
Appeal Decision

Site visit made on 15 October 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/P1940/W/19/3233557

Land to the rear of 2-3 Station Road, Kings Langley, Hertfordshire WD4 8LL

- 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 Pure Bricks Ltd against the decision of Three Rivers District Council.
 - The application Ref 19/0618/RSP, dated 29 March 2019, was refused by notice dated 7 June 2019.
 - The development proposed is the creation of an overflow car park including installation of ancillary equipment.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I observed at my site visit that construction works at the appeal site had commenced including the regrading of some of the land, the construction of an earth bund along the western boundary and resurfacing. However, I note from the appellants' statement that the area of hard surfacing constructed does not reflect the proposed size of the car park¹. Furthermore, the landscaping, automatic barrier, fencing and lighting as shown on drawings SNR/02 and SNR/04 was not in place. Therefore, I shall consider the proposal against the submitted plans.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, including its effect upon openness, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the living conditions of nearby residents, with particular regard to levels of noise, light and air quality, and;
 - If inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

¹ Page 8 Photograph, Appellants' appeal statement

Reasons

Whether Inappropriate Development

4. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open as the essential characteristics of Green Belts are their openness and their permanence. Development within the Green Belt is inappropriate with the exceptions of the types of development listed in Paragraphs 145 and 146 of the Framework. It is the appellants' view that the proposal is not inappropriate by virtue of the exceptions contained in sub paragraphs b) and e) of paragraph 146. These allow for engineering operations and material changes in the use of land subject to the caveat that the development preserves openness and does not conflict with the purposes of the Green Belt.
5. Save for the presence of the building occupied by the floristry business and some associated outbuildings, built form is notably absent and therefore, the appeal site is generally open in character. The appeal site has in part been used for customer parking and storage for the retail unit. The historic aerial photograph² shows a limited number of vehicles and amount of storage to the rear of the building with some vegetation also in evidence, thereby keeping most of the appeal site open. This is commensurate with the modest size of the retail building and, irrespective of the absence of conditions to limit the amount of parking and storage at the site, the evidence does not show that it has been particularly intensive.
6. The proposed development would provide approximately 30 car parking spaces for employees and visitors to Concept House, an office building on the nearby employment area to the north west of the appeal site. The car parking area would extend westwards onto land that was formerly scrubland, and therefore would introduce hardstanding and parked cars into an area that was free from built form. As a result, there would be a notable increase in the number of vehicles present at the site during daytime hours as well as in the associated degree of movement and activity.
7. In addition, an automatic barrier, fencing, lighting and a CCTV tower would be installed within the site. The definition of the term 'building' under section 336 of the Town and Country Planning Act 1990 includes any structure or erection. This definition would encompass this ancillary equipment included as part of the appeal proposal. As such, it is more appropriate to consider these elements of the proposal as buildings against local and national policy, rather than as an engineering operation or change of use of land. The evidence provided does not show that these structures would fall within any of the exceptions for new buildings listed in paragraph 145 of the Framework.
8. Planning Practice Guidance advises that openness is capable of having both spatial and visual aspects. Taking the above factors together, the parked vehicles and structures would have a considerable physical and visual impact upon the openness of the site. Therefore, the proposal would have a greater impact upon, and would not preserve, the openness of the Green Belt.

² Page 16 Appellants' appeal statement

9. Consequently, the proposal would not fall within any of the exceptions listed in paragraphs 145 or 146 of the Framework and would constitute inappropriate development in the Green Belt, to which I must attach substantial weight.

Living conditions

10. The evidence does not suggest that the appeal site lies within in an Air Quality Management Area or otherwise is subject to poor air quality. Given the generally modest scale of the proposal and the separation distance between the parking area and residential properties to the south-east, I have not seen evidence to substantiate the Council's concern that the living conditions of nearby residents would be compromised by an unacceptable reduction in air quality as a result of the appeal proposal.
11. The majority of noise arising from the development would be from vehicular movements and engine noise, car doors and any activity associated with drivers and passengers. It is proposed that the car park would operate predominantly between 7am-8pm Monday to Friday. Therefore, the activity is unlikely to take place at a time that would disturb sleep, or at weekends when gardens are likely to be more intensively used. When this is combined with the relatively modest number of vehicle movements and distance from the nearest dwellings, the proposal would not result in levels of noise that would cause unacceptable disturbance to nearby residents and I have seen little substantive evidence to the contrary.
12. Three lights measuring 1.5m in height are shown on plan SNR/02. The restricted height, intervening fencing and planting and intention to extinguish lighting after 8pm during weekdays and at weekends would prevent the lights from causing disturbance to residential occupiers at nearby dwellings. For similar reasons, the associated lights on vehicles would not result in unacceptable disturbance.
13. Accordingly, the evidence does not show that the proposal would result in unacceptable harm to the living conditions of nearby residents having regard to the levels of noise, light and air quality. Therefore, in this regard I do not find conflict with policy CP1 or CP12 of the Three Rivers District Council, Local Development Framework, Core Strategy, October 2011 (CS). Policy CP1 sets out an overarching policy in relation to sustainable development and policy CP12 sets out criteria against which to assess the design of development, including the need to protect residential amenities.
14. In addition, I do not consider the proposal would conflict with policy DM9 of the Three Rivers District Council, Development Management Policies, Local Development Document, July 2013 (LDD) which, amongst other matters, seeks to prevent development that would have an adverse impact on air pollution, noise and lighting levels.

