



Appeal Decision

Site visit made on 30 July 2019

by C Beeby BA (Hons)

an Inspector appointed by the Secretary of State

Decision date: 20th September 2019

Appeal Ref: APP/V1505/W/19/3227488

Land rear of The Hyde, Glebe Road, Ramsden Bellhouse, Billericay CM11 1RL

- 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 D Webb against the decision of Basildon District Council.
 - The application Ref 19/00023/FULL, dated 7 January 2019, was refused by notice dated 9 April 2019.
 - The development is described as "clay pigeon skeet with storage and trap facilities with associated barn for storage of field maintenance equipment".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In refusing permission for the development, the Council partially relies on a policy from the emerging Local Plan ("the eLP"). Whilst the eLP is at an advanced stage, it has not yet been formally adopted by the Council. Therefore in accordance with paragraph 48 of the National Planning Policy Framework 2019 ("the Framework"), whilst I have had regard to this policy I have not attached full weight to it in my consideration of this appeal.
3. The description of development refers to the "skeet" and trap. However, the appeal states that these structures are not included in the development. The two buildings to which the appeal solely relates ("Buildings A and B") are already present, therefore I have considered the appeal on that basis.
4. The appellant has questioned whether the buildings require planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
5. The appellant disputes the Council's assessment that the appeal site lies within the Green Belt. Notwithstanding this, the evidence supplied in support of the appellant's claim is limited and inconclusive. Accordingly, I do not consider that the appellant's submission is sufficiently substantiated for me to consider the matter further.

Main Issues

6. The main issues are:

- (i) Whether the scheme would be inappropriate development within the Green Belt including its effect on the openness of the Green Belt; and
- (ii) If the scheme 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 required to justify the scheme.

Reasons

Whether the scheme is inappropriate development within the Green Belt and its effect on openness

- 7. The appeal site lies within the Green Belt. The scheme relates to two buildings which lie behind dwellings off Glebe Road. Building A is intended for the trap storage of clay pigeons, whilst Building B is intended for use as a tractor and machine store for field maintenance purposes.
- 8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One of the exceptions is the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport.
- 9. Paragraph 145 b) of the revised Framework sets tests which must be satisfied before such a new facility can be regarded as not inappropriate. The facility must (in this case) be a building for outdoor sport or outdoor recreation, be 'appropriate' for the intended purpose, preserve the openness of the Green Belt and not conflict with the purpose of including land in the Green Belt.
- 10. The term building includes "any structure or erection"¹. The appeal relates to two moderately sized structures of timber construction and metal roofing. I therefore consider that the structures are buildings for the purpose of the Framework test. The evidence does not indicate that the buildings are not used for outdoor sport or outdoor recreation, or that they are not appropriate for the intended purpose, therefore it is necessary to consider the remaining 2 tests.
- 11. The buildings are set along a field boundary and immediately behind dwellings and residential gardens. They lie beyond the established edge of development before the land becomes paddocks and fields. The appeal site forms part of a large area of open countryside, which offers expansive views. Taken together, the buildings form a substantial massing of built form within an otherwise open field. The location of the buildings consequently undermines the fundamental Green Belt aim of preventing urban sprawl by keeping land permanently open, and fails to safeguard the countryside from encroachment. The harm to the

¹ Section 336 of the Town and Country Planning Act 1990

Green Belt is moderate, due to the single storey size of the buildings and their location adjacent to a field boundary.

12. I therefore conclude that the scheme forms inappropriate development in the Green Belt, as it does not satisfy the criteria of the Framework exception referred to because it causes moderate harm to openness and conflicts with the purpose of including land within the Green Belt.

Other considerations

13. Whilst I acknowledge the benefits which participation in outdoor sport may provide to the appellant's family life, I have found above that the scheme is inappropriate development in the Green Belt. Accordingly, the scheme does not support the carrying out of the sport on the land and therefore I attach only minimal weight to this as a benefit of the scheme.
14. The storage of potentially hazardous machinery and instruments away from the residence of a child is advanced in support of the scheme. The secure storage of plant and equipment is additionally cited. However, the appeal does not establish whether this site is the only possible location for the storage of the items referred to and I consider that there is a reasonable likelihood that suitable arrangements for this could be made elsewhere. Similarly, the evidence does not suggest that there is anything to restrict the appellant's training for international competition to this site alone. Thus, I attach only minimal weight to these submissions as benefits of the scheme.
15. The appellant contends that he does not intend to retain the buildings at the site for a period of more than 5 years. Notwithstanding this, the appeal does not seek temporary permission and therefore there would be nothing to restrict the retention of the buildings at the site for the duration of their useful life should circumstances change. Thus, I attach only minimal weight to this matter as a benefit of the scheme.
16. The appellant submits that the buildings have been used for forestry purposes. Buildings for forestry are one of the exceptions to inappropriate development in the Green Belt which are listed at Paragraph 145 of the Framework. However, no evidence of this is before me and I saw no significant indication of use of the buildings for forestry purposes at my site visit. As a result, I attach only minimal weight to the matter as a benefit of the scheme.
17. Whilst I acknowledge the submission that clay pigeon shooting activity at the site would be limited and that it would be subject to noise reduction measures, the Framework does not require an assessment of such matters in the determination of schemes within the Green Belt. Accordingly, these are matters which carry only minimal weight in the determination of the appeal.

Other Matters

18. The Council considers that the General Permitted Development Order 2015 (as amended) ("the GPDO") does not permit the temporary use of the land for clay pigeon shooting, and that the buildings consequently do not form appropriate facilities for outdoor sport for the purposes of Paragraph 145b) of the Framework. However, this paragraph does not require an assessment of whether a scheme is permitted by the relevant part of the GPDO to be made. These are separate matters and it is not for me to determine whether the appellant might be able to rely on permitted development rights in the context

of a Section 78 appeal. As a result, I attach only minimal weight to the relevance of the GPDO issue in making my decision.

19. I have had regard to other matters raised, including concerns about noise and nuisance. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.
20. The appellant refers to a number of other developments in the area, but I have insufficient information to be able to compare these to the appeal scheme. I therefore attach only minimal weight to their relevance to my decision.
21. I additionally note the appellant's concerns regarding the Council's approach and references to its manner of dealing with environmental health matters in the area. However, these are not matters for this appeal, which I have determined on its planning merits.

Conclusion

22. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
23. I find that 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 and the appeal scheme conflicts with guidance in the Framework. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR