



Appeal Decision

Site visit made on 18 February 2020

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2020

Appeal Ref: APP/L3625/W/19/3238819

Land Parcel, Nutfield Road, Redhill, Surrey RH1 4ED

- 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 Colborne Investments Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 18/02427/F, dated 16 November 2018, was refused by notice dated 25 April 2019.
 - The development proposed is construction of a subterranean dwelling together with the provision of 4 underground car parking spaces, plus hard and soft landscaping measures and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the Council made its decision, the Reigate and Banstead Local Plan Development Management Plan (September 2019) (DMP) has been adopted. Consequently, the Reigate and Banstead Borough Local Plan (2005) policies listed in the Council's decision notice have been replaced. Accordingly, the policies most relevant for the determination of the appeal are Policies NHE3 and NHE5 of the DMP alongside Policy CS3 of the Reigate and Banstead Local Plan Core Strategy (2014) (Core Strategy). For the avoidance of doubt, I have determined the appeal in line with these policies and relevant national policy contained in the National Planning Policy Framework (the Framework). As parties have had the opportunity to comment on the implications of the DMP policies, I am satisfied that no party has been prejudiced.

Main Issues

3. The main issues are:
 - (i) whether or not the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - (ii) the effect of the proposal on the openness of the Green Belt;
 - (iii) the effect of the proposal on protected trees;
 - (iv) whether any harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations, so as to amount

to the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

4. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. In addition, it outlines the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions set out in Paragraph 145 of the Framework. One of the stated exceptions is limited infilling or the partial or complete redevelopment of previously developed land whether redundant or in continuing use.
5. The Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). The relevant development plan policies that deal with development in the Green Belt are Policies NHE5 of the DMP and Policies CS3 of the Core Strategy. These conform to the general thrust of the Framework Green Belt policy.
6. The appeal site is an area of land which based on the evidence before me formed part of the previous planning application¹ for the conversion of the adjacent building (formerly hotel) to residential flats. I have referred to the site plan for this application, and it appears the appeal site was identified as forming a grassed area and children's play area as part of that former use. Accordingly, the appeal site would have likely formed part of the curtilage of the hotel.
7. The appeal site has been fenced off from the garden area of the flats for some time and changed ownership prior to the completion of the sale of the flats. It is therefore unclear whether the site has been used as part of the garden area of the flats. Nevertheless, the appeal site appears to be included within the site boundary for planning application (06/00130/F) and accordingly likely forms part of the curtilage of the flats granted planning permission. On this basis, I am not persuaded otherwise that the site could not reasonably be considered as previously developed land in the context of paragraph 145 of the Framework. Notwithstanding the above, even if the site could be considered as redevelopment of previously developed land, the proposal would need to be assessed as to its effect on the openness of the Green Belt.

Openness

8. Paragraph 133 of the Framework states that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. It indicates that openness and permanence are essential characteristics of the Green Belt. Whilst there is no definition of 'openness' in the Framework it can be taken to mean an absence of buildings or other forms of urbanising development rather than being primarily about visual effects. Openness can have both a visual and spatial dimension.

¹ Planning Application: 06/00130/F

9. The appeal site is an undeveloped parcel of land bounded by tree cover and would appear to have been subject to vegetation clearance. Whilst there are residential properties adjacent to the appeal site it has a distinct absence of built form and is open in character, thus providing an open gap between existing development. This undeveloped site adjoins extensive open gardens and land to the north and whilst not significant, together contribute to providing a level of spatial openness in the Green Belt.
10. I acknowledge from the Landscape and Visual Impact Appraisal² that the site would not be visible from wider public viewpoints. However, the site at present is visible through the existing trees bounding Nutfield Road and the open undeveloped appearance is apparent. The entrance to the site is currently fenced off and when viewed from the road this affords views over the fence through to the trees. This contributes to the sense of openness and links the site visually to the wider green open character of the land to the north and this is also experienced from the site itself. Similarly, the open nature of the site is experienced from the adjacent residential properties. Therefore, whilst not significant, I do consider the site has a limited level of visual openness in the Green Belt.
11. Whilst the dwelling is subterranean the proposal would result in a substantial excavation to accommodate it. This would introduce albeit predominantly underground, a built footprint into an undeveloped site. The Green Belt Report³ states that development would increase the volume of above ground development by approximately 301 cubic metres, which it identifies as approximately half the size of a standard house. Whilst this will be around 1.16m above ground it will still introduce additional volume of built form which represents a material change to the spatial openness of the Green Belt.
12. Further, the other elements of domestic paraphernalia including the glass balustrading, fencing, screening and car parking lift would slightly increase volume further. Consequently, the proposal would result in an encroachment of built footprint and volume of built development above ground that will have a greater impact than the existing situation and thus spatial openness would be reduced.
13. The proposal incorporates substantial landscaping and together with the built development and domestic paraphernalia, in visual terms would introduce a formal residential appearance to the site which would urbanise it. The access gate would open up the site allowing intermittent views through it from the highway and whilst these will be limited, nevertheless this open land punctuates between existing development and its undeveloped appearance would be materially altered by the proposal. In addition, with views from users of the highway, views from neighbouring dwellings and the gardens to the north, will lead to an effect albeit limited on the visual openness of the Green belt in this location.
14. The scheme, once completed, would change the undeveloped character introducing a level of residential activity on this site that would harm openness. Although I recognise that the proposal would incorporate a substantial amount of landscaping and planting in an attempt to mitigate the impact of the proposal, this would take some time to establish and in any event would

² Arc Landscape Design and Planning Ltd Landscape and Visual Appraisal (November 2018)

³ LDA Design Land East of Hunters Lodge Green Belt Report (October 2019)

formalise the landscaped residential appearance of the site further reducing the sites openness.

15. I note the reference by the appellant's to the High Court judgement⁴ with regard to the assessment of impact on openness. This found that for there to be a greater impact there must be something more than merely a change, however whether there is a greater impact is a matter of judgement. In my view, the proposal will lead to effects that harm both spatial and visual openness and would be clearly more than merely a change. It would therefore have a greater impact than the existing situation. Consequently, I consider the reduction in spatial and visual openness would be limited and localised. Nevertheless, the introduction of built form and associated paraphernalia into an open undeveloped site would lead to limited harm to the Green Belt failing to preserve its openness.
16. For the above reasons, even if the proposal could be considered as previously developed land, by virtue of the identified harm to openness, the proposal would not fall within any of the identified exceptions in Paragraph 145 of the Framework and would thus represent inappropriate development in the Green Belt. It would therefore conflict with Policy NHE 5 of the DMP, Policy CS3 of the Core Strategy and the Framework.

Protected Trees

17. The protected trees⁵ to the front of the appeal site are a prominent feature along Nutfield Road forming part of a network of trees that make an important contribution to the local landscape of the area. I acknowledge the Council's concerns that the existing trees will cause shading for the proposed property and subsequently could lead to pressure from future owners of the property for their removal. The Council's tree officer is primarily concerned about the trees on the southern boundary of the site. The appellant's Internal Daylight Report⁶ to my mind clearly identifies that the overall levels of daylight within the proposal would be acceptable with the trees remaining and accounting for their future growth.
18. Accordingly, I do not consider it likely that there would be pressure from the occupiers of the proposed development to cut back the trees. For the above reasons I do not find the proposal would result in harm to the protected trees. Accordingly, the proposal would not be in conflict with Policy NHE3 of the DMP. Amongst other things, this policy seeks that development that would result in the loss of or deterioration in the quality of a protected tree will be refused unless the need for and benefits of development clearly outweigh the loss.

Other considerations

19. I recognise that the design of the proposed dwelling incorporates high sustainability and energy standards and would provide a new dwelling to contribute to the local housing supply. I also acknowledge that the site incorporates new tree planting. Given the scale of proposal I find these benefits only carry limited weight. Finally, whilst development could contribute to tidying up the site, given the harm I find the proposed development of this

⁴ Euro Garages Limited v SSHCLG & Cheshire West and Chester Council (2018) EWHC 1753 (Admin)

⁵ G1 of Tree Preservation Order RE:962

⁶ Point 2 Surveyors Internal Daylight Report v2 (October 2019)

undeveloped site would cause to the openness of the Green Belt, I attach limited weight to this benefit.

20. I have considered the allocation of the Copyhold works site⁷ in the new DMP. However, I do not have the exact allocation of this site before me and nevertheless am not aware of the planning circumstances that led to its designation. Whilst future development of this land may change the character of the area that is not the case at the present time. Accordingly, I give this limited weight in my determination of this appeal.
21. I recognise that the Council consider the proposal is acceptable with regard to access, proximity to a waste management facility and impact on neighbouring amenity. However, whilst these are considerations relating to the proposed scheme, these matters are required to be acceptable in their own right to make the development acceptable. For this reason, they hold neutral weight in favour of the proposed development.

Green Belt Balance

22. Substantial weight must be given to the harm to the Green Belt due to the inappropriate nature of the proposed development with the, albeit limited, harm that this would cause to openness. On the other hand, the other considerations identified above amounting to benefits of the scheme attract only limited weight. Therefore, I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

23. For the above reasons, the appeal is dismissed.

S Thomas

INSPECTOR

⁷ DMP Policy ERM2/3 – Land west of Copyhold Works and former Copyhold Works