
Appeal Decision

Site visit made on 15 November 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 10th January 2020

Appeal Ref: APP/M5450/W/19/3234894
Hive Farm, Hive Road, Bushey WD23 1JG

- 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 Mrs B O'Shea against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/1638/19, dated 13 March 2019, was refused by notice dated 18 June 2019.
 - The development proposed is formation of access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs B O'Shea against the Council of the London Borough of Harrow. This application is the subject of a separate Decision.

Procedural Matter

3. I note the description development in the decision notice and the discrepancies regarding the name and area of the site. In the interests of certainty, I have used the name, address and description from the application form in the header above.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the Harrow Weald Common Site of Metropolitan Importance for Nature Conservation (SINC) and the Metropolitan Common Land (MCL);
 - the effect of the proposed development on highway safety; and
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework), including the effect on the openness of the Green Belt and the purposes of including land within it.

Reasons

SINC and MCL

5. There is a dispute between the main parties as to whether the appeal site lies within the SINC and MCL. The appellant has provided evidence indicating that while the majority of the site would be adjacent to the SINC, part of it would lie within this area. I also note evidence that indicates that the site lies outside the MCL. The Council has not contested this evidence and I have assessed the appeal on this basis.
6. I acknowledge the evidence relating to the size, shape and location of the SINC and MCL compared with the appeal site and the existing levels of traffic along Common Road. However, the access would introduce a significant number of lorries on the site within close proximity to both the SINC and MCL. Therefore, it is likely that the proposed works would affect both areas.
7. I note that the Preliminary Ecological Appraisal Survey (PEA)¹ included a search of biological records commissioned from Herts Environmental Records Centre, and not from Harrow Environmental Records. While I acknowledge the conclusions of the PEA and its accordance with British Standards, since part of the base information upon which the recommendations are based relate to a different district, the known distribution of species as recovered during the searches of historical biological records cannot be fully relied upon in terms of its relevance to the appeal site.
8. While I acknowledge the comments relating to a revised PEA, I have based my assessment on the PEA submitted as part of the appeal. I have considered a condition that would require an updated PEA, however, since additional base information would need to be assessed, there is no certainty that an updated PEA would mitigate any adverse effects on the SINC and MCL and would make the development acceptable.
9. The proposal would consist of the removal of two low quality trees and the proposed access would consist of a 'no-dig' system. The Council has not objected to the proposed works to the trees or tree protection measures. From the evidence before me I see no reason to disagree. However, given the lack of information relating to the biological records from Harrow Environmental Records, there has not been a demonstration that the proposal would not adversely affect the SINC and MCL.
10. While I note the evidence regarding right of access, for the foregoing reasons this has not altered my finding on this main issue.
11. On this basis there is a reasonable prospect that the proposal would have an adverse effect on the SINC and the MCL. Therefore, the proposal would conflict with Policy DM20 of the Development Management Policies July 2013 (DMP) which resists proposals that would be detrimental to locally important biodiversity.

Highway Safety

12. The proposed access would comprise a left-in / left out arrangement to minimise the risk of conflict with vehicles and pedestrians along Common Road.

¹ ARBTECH Preliminary Ecological Appraisal Survey Updated March 2019

It is common ground between the main parties that this arrangement would need to be controlled. In the absence of a Section 106 legal agreement, the appellant has suggested a condition that would require a sign within the site that would ban right turns on leaving the site. While such a sign would prevent vehicles from turning right on leaving the site, it would not prevent right turns on entering the site.

13. I note the curb lines and splitter island which would give some indication from the highway that the access is not intended to be used for right turns upon entering the access. However, these would be at ground level and would not be readily visible when approaching the access. Consequently, even if the condition suggested by the appellant were imposed, the access would still result in a risk of vehicles attempting to turn right into the access from Common Road which would increase the risk of collisions.
14. Therefore, the proposal would require a scheme including signage on the highway that would prevent right turns in and out of the access. I note the evidence relating to legal agreements and financial contributions toward the control of the access. However, from the evidence before me, I see no reason why a negatively worded condition could not be imposed that would require a suitable scheme to be implemented on the highway to control the use of the access.
15. I acknowledge local concerns regarding highway safety. However, the highway authority have no concerns in this particular regard, and from the evidence before me, I see no reason to disagree.
16. Consequently, the proposed development would not have an unacceptable impact on highway safety. Therefore, it would not conflict with Policy 6.11 of The London Plan The Spatial Development Strategy For London Consolidated With Alterations Since 2011 March 2016 (London Plan) which seeks a coordinated approach to smoothing traffic flow among other things. In addition, it would not conflict with DMP Policy DM44 which states among other things that proposals that would be detrimental to safety and traffic flow will be resisted. Furthermore, the proposal would not conflict with Policy CS1 of the Core Strategy February 2012 (CS) which relates to transport among other things.

Inappropriate development and openness

17. The proposal is for the formation of an access on Common Lane to facilitate lorry access to the site. The site lies within the Green Belt.
18. Paragraph 146 of the Framework states that engineering operations are not inappropriate development in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land in the Green Belt.
19. While I note the evidence regarding the role of the access in the running of the farm, since the proposal includes the formation and laying out of a means of access to highways, the creation of the access would constitute engineering operations. However, the issue of whether the development would be inappropriate in the Green Belt will be determined by my conclusion on the effect on Green Belt openness and purposes.

20. The proposed access would be at ground level and would not have a hard-metalled surface. Dropped kerbs with tactile paving on both sides of the junction are proposed as well as a central island for pedestrians to wait. A gate is proposed across the access a short distance from the junction with Common Road. Given the small scale and height of these features, they would not adversely affect the openness of the Green Belt. While I note the size and frequency of vehicles using the access, there is no evidence before me to suggest that vehicles on the access road would be stationary for substantial periods of time.
21. The two trees proposed to be removed are low quality and relatively small compared to the other trees. The retained trees are not proposed to be pruned or altered. Consequently, these features would not lead to any material loss of green belt openness and would not affect any of the purposes of including land in the Green Belt. Therefore, the access would not adversely affect the openness of the green belt. While I note the comments of the Inspector for the case at Milesplit Hill², each case must be determined on its own merits and this case has not altered my overall decision.
22. Although I note comments regarding future works to the farm and dwelling outside the appeal site, these do not form part of the proposed development that is subject of this planning application and appeal. Therefore, they have not altered my finding on this main issue.
23. Consequently, the proposed development would not be inappropriate development in the Green Belt having regard to the Framework, would preserve the openness of the Green Belt and would not impact on the purposes of including land within it. It would therefore accord with London Plan Policy 7.16, DMP Policy DM17 and CS Policy CS1 which among other things relate to the Green Belt. It would also accord with the Framework in this particular regard.

Other Matters

24. I note local concerns including those regarding works to the existing fence, the history of the site and use of the farm. However, since this appeal proposal is for the formation of an access only, these points have not altered my overall decision.

Conclusion

25. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR

² Appeal ref: APP/N5090/W/16/3145010