

Appeal Decision

Hearing Held on 12 November 2019

Site visit made on 12 November 2019

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2019

Appeal Ref: APP/R5510/W/19/3229922

Heathrow Service Station, Shepiston Lane, Hayes UB3 1RW

- 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 Tom Jeremiah (Euro Garages Limited) against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 17981/APP/2018/504, dated 9 February 2018, was refused by notice dated 21 December 2018.
 - The development proposed is demolition of existing car wash, development of drive-thru coffee shop (Use Class A1), alterations to existing petrol filling station forecourt, plus car parking, landscaping and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing car wash, development of drive-thru coffee shop (Use Class A1), alterations to existing petrol filling station forecourt, plus car parking, landscaping and other associated works at Heathrow Service Station, Shepiston Lane, Hayes UB3 1RW in accordance with the terms of the application, Ref 17981/APP/2018/504, made on 9 February 2018, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matters

2. The description of the development proposed is taken from the appeal form. This is because the application was amended prior to the Council's decision, with the deletion of an originally proposed drive-thru restaurant (Class A3).
3. Sufficient information has now been provided in relation to the highways impact of the drive thru coffee shop, demonstrating that the proposal would not result in increased traffic movements and queuing to the detriment of public and road safety. As a consequence, the Council's second reason of refusal has fallen away, leaving only that found in respect of Green Belt policy.

Main Issue

4. Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.

Reasons

5. The existing service station is located within the Metropolitan Green Belt. The site is alongside the M4, with access onto Shepiston Lane which links to junction 4 of the motorway. Heathrow airport is nearby. The southern part of the site comprises a bund separating the service station from the motorway. On the other side of Shepiston Lane there is a cemetery, with a haulage depot next to that. A modern hotel is adjacent the service station. Other than these developments and the surrounding road infrastructure, the appeal site is surrounded mainly by open fields, which separate it from the developed urban areas beyond.
6. The main issue relates principally to the replacement of the car wash with the larger drive thru coffee shop, along with the extended hardstanding areas of associated car parking and access, rather than the more minor alterations to the filling station forecourt.
7. The drive-thru coffee shop would result in a moderately larger building and its associated access and car parking would extend the area of existing hardstanding into part of the mown grassed area around the car wash installation. Beyond this grassed area, a line of trees and bushes occupy raised land marking the extent to the operational part of the service station site. There would be a slight incursion within this clearly-defined landscaped area to the east, mainly as a result of an extended service road. However, the development proposed would be mainly confined to the level area accommodating the existing operations and enclosed within the raised landscaped areas to the south and east.
8. The Framework establishes the Government's fundamental aim in respect of the Green Belt. This is to prevent urban sprawl by keeping Green Belt land permanently open; the essential characteristics being its openness and permanence. To this end, inappropriate development is deemed by definition harmful to the Green Belt and not to be approved except in very special circumstances.
9. Paragraph 145 of the Framework establishes the construction of new buildings as inappropriate in the Green Belt, apart for a number of exceptions, of which part g) is most relevant in this case. This considers as not inappropriate a proposal which might comprise 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.
10. Infilling is not defined in the Framework but is commonly understood to be the development of a small gap in an otherwise built-up context. The proposal would arguably be infill within, and certainly comprise the partial redevelopment of, the service station site. I consider the appeal site to meet the Framework definition of previously developed land. This is land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. Although this definition is qualified not to assume the whole of this curtilage should be developed, I nonetheless judge this scheme to comprise the partial or complete redevelopment of previously developed land, in continuing use by virtue of being part of an operational service station. To be considered as not

inappropriate in the Green Belt under the Framework, this proposal therefore needs to be found not to have a greater impact on its openness than the existing development.

