



Appeal Decision

Site visit made on 24 September 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/W1905/W/19/3232734

Land at Cuffley Hill, Cuffley Hill, Cuffley, Potters Bar EN7 5HA

- 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 Ms Catherine Martin (Conrad Energy (Developments) Limited) against the decision of Broxbourne Borough Council.
 - The application Ref 07/18/1019/F, dated 19 October 2018, was refused by notice dated 7 January 2019.
 - The development proposed is described as "The installation of four gas fuelled generators with radiator arrays, a DNO Building, HV Client Building, Transformers, Gas Kiosk, Client Building, CCTV Cameras on 4m posts, Clean and Waste Oil Tanks, Access Track and associated infrastructure for the generation of electricity during times of peak demand".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice refers to policies from the emerging draft Borough of Broxbourne Local Plan 2018-2033. However, as this plan has yet to be formally adopted, I only afford it limited weight.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt for the purposes of the Framework;
 - the effect of the development on the character and appearance of the area;
 - whether the development would result in a loss of agricultural land or complement the agricultural operation; and
 - 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 very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

4. The site lies within the Metropolitan Green Belt and it is proposed to erect four gas fuelled generators and other development. The Framework states that

inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings is inappropriate development in the Green Belt, save for those circumstances as listed therein. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

5. The appellant states that the development proposed is an engineering operation. Although an engineering operation can constitute one of the other forms of development that are not inappropriate development for the purposes of paragraph 146 of the Framework, I am not persuaded that the proposed development amounts to such an operation. Section 336 of the Town and Country Planning Act 1990 (the Act) defines a "building" to include any structure or erection. While the Act defines an "engineering operation" to include the formation or laying out of means of access to highways, in this instance, the development also proposes four large generators with an overall height of some 7m together with five other structures contained within a parcel of land some 56m x 31m that would be surrounded by a 2.4m high perimeter fence. I therefore consider the proposal to be for the construction of a "building" and one which does not fall within those exceptions within paragraph 145 of the Framework.
6. In any event, even if it was considered that the proposal amounts to an engineering operation, and the exception in paragraph 146 b) of the Framework was relevant, it is nonetheless subject to the development preserving the openness of the Green Belt and not conflicting with the purposes of including land within it, which is considered below.

Openness and Character and Appearance

7. The fundamental aim of Green Belt Policy, as set out in paragraph 133 of the Framework, is to keep land permanently open. The appellant has undertaken an assessment of the development and concludes that the landscape features at the site and its topography serve to screen the proposal from external views. This contained nature of the site does not change the perception of openness and is a very special circumstance in favour of the development.
8. The appeal site is part of an agricultural field which lies adjacent to Cuffley Hill. As the name suggests, the land drops significantly as one travels west towards Cuffley from Goff's Oak, with views across the relatively open landscape. In this instance, the proposed development would result in significant structures within the Green Belt, where no development currently exists. This would inevitably mean that there would be a reduction to openness to the Green Belt which would undermine the fundamental aim of keeping the Green Belt permanently open.
9. Furthermore, one must also recognise that the concept of openness can mean the absence of development irrespective of the degree of visibility of the land in question from public vantage points. Moreover, the impact of a development on the character and appearance of a landscape is quite different to its impact on the openness of the Green Belt. Thus, while a development which would harm openness could be acceptable visually, the openness of the Green Belt has a spatial aspect as well as a visual aspect and the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green

Belt as a result of development. Consequently, notwithstanding the diagrammatic assessment as detailed in Figure SC22 of the appellant's written statement, the development would erode the openness of the Green Belt and would be contrary to one of its purposes which is to safeguard the countryside from encroachment.

10. In addition, while I accept that landscaping exists on the sites west and northern boundary, I am not persuaded that the site is screened from external views so that the development would not be visible from public vantage points, such as Cuffley Hill. Moreover, the photographs and wireframes provided by the appellant are taken when trees were in full leaf which will be quite a different scenario during the winter months. The development would suburbanise the site with a very large development of a utilitarian nature that would result in a discordant and incongruous form of development that would be out of keeping with its rural surroundings and the character and appearance of the area. Although the appellant has suggested that the development will be removed from the site after 35 years, I find this to be excessively more than a temporary period for this harm to the openness of the Green Belt and the character and appearance of the area to remain.
11. Thus, the development would be in conflict with Policies GBC2, GBC6 and GBC16 of the Borough of Broxbourne Local Plan Second Review 2005 (the Local Plan) and the Framework. It would lead to a material and harmful loss of openness to the Green Belt, which undermines one of the essential characteristics of the Green Belt as defined in the Framework. For the reasons rehearsed above, the development would also result in harm the character and appearance of the area.

