit made on 18 June 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/L3625/W/19/3222390

14 Cherrytrees, Netherne On The Hill, CR5 1NW

- 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 Steven Buckzek against the decision of Reigate & Banstead Borough Council.
 - The application Ref 18/00710/CU, dated 3 April 2018, was refused by notice dated 13 August 2018.
 - The development proposed is the change of use from public to private land.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised in this case are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the long-term health of existing trees; and
 - If the proposal is inappropriate development 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

Whether or not the proposal is inappropriate development in the Green Belt

3. The scheme comprises the change of use of land. Paragraph 146 of the National Planning Policy Framework (the Framework) states that certain forms of development, such as material changes in the use of land, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
4. The appeal site currently comprises an area of grassed, public open space, adjacent to the property 14 Cherrytrees. The site is open to the footway and highway, with shrubs and a substantial tree located along one side. The proposed scheme includes the provision of a new hedge along the site's

frontage but set back from the edge of the footway. The presence of this hedge would serve to delineate part of the site from its surroundings. The effect of this would be to diminish the openness of the site by enclosing part of it. I am also conscious that the use of the land for private purposes would likely lead to an increase in domestic paraphernalia within the private area created as a consequence of this proposal, further diminishing the openness of the site.

5. As a result, the openness of the site and consequently the Green Belt, would not be preserved. Thus, whilst the proposal would not conflict with the purposes of including land within the Green Belt, given that it would result in a loss of openness, the proposal would constitute inappropriate development. This would conflict with the adopted Reigate and Banstead Borough Local Plan (2005) (the Local Plan) Policy Co 1, which seeks to prevent changes in the use of land that do not maintain the openness of the Green Belt.

Character and appearance

6. The site forms part of an area of open space within a residential development. Notwithstanding the presence of a tree and shrubs, the site forms part of a larger expanse of open space which contributes to the open and grassy character of the immediate and wider area. As such, the loss of this public area and its enclosure as private land, would curtail the positive contribution that it makes to the locality and would be harmful.
7. Thus, the scheme would have an adverse effect on the character and appearance of the area and would conflict with Policy Ho 9 of the Local Plan, which seeks to maintain and enhance the natural and built environment.

Trees

8. The site is bordered by a large tree which has been incorporated into the development of the surrounding site. I observed that the tree shades a large part of the appeal site. The tree is a feature that positively contributes to the character and appearance of the area. Whilst the proposed change of use to private land would alter the way in which the land was used i.e. it would become a private garden area, it would not be the only garden space available for occupiers of the adjacent property. There is no substantive evidence before me to suggest that the occupiers would be likely to seek to reduce the crown of the tree and there are no works proposed as part of the proposed scheme. As such, I consider that the scheme is not likely to have an adverse effect on the long-term health of the tree. Accordingly, the scheme would not conflict with Policy Pc 4 of the adopted Reigate and Banstead Borough Local Plan (2005), which seeks to conserve tree cover within the Borough.

Other considerations

9. The Council highlight that in respect of the emerging Development Management Plan (DMP), examination hearings have been completed and a consultation on the Main Modifications undertaken. Whilst the Inspectors report has not yet been received, none of the main modifications affect this site. As such, given the advanced stage of this emerging plan, I consider that significant weight should be given to it.
10. Within the DMP it is proposed to remove the appeal site from the Green Belt, however it is to be allocated as Urban Open Space (UOS) and Policy OSR1 of the DMP would be relevant. This policy sets out that development that results

in the full or partial loss of designated UOS will only be permitted in exceptional circumstances. In this respect, there is no substantive evidence before me to show that the site is surplus to requirements, there are no details of the provision of any replacement open space, the proposal is not for alternative sports or recreation provision nor is the proposal for the expansion of an existing school. As such, the scheme would be contrary to the provisions of emerging Policy OSR1.

11. The appellant refers to a number of factors which collectively are contended to constitute very special circumstances. These include safeguarding the Green Belt, which as I have found above, would not be the case, as well as the opportunity to enhance soft landscaping in the area and the location of the site adjacent to an existing dwelling. I am also conscious that the existing tree will be retained. However, whilst I have had regard to these matters, in my view, they are not sufficient to establish very special circumstances.

Conclusion

12. The proposal would be inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. The scheme would also have an adverse effect on the character and appearance of the area, contrary to Policy Ho 9. The lack of harm in respect of the future health of a tree is a neutral matter which does not weigh in favour of the proposal.
13. I have had regard to the emerging DMP however it does not indicate a decision other than in accordance with the current adopted development plan policies.
14. Therefore, the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would be contrary to Policy Co 1, as well as to Green Belt policy as set out in the Framework.
15. Therefore, for the reasons given and having regard to all matters raised, the appeal is dismissed.

Martin Allen

INSPECTOR