



Appeal Decision

Site visit made on 9 September 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2020

Appeal Ref: APP/N5090/W/20/3250343

Leahurst Nursery, 36A Galley Lane, Barnet EN5 4AJ

- 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 Lyndon Osborn against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/6403/FUL, dated 29 November 2019, was refused by notice dated 17 February 2020.
 - The development proposed is the erection of an agricultural building for use as machinery storage, potting shed, compost and materials.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of an agricultural building for use as machinery storage, potting shed, compost and materials at Leahurst Nursery, 36A Galley Lane, Barnet EN5 4AJ in accordance with application Ref 19/6403/FUL, dated 29 November 2019, subject to the conditions listed below:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans: KCC2097/13A-01/2020tk Received 13 Jan 2020 and KCC2097/12-11/19cb Received 02 Dec 2019.
 - 3) The exterior of the development hereby permitted shall be finished in the materials specified on the application form and plans hereby approved and shall be maintained and retained as such thereafter.
 - 4) The use of the building hereby permitted shall at all times be ancillary to and only occupied in conjunction with the use of the site as a horticultural nursery, excluding the provision of ancillary residential accommodation, and for no other use or purpose.

Procedural Matters

2. For clarity and precision, I have taken the description of development in the banner heading from the appeal form and decision notice.
3. I acknowledge that the evidence suggests there is an agreement between the appeal parties surrounding the development not amounting to inappropriate development inside the Green Belt. Nonetheless, the Council have cited conflict with various development plan policies and Paragraphs 143 and 145 of the National Planning Policy Framework (the Framework) on its decision notice that directly relate to inappropriate development. Therefore, in this instance, I

consider it necessary to list inappropriate development as a main issue on this appeal.

Application for costs

4. An application for costs was made by Mr Lyndon Osborn against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Main Issues

5. The main issues of this appeal are:
 - i. whether the proposed development would be inappropriate development in the Green Belt; and,
 - ii. the effect of the proposed development on the character and appearance of the appeal site and surrounding area.

Reasons

Inappropriate development

6. The appeal site is located within the Green Belt and is a long-established horticultural unit that has operated for many years. The site amounts to approximately 0.7 hectare in area and is situated to the west of Galley Lane. To the north, east and south of the site are residential rear gardens, and to the west is open countryside.
7. The definition of agriculture in the Town and Country Planning Act 1990 includes horticulture. Paragraph 145 of the Framework provides that the construction of new buildings should be regarded as inappropriate subject to exceptions. Paragraph 145 a) of the Framework lists buildings for agriculture and forestry as an exception and Policy DM15 of the Council's Local Plan Development Management Policies 2012 (DMP) also lists horticulture. It is clear from the appeal documentation that the appellant wishes to use the building in connection with horticulture. Moreover, it is clear that the proposed development has been designed for the intended purposes and is agrarian in appearance.
8. The proposed development would involve the erection of a single storey building and would be sited within the confines of the existing nursery, which is a substantial business operation covering a significantly sized land area. The proposed development would be consistent with the general objectives of DMP Policy DM15; Policy CS NPPF of the Council's Local Plan Core Strategy 2012 (CS) and Policy 7.16 of the London Plan 2016. I also find that the proposed development would not conflict with the overarching requirements of the Framework with regard to construction of new buildings in the Green Belt.
9. The proposed development would be a component of the horticultural use at the nursery and would be used for horticultural purposes as part of the wider nursery operation. Therefore, I conclude, the proposed development would not constitute inappropriate development in the Green Belt for the purposes of the development plan and the Framework as it would comprise a building for horticulture.

10. By its very nature, such development should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. For this reason and having had regard to the Lee Valley judgment¹, there is no requirement for me to go on to consider the effect of the proposed development on the openness of the Green Belt or the purposes of including land within it. Additionally, the demonstration of very special circumstances is not required to make the proposed development acceptable.

Character and appearance

11. The proposed development would be located in a position that is not readily visible from areas within the public realm. In any event, the form, shape and appearance of the proposed development and external materials, would result in a well-designed agricultural building.
12. Both parties have drawn my attention to a previous approval² for the relocation of a potting shed and store, which was proposed in the general location of the scheme before me and partially within its footprint. I note that the proposed development is larger than the scheme previously approved. However, I consider that the appellant has provided sufficient evidence to demonstrate the requirement for the overall size of the building proposed, specifically with regards to its footprint and height.
13. The proposed development would sit close to existing structures on the site and whilst it would be taller, I do not find the proposed ridge height of 5.1m, with an eaves height of 4m to be unreasonable in this instance. The resultant building would relate well to the existing nursery, contained within its boundaries. The visual effect of the proposed development would be further mitigated through the colour and form of materials proposed for the upper walls and the roof. Whilst the building is sited on a slightly different building line to the existing structures, I am satisfied that the proposed development would integrate into the landscape and would not appear exposed or excessively prominent given the character of the area immediately surrounding the site.
14. Therefore, I conclude that the proposed development would not have a significantly detrimental impact on the character and appearance of the appeal site or surrounding area. Therefore, it would accord with the design, character and appearance aims of CS Policies CS NPPF, CS1, CS5, CS7; DMP Policy DM01 and the requirements of the Framework.

Other Matter

15. Local residents have also expressed a wide range of concerns including, but not limited to the following; The items stored, emergency service access, highway safety, residential amenity, noise and disturbance, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these

¹ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor [2016] EWCA Civ 404

² 17/5066/FUL

matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

Conditions

16. The Council has suggested conditions which it considers would be appropriate in its submission. I have reviewed these in accordance with the tests set out in the Planning Practice Guidance (PPG) and have amended the wording where necessary in the interests of clarity and simplicity.
17. For certainty, it is necessary that there is a condition requiring that the development is carried out in accordance with the approved plans and the facing materials match those specified on the plans and application form. It is also reasonable and necessary to impose a condition to define and restrict the use of the building. However, it is not reasonable or necessary to include "occupied as a separate unit or dwelling" as this would require the submission of its own application.

Conclusion

18. Taking all matters into consideration, I conclude that the appeal should succeed.

W Johnson

INSPECTOR