Agricultural Land

12. The site currently forms part of an agricultural field that had recently been harvested. The Council argue that the development would be contrary to Policy GBC14 of the Local Plan in that it would result in the loss of agricultural land and the development would not be complementary to the agricultural operation undertaken. The appellant states that although the landowner would be in receipt of a payment for the lease of the land for the development, the proposal was never intended to be a rural diversification scheme, and thus, Policy GBC14 of the Local Plan is not relevant.
13. I accept that the Council seeks to support well-conceived rural diversification schemes that would support the rural economy. However, in this particular case, given the unique nature of the development in seeking to boost energy supplies for the area, I do not find that it amounts to a diversification scheme as envisaged within the spirit of Policy GBC14. Furthermore, it is not a scheme that has been advanced by the landowner or one that it would ultimately be involved in.
14. Moreover, Policy GBC14 does not explicitly seek to resist the loss of agricultural land, but rather, any development pursued as a rural diversification scheme meets the expectations as set out therein. Therefore, notwithstanding my conclusions on the impact of the development on the character and appearance of the area, I do not find the particular scheme before me would be in conflict with Policy GBC14 of the Local Plan.

Other Considerations

15. The appellant essentially argues that there are two reasons that amount to very special circumstances that weigh in favour of the appeal. Firstly, that there is an overriding need for this type of flexible energy generation and secondly, that the site selection is limited by the availability of suitable grid and gas being within the vicinity with each other.
16. In assessing the need for the identified location, the appellant states that *"UKPN¹ wishes to encourage new power generation to their area"* and Cuffley substation is one such location that has capacity. While I acknowledge that there is a need to ensure that gaps in energy distribution are "plugged" at peak times, I have no substantive evidence before me that this has to take place at the appeal site or that the local area, to which the power generation is purported to support, has suffered from any type of disruption to power services. Moreover, the *"power shortage on the 9th August 2019 which led to blackouts across the country"* was widely reported as being as a result of technical issues rather than a peak demand for power.
17. Furthermore, it is clear that the site selection was dictated by the availability of resources required to satisfy the development. While the appellant's search criteria discounted Waltham Cross as an alternative, detailed information regarding other potential sites has not been provided regarding other potential sites except the industrial area to the west, which was not considered suitable as there were no vacant premises.
18. In addition, although I accept that the electricity grid network is complex, the circumstances identified for using the appeal site would apply equally to any other operator seeking to boost electricity supplies in the area and thus, are not specifically related to the development before me. I fully accept that various Government white papers have encouraged the generation of power to ensure a secure and affordable supply and to redress years of underinvestment. However, this does not outweigh the great importance that the Government also attaches to Green Belts. Thus, I do not consider that the reasons put forward by the appellant to amount to the very special circumstances required to justify the development.
19. The appellant refers to an appeal decision² that allowed a generating plant with ancillary equipment and access. In assessing the development, the Inspector also stated that it was not unreasonable to conclude that, in accordance with paragraph 147 of the Framework, the development would constitute that required for the exploitation of sources of renewable energy. Although I have no reason to disagree with that assessment in relation to the development before me, the appeal site referred to was not located within the Green Belt.
20. Moreover, whilst paragraphs 151 and 154 of the Framework states that applications for renewable and low carbon energy should be approved if its impacts are or can be made acceptable. In this particular instance, although I find the harm to the openness of the Green Belt and the impact on the character and appearance of the area to be unacceptable, it is also one that cannot be made acceptable.

¹ United Kingdom Power Networks

² APP/R1010/W/17/3172633 dated 4 August 2017

Green Belt Balance and Conclusion

21. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness of the Green Belt resulting from the development. Against this, I attach little weight to the appellant's assertion that the benefits of the proposal amount to the very special circumstances required to justify the development.
22. I therefore conclude that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist. I have also found that the development would also harm the character and appearance of the area. Thus, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR