
Appeal Decision

Site visit made on 17 December 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/N4205/W/19/3237979

Birtenshaw Farm, Darwen Road, Bromley Cross, Bolton BL7 9AB

- 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 David Owen against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 05458/19, dated 7 February 2019, was refused by notice dated 12 April 2019.
 - The development proposed is change of use, conversion and extension of farm buildings to form children's day nursery, demolition of farm buildings replaced by extension on north west elevation of main farm building. Erection of two storey office building for nursery (no change to built form approved under 91077/13), creation of outdoor forest school, car parking and drop off area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. For the sake of brevity and clarity, in the banner heading above I have used the description of development from the Council's decision notice.
3. The Council's decision notice related to three reasons for refusal. Refusal reason 3 has been resolved with the submission of a Bats and Breeding Birds assessment. I have therefore assessed this appeal only on the matters relating to refusal reasons 1 and 2.

Main Issues

4. The main issues are:
 - i. Whether the proposal is inappropriate development in the Green Belt;
 - ii. The effect of the proposal on openness;
 - iii. The effect of the proposal on character and appearance; and
 - iv. If the proposal is inappropriate, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

5. Policy CG7AP of the Boltons Adopted Allocations Plan Document (BAAPD) relates to development within the Green Belt. I consider this policy to be consistent with paragraph 145 of the National Planning Policy Framework (the Framework) which states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless the development falls within the exceptions list. This list includes limited infilling or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development. The appellant considers that the proposal falls within this exception criteria and is therefore not inappropriate development.
6. Whilst the terms 'limited' and 'infilling' are not defined in the Framework, I have had regard to the nature and size of the proposed development, the location of the appeal site and its relationship to other, existing development adjoining and adjacent to it. There are existing buildings to the north of the appeal site. The proposed development includes the introduction of new extension buildings and conversion of existing buildings on the site. The proposed new buildings would be located within a gap between the existing built form however, this gap would be substantial given the location of the buildings. Therefore, whilst the proposal would be infilling, given the nature and size of the proposed development and its location between the existing buildings in the area, the proposed development would not be "limited" infilling.
7. Previously developed land is defined in the Framework and excludes land that is or was last occupied by agricultural buildings. Where land is currently occupied by a permanent building which has a different use, having changed its use from agricultural use, it will be previously developed land. The appellant considers that the previously approved residential development¹ has lawfully commenced and therefore the site is previously developed.
8. Simply because a site contains structures that would meet the definition of previously developed land does not mean that the whole site should be considered as such. The appeal site is larger than the site of the previously approved residential development¹ and the appeal scheme would incorporate some of the surrounding fields which are not included in the approved development¹. No evidence has been submitted to suggest that the fields surrounding the existing buildings, which fall within the appeal site but outside of the curtilage of the approved development¹, is previously developed land. Therefore, whilst parts of the appeal site may be considered previously developed, the scheme would include the development of greenfield land.
9. Consequently, I find that the proposal would be inappropriate development within the Green Belt as it would not represent limited infilling or be redevelopment of previously developed land. Accordingly, the proposal would be contrary to Policy CG7AP of the BAAPD and paragraph 145 of the Framework.

¹ Local Planning Authority Reference: 91077/13

Openness

10. Paragraph 133 of the Framework indicates that openness is an essential characteristic of the Green Belt. Whilst the proposal includes the conversion of existing buildings, it also includes the introduction of new extension buildings which significantly increase the volume of the existing built form. According to the appellants figures, the proposal would also be 11.9% larger in volume than the approved development¹. By all metrics the proposal would therefore have a greater impact on the openness of the Green Belt in spatial terms.
11. Visual impacts forms part of the concept of openness of the Green Belt, and whilst the site may not be highly visible from wider views, the existing buildings are prominent when viewed in closer proximity and particularly from the nearby school and residential properties to the north. The site sits on the edge of an urban area, not within open countryside and the northern extension would be partly sunken below ground level. Nevertheless, the proposed extensions would be large in scale and would be prominent when viewed from the immediate area and surrounding buildings and therefore would have a greater visual impact within the surrounding area.
12. The proposals would include other operational development with the erection of 2 metre high mesh fencing, 1.8 metre high solid boarded timber fencing and low level knee rails. The proposal would also introduce engineering operations including a car park, access road and paved play areas and in line with paragraph 146 of the Framework these need to be assessed in terms of whether the openness of the Green Belt would be preserved.
13. The proposed fencing are man-made structures located in areas where they do not currently exist and therefore openness would be reduced to a limited degree. The overall size of the car park, access road and play areas are substantial and would be prominent when viewed from the surrounding area and nearby buildings. These hard standing areas would facilitate the parking of cars and use of outdoor areas for the congregation of people and children. Whilst not constituting an act of development in itself, these hard standing areas would add to the loss of openness on an intermittent basis when these areas are in use.
14. I have had regard to the appellants statement of case and planning statement including the Landscape and Visual Appraisal and the High Court Judgement² which considers impact and harm on the openness of Green Belt. Taking into account the factors above, the proposal would have an inevitable spatial and visual impact that would be harmful to the Green Belt when compared to the existing circumstances and the approved development¹.
15. I therefore find that the proposed development would have a greater impact on the openness of the Green Belt than the existing development and also the previously approved residential development¹ and is contrary to paragraph 133 of the Framework.

Character and appearance

16. The surrounding area is characterised by a mix of development, including residential properties, schools, car parks and agricultural buildings with open

² Euro Garages v Secretary of State for Communities and Local Government Cheshire West and Chester Council [2018] EWHC 1753 (Admin)

landscape stretching out to the south and west of the appeal site. There is a wide variation of architectural styles, forms and materials to the surrounding buildings. It is this variation in design and built form which contributes to the character of the area.

17. The proposed extensions would be sensitive in scale and would appear subservient to the existing buildings that are proposed to be converted. The proposed extensions would almost double the existing footprint of the existing buildings however, given the size of the extensions, they would not appear overly dominant or detract from the appearance of the existing buildings or surrounding area.
18. The design of the proposed fenestration on the extensions would differ from the modest openings in the existing buildings. Nevertheless, given the wide variation in architectural detailing in the area, the contrast between the existing buildings and the proposed extension fenestration would not have an overly harmful effect on the character of the area.
19. The proposed extensions and the car park would face onto existing development and would not encroach into the open landscape to the south and west. The siting of the extensions and the car park would sit within the envelope of the existing built form and not appear as incongruous features. The proposed car park would not be screened however it would reflect the existing car park at the school directly adjacent and would not appear out of keeping.
20. Accordingly, I find that the proposal would not have a harmful effect on the character and appearance of the surrounding area. The proposal would be in accordance with Policies CG3 and OA1 of the Bolton's Core Strategy Development Plan Document 2011 (BCSDPD) which seeks proposals to conserve and enhance the character of the existing landscape and physical environment and to be compatible with the surrounding area.

Other considerations

21. The proposed development would re-use existing buildings that are close to an existing urban area and also provide economic benefits including the generation of employment opportunities for the local economy. The appellant considers that there is a lack of other suitable sites in the area and that there are substantial benefits associated with a forest school as well as the proposal improving landscape setting and reducing the visual effect of the school to the north. The location of the site is considered by the appellant to be in a less polluted environment therefore better for children than a town centre location.
22. The appellant has indicated that there is a need for educational facilities in the area that the proposed development would provide and therefore this could be a benefit. However, whilst the Bolton Council Childcare Sufficiency Assessment 2018 and 2001 census have been referred to, no substantial evidence has been provided which clearly indicates that there is a deficiency in nursery year educational facilities in the area.
23. The appellant is critical of how the Council have dealt with the application as well as failing to work positively at both pre-application and application stage. These matters do not alter my assessment of the planning merits of the scheme.

Conclusion

24. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. In this appeal there would also be harm to the openness of the Green Belt. Paragraph 144 of the Framework states that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
25. I have found that the proposal would not be harmful to the character and appearance of the surrounding area. A number of benefits have also been identified however, a lack of evidence, particularly with regards to matter of need, leads me to attribute moderate weight to these benefits. These matters and benefits would not clearly outweigh the harm that I have identified above, particularly given the importance the government gives to the protection of the Green Belt as reflected in the Framework.
26. For the reasons outlined above, therefore, other considerations do not clearly outweigh the harm to the Green Belt and any other harm. Consequently, the very special circumstances needed to justify the development do not exist.
27. I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR