The Planning Inspectorate

Appeal Decision

Site visit made on 8 September 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2020

Appeal Ref: APP/W1905/W/20/3254269
Spring Farm, Old Park Ride, Waltham Cross EN7 5HU

- 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 J Benbassat against the decision of Broxbourne Borough Council.
- The application Ref 07/20/0255/F, dated 17 March 2020, was refused by notice dated 20 May 2020.
- The development proposed is change of use an agricultural building to Class B8 storage and distribution, with ancillary temporary showroom and cutting facilities.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council adopted the Broxbourne Local Plan 2018 – 2033 (the BLP) in June 2020 and I therefore give full weight to the relevant policies of the BLP. The Council's decision notice refers to policies of the Borough of Broxbourne Local Plan Second Review 2001-2011 which have now been replaced by the BLP and therefore have had no bearing on my decision. The appellant has had the opportunity to comment on the relevant BLP policies.

3. I have determined the appeal on the basis of the change of use that has already begun.

Main Issues

4. The main issues are:

    - Whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
    - The effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance;
    - The effect of the development on highway safety; and,
    - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. The appeal site is located within the Green Belt. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.

6. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 146 of the Framework allows for certain forms of development that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction. Policy GB1 of the BLP is consistent with the Framework.

7. The appeal property consists of a steel-clad former agricultural building which measures around 14 metres wide by 30 metres long. The information before me indicates that the building was permitted in 2013 for the storage of straw, fodder and a tractor. It is currently being used for storage and distribution, stone cutting and a showroom. There is an area of hardstanding around the building, which is outside the red edge on the location plan. The building is accessed from Old Park Ride via an un-made track.

8. There is no dispute that the existing building is of permanent and substantial construction. Therefore, in order to meet the exception in paragraph 146 d) of the Framework, it is necessary to assess the effect of the development on the openness of the Green Belt.

9. The development has not resulted in external changes to the building and so it has not caused a spatial loss of openness. However, the effect on openness does not relate only to the size of built development but also its purpose.

10. I observed that a large amount of stone slabs were being stored on the hard-surfacing to the west of the appeal building. The appellant has stated a willingness to accept a condition to prevent the outside storage of materials. Nevertheless, this would not meet the test of enforceability in paragraph 55 of the Framework because the land is outside the red edge on the location plan and so it is not in the control of the appellant. The outside storage of materials is not part of the application but it clearly results from the use of the building. Most of the internal floor space of the building is used for the operation of the stone cutting machines and only a modest proportion of the space is used for the storage of stone slabs. This has inevitably resulted in the outside storage of materials, which causes visual intrusion in the Green Belt.

11. In respect of vehicular movements, the appellant states that deliveries to the appeal property consist of one articulated lorry per month, however there is little information in relation to the amount of distribution movements from the site. Furthermore, the appellant's appeal statement indicates that customer appointments to the showroom are approximately 2 per week, while the Design and Access Statement refers to there being around 5 visits per week. I note that the showroom is indicated as being temporary, however there is no information to precisely show when it would cease.

12. The appellant states that parking is provided on the hardstanding to the west of the building, which could accommodate 6 vehicles. It would be impractical for vehicles to be parked inside the building because of the space required for the operation of the stone cutting machines and storage of the stone slabs. Whilst the hard-standing is outside the red edge on the location plan, it is inevitable that vehicles would be parked here as it is the only practical place available.

13. Notwithstanding the information provided by the appellant, I find that in comparison to the previous agricultural use of the building, the distribution of goods from the site and customer visits to the showroom, causes an increase in activity by virtue of additional comings and goings. Given the large size of the building, there could be growth in the number of deliveries and distribution movements in the future. Furthermore, the use inevitably causes the storage of materials and parking of vehicles on the land to the west of the appeal site, which causes visual intrusion in the Green Belt.

14. The visual impact of the use results in an urbanising effect and a moderate loss of openness to the Green Belt. In this respect, it conflicts with the purposes of including land within the Green Belt set out in Paragraph 134 of the Framework, specifically safeguarding the countryside from encroachment.

