
Appeal Decision

Site visit made on 22 July 2019

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2019

Appeal Ref: APP/R3705/C/18/3214815

Land adjacent and abutting The Cedars, Coton Road, Neither Whitacre B46 2HH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Ruth Roberts against an enforcement notice issued by North Warwickshire Borough Council.
 - The enforcement notice was issued on 20 September 2018.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an office building.
 - The requirements of the notice are demolish and remove the unauthorised office building from the site.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matter

2. Although different to the addresses shown on the appeal form and in the Council's statement, I have used the appeal address as stated in the enforcement notice together with correcting a typographical error 'Whitachre' to 'Whitacre'. No injustice is caused to either party.

The appeal on ground (a)

Main Issues

3. The appeal site lies within the Green Belt; accordingly, the main issues are:
 - (i) Whether or not the development represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - (ii) the effect of the development on the openness of the Green Belt and the purposes of including land within it; and
 - (iii) 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

Whether inappropriate development in the Green Belt

4. The Cedars is an industrial complex which has a number of industrial buildings and travelling gantry cranes. The appeal office building has been erected on land north of the industrial site outside the settlement boundary. The building is contained within a fenced, gated and hard surfaced compound to the north of which is a grassed bund and field.
5. The Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, except in very special circumstances, subject to a number of exceptions. One such exception at paragraph 145 (g) of the Framework is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
6. The Framework defines previously developed land as "land which is or was occupied by a permanent structure, including curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings..."
7. The planning history of the Cedars includes two Lawful Development Certificates (LDC)¹ and a previous planning appeal². Contrary to the appellant's submissions, it is clear from the submitted evidence, that the land on which the appeal building has been sited does not benefit from a lawful industrial use because it is not included in either of the LDCs. Moreover, having regard to the findings of the previous Inspector³, the land has been successfully restored and falls outside the definition of previously developed land. Consequently, on the evidence, the appeal building does not fall within this particular exception. Furthermore, the appeal building does not fall within any other exceptions set out in the Framework and thus represents inappropriate development in the Green Belt.

Openness

8. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
9. Whilst the appeal building is sited within an existing fenced compound close to industrial buildings and crane gantries and is not readily visible from outside

¹ Appendix A of the Council's Statement.

² APP/R3705/C/14/2212774, Appendix C of the Council's Statement.

³ APP/R3705/C/14/2212774, Appendix C of the Council's Statement.

the site, the physical presence of the building reduces openness. Whilst this loss is minimal, harm is caused.

10. The appeal development has reduced the openness of the Green Belt which adds to the harm to the Green Belt found by reason of inappropriateness. The Framework advises that substantial weight should be given to any harm to the Green Belt.
11. Thus, the development conflicts with Policies NW1, NW2 and NW3 of the North Warwickshire Local Plan Core Strategy (2014) (CS) which amongst other things, state that development in settlements without a settlement boundary will be limited to that necessary for agriculture, forestry or other uses that can be shown to require a rural location. It is also at odds with the aims of the Framework regarding the protection of the Green Belt.
12. The appellant refers to a number of policies in the Council's emerging Local Plan. Given that the emerging plan is still to be adopted only limited weight can be given to its provisions.

Other Considerations

13. Paragraph 144 of the Framework says inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework says 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.
14. The Council have not indicated any non-Green Belt harm and I agree. In light of this the effect of the development is neutral and this matter does not weigh for or against the development.
15. I have had regard to CS Policy NW17 concerning economic regeneration and the Framework which seek to enable the sustainable growth and expansion of all types of business in rural areas. In addition, the Framework requires that development is sensitive to its surroundings. I acknowledge that the business provides employment to a number of people. In addition, given the location of the associated gantry crane, I accept that health and safety have to be considered.
16. Whilst according to the appellant, the location may best serve the industrial unit occupied by the business tenant, the appellant has not provided sufficient information to show whether the office administration for the business could be accommodated within an existing building or elsewhere within the industrial complex. Thus, whilst this may be a safe and convenient place for the office building, based on the evidence I cannot be certain that the appellant's need for an office building in this location is sufficient to justify the identified harm to the Green Belt. I therefore attach moderate weight to these considerations.

Conclusion

17. The appeal building is inappropriate development in the Green Belt which is harmful by definition. In addition, there is harm to openness. These matters carry substantial weight.

18. Taking into account all other considerations, I find nothing, individually or cumulatively sufficient to clearly outweigh the totality of the harm by reason of inappropriateness, and any other harm, which is the test they have to meet. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
19. For the above reasons and with regard to all other matters raised, I conclude that the appeal on ground (a) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Elizabeth Jones

INSPECTOR