Other Considerations

15. The appeal proposal would provide additional car parking for the employees and visitors at Concept House which is owned by the appellants and provides office space for predominantly small companies engaged in advanced technology development. This in turn provides employment in specialist areas. Policy PSP3 of the CS, amongst other things, seeks to maintain and enhance employment opportunities and infrastructure to meet community and business

needs in Kings Langley, and general support for economic development is set out in paragraphs 80 and 81 of the Framework. Therefore, I accept that to an extent, additional parking may benefit the appellant and wider economy in the growth of employment opportunities at the building for the existing businesses and in attracting additional tenants to the building.

16. Nevertheless, the office building at Concept House was granted permission fairly recently³ with a level of car parking that reflected the zone-based car parking reductions set out in the development plan parking standards. Moreover, condition 7 of the permission requires the provision of a Green Travel Plan which, amongst other things, seeks to encourage methods of transport other than the private car. The evidence does not robustly demonstrate that all the opportunities identified by a Green Travel Plan at Concept House have been implemented as the submitted Transport Statement⁴ refers to a range of initiatives and measures that may be brought forward for investigation as well as existing travel patterns that have potential for more sustainable trips to be made.
17. Furthermore, even if I were to accept the appellants' assertion that there was an urgent need for additional car parking to serve Concept House, the evidence before me, does not show that a rigorous assessment of alternative sites has been undertaken to show that no sites materially less harmful to the openness of the Green Belt exist. As such, I am not assured such a benefit might be achieved without resulting in harm to the Green Belt. Moreover, there is limited evidence quantifying the likely scale of economic benefit to the economy. Therefore, overall, the economic benefits arising from the proposal receive limited weight.
18. The Openness and Landscape Character Assessment indicates that the appeal site would be largely screened from wider views due to the topography, surrounding commercial and residential development, existing mature planting and proposed landscaping. Furthermore, the visual impact of the development would be limited due to the restricted height of the lighting and fencing as well as the chosen finish for the ancillary equipment.
19. Even so, the site would be visible via the access onto Station Road, with further glimpses possible from the public right of way to the north as well as in private views from properties near to the site. As such, these factors do not overcome the adverse impact on physical or visual openness arising from the proposal. As suitable landscaping is a requirement of development plan policies, it is a neutral factor in the overall Green Belt balance. In any event, the openness would be harmed irrespective of additional screening as it would not remove the physical presence of the development or associated parked cars.
20. In support of the proposal the appellants point out that the use of the car park would be restricted to 7am-8pm Monday to Friday. Whilst to an extent this would limit the harm to the openness of the Green Belt, the car park would still be used for a considerable proportion of time and as such, this attracts limited weight.

³ Reference 13/0946/FUL dated 31 May 2013

⁴ Transport Planning Associates, April 2019, paragraphs 5.1, 5.4 and 5.6

21. The appellant refers to the absence of harm in relation to several environmental considerations⁵. Nevertheless, the absence of harm in relation to those matters does not count in favour of the proposal as these would be required to be satisfied in any event. Therefore, these are neutral factors in the overall Green Belt balance.
22. The use of the car park and installation of a CCTV tower may reduce the instance of anti-social behaviour and crime, but as little evidence is provided to demonstrate that the site currently suffers from such activity nor any alternative measures that have been used to address this, other than the appeal proposal, I give this factor little weight.
23. The appellant has submitted a plan for illustrative purposes referenced SNR/02 dated July 2019 which shows granite stones as a replacement for the 1.8m high timber fencing. However, a condition to secure the replacement of the fence with granite stones would not overcome the harm to openness arising from the development taken as a whole. As such, this attracts limited weight.

Green Belt balancing exercise

24. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Moreover, very special circumstances to allow inappropriate development will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the proposal amounts to inappropriate development, and harm would be caused to the openness of the Green Belt. These factors attract substantial weight.
25. Whilst other considerations advanced by the appellant have been taken into account, even when taken cumulatively these accrue limited weight overall. Accordingly, I find that the other considerations in this case do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.
26. Therefore, the proposal would be contrary to the Framework and to policy CP11 of the CS which sets out a general presumption against inappropriate development in the Green Belt. In addition, it would be contrary to policy DM2 of the LDD which seeks to prevent new buildings in the Green Belt other than those that accord with the exceptions listed in national policy.
27. In their refusal reason relating to harm caused to the Green Belt, the Council also refer to policy CP12 of the CS which sets out criteria to secure a high standard of design as well as policy DM7 of the LDD which seeks to protect landscape character. However, neither policy specifically refers to the Green Belt. Therefore, based on the evidence presented, I find no conflict with them.

Conclusion

28. For the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁵ Sections 6.92-6.99 Appeal Statement