11. Whilst the Framework is a material consideration to which I must attach significant weight, my starting point is the development plan. Paragraph 213 of the Framework makes it clear that existing development plan policies should not be considered out-of-date simply because they were adopted prior to its publication. However, saved policies OL1 and OL4 of the Borough's Unitary Development Plan¹ predate the Framework by a number of years and reflect the much earlier national Green Belt policy of Planning Policy Guidance 2. I therefore give these policies limited weight, giving a greater amount to Policy EM2 of the Part 1 Hillingdon Local Plan² and Policy 7.16 of the London Plan³. These apply national policy and thus are entirely in line with the Framework.
12. The appellant has submitted the quite recent *Euro Garages* High Court judgement⁴ which provided interpretation of the sixth bullet point of paragraph 89 of the 2012 Framework, now superseded by paragraph 145 g) in the current 2019 version. This sixth bullet of paragraph 89 had included reference to the purpose of including land within the Green Belt. Although this is no longer in replacement paragraph 145 g), I find this proposal not in conflict to any material degree with any of the five purposes ascribed to the Green Belt in paragraph 134 of the Framework. These are to check the unrestricted sprawl of large built-up areas, prevent neighbouring towns merging into one another, safeguard the countryside from encroachment, preserve the setting and special character of historic towns and assist in urban regeneration.
13. In respect of the question of impact on openness, the *Euro Garages* judgement found that the context for this should relate to the Green Belt generally rather than be confined to the development site itself. The decision ruled that a greater impact on openness than the existing development must be assessed on the basis of a consideration of harm, rather than simply of change. In this case there is no dispute that the drive-thru coffee shop would create a larger building, with a greater extent of hardstanding and an increase in vehicular and other activity. In this regard, there would be a loss of openness to the Green Belt in a spatial sense, through the increase in built footprint, and also in a visual sense with the somewhat larger building and resulting change to the street scene.
14. However, the development would be contained within the landscaped bunds and be viewed in the context of the existing service station, that includes the larger filling station shop and prominent extent of canopy over the fuel pumps. As a consequence, there would be limited harm to the wider Green Belt in respect of diminishing its spatial extent beyond the existing service station site. The buildings proposed would be of a design appropriate to the service station context and the slightly larger size of development would lead to very little harmful loss of Green Belt openness in any visual sense.

¹ London Borough of Hillingdon Unitary Development Plan (adopted 1998) Saved Policies 27 September 2007

² Hillingdon Local Plan: Part 1 – Strategic Policies (Adopted November 2012).

³ The London Plan March 2016

⁴ (*Euro Garages Ltd v SSCLG & Anor* [2018] EWHC 1753 (Admin))

15. The restrictive policies over development within the Green Belt may have an incidental role in preserving the quality of an undeveloped landscape. However, the inclusion of land within Green Belt is not necessarily indicative of scenic merit or visual high-quality. Neither does the surrounding Landscape Character Type, in this area defined as Harlington Open Gravel Terrace, necessarily indicate a particular quality of landscape. In this area the undeveloped land is of a level and open nature which, as protected through inclusion in the Green Belt, provides valuable relief to the adjacent built up urban areas. However, set within the confines of an existing service station and adjacent to a motorway, this proposal would have a quite negligible effect on the overall character of the surrounding landscape. The development would cause little harm to the Green Belt in respect of having a materially greater impact on its openness than the existing development.
16. I have had regard to the decisions submitted by the Council in regard to developments dismissed on appeal⁵ recently at Cherry Yard, West Drayton. However, it remains appropriate I determine this appeal on its individual merits and also in the light of the interpretation of Framework policy provided in the more recent *Euro Garages* High Court judgement. I conclude that the proposal would, for the reasons given, be not inappropriate development within the Green Belt and as such would comply with Policy EM2 of the Local Plan, Policy 7.16 of the London Plan and part 13 of the Framework.

Conditions

17. Paragraph 55 of the Framework states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have considered the conditions agreed in the Statement of Common Ground in the context of this.
18. In addition to the standard condition imposing a time limit for commencement, another is necessary for certainty which specifies the approved plans. Given the nature of development permitted, a condition is necessary requiring on-site litter management to be agreed. A suitable condition is necessary in the interests of addressing any site contamination issues. Hard and soft landscaping measures form part of the approved details but conditions addressing tree protection measures and planting implementation are nonetheless required. A final condition is needed to ensure the Council's requirements for accessible parking and car charging points are met. I am not persuaded over the necessity for conditions limiting the erection of further buildings beyond those allowed or over the burning of waste materials on site.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR

⁵ APP/R5510/W/17/3186946 and 3186942

to CLR 11: Model Procedures for the Management of Land Contamination (Defra 2004) or the current UK requirements for sampling and testing.

5. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. Notwithstanding the plans approved, the drive-thru coffee shop (Use Class A1) shall not operate until vehicle electrical charging points and accessible parking spaces have been provided in accordance with details that shall have first been submitted to and agreed in writing by the local planning authority.

ENDS