15. Therefore, the appeal scheme does not preserve the openness of the Green Belt and it conflicts with the purposes of including land within it. Consequently, it is inappropriate development in the Green Belt and conflicts with Policy GB1 of the BLP and the policies in the Framework that protect the Green Belt.

Living conditions

16. The appeal property includes 5 stone cutting machines. No information showing the sound level from the machines is before me, however given the nature of the activity it is likely to be significant. The sound attenuation provided by the building is limited as the fabric only consists of metal cladding and there is a large opening in the northern elevation.

17. A field is located between the appeal property and the neighbouring residential properties to the north, including Partridge Lodge, Spring Farm Cottage, The Bungalow and Spring Farm House. There is also an agricultural workers dwelling nearby. Whilst the properties to the north are some distance away, the field is relatively open and therefore the sound attenuation provided by the landscape is likely to be limited.

18. I appreciate that the previous agricultural use of the building would generate a degree of noise. However, taking into account the noisy nature of the stone cutting activity; the limited sound attenuation provided by the building; and the character of the land that separates the appeal site from neighbouring properties, I find that the use exposes neighbouring occupiers to an unacceptable level of noise. No noise impact assessment is before me to indicate otherwise.

19. I have considered whether a planning condition to restrict the hours of working would make the proposed development acceptable. The appellant indicates working hours between 0800-1700 Monday – Friday and 0800-1400 on Saturdays. Whilst this would prevent noise in the evenings and early mornings,

there would still be noise and disturbance to occupiers of the neighbouring properties during the day.

20. Noise generated by vehicular movements from the appeal site would be quite limited. Furthermore, I acknowledge that there was no objection from the Council's Environmental Health department. However, these considerations would not overcome my concerns set out above.

21. For the above reasons, I conclude that the development is detrimental to the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance. The proposal is therefore contrary to Policies EQ1 and EQ4 of the BLP, which seek to avoid detrimental impacts on the amenities enjoyed by the occupiers of neighbouring properties.

Highway safety

22. Vehicular access to the appeal site is from Old Park Ride, which is a private local access road comprising a public right of way. A long, curved track leads from Old Park Ride to the appeal property. The track has an unmade surface.

23. The appellant indicates that deliveries to the appeal property consist of one articulated lorry per month. There is little information before me to show the number of distribution movements from the site. Nevertheless, I find that in comparison to the previous agricultural use, the distribution function and customer visits to the showroom generates an increase in the amount of vehicular movements. This is reflected by representations from local residents.

24. Old Park Ride is a narrow road and there are no details to show sufficient turning space or adequate visibility splays at the road junction. In this respect, I am particularly concerned about the use of the road by articulated lorries or distribution vehicles. As such, it has not been demonstrated that the junction can safely accommodate the increase in vehicular movements, or the type of delivery and distribution vehicles associated with the use. This could not be addressed through the imposition of a planning condition to require further details because without details of those works I cannot be sure of any other effects which may be harmful.

25. Furthermore, there is little information to show the width of the track or passing space for vehicles. The track is unsuitable for additional movements associated with distribution and customer domestic vehicles due to its un-made surface. Given the nature of the track it is likely that vehicles would leave mud deposits in Old Park Ride. I note the appellant's suggestion of a wheel washing facility, however there are no details to show where this could be positioned or how it would be operated. In any event, it would be difficult to enforce the use of such a facility and it would not be an appropriate long-term measure.

26. I have had regard to the Council's concerns about the absence of details of waste water disposal, however I am satisfied that this is a matter that could be addressed through the imposition of a planning condition.

27. For the above reasons, I conclude that the development is harmful to highway safety. It is therefore contrary to Policy TM2 of the BLP which, amongst other things, states that development proposals must ensure that the safety of all movement corridor users is not compromised

Other considerations and the Green Belt balance

28. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I find that the development is inappropriate development and I therefore attach substantial weight to the harm to the Green Belt, in accordance with paragraph 144 of the Framework. In addition, the development is harmful to the living conditions of the occupiers of neighbouring properties, and highway safety.

29. Paragraph 83 of the Framework supports the conversion of existing buildings to encourage the sustainable growth and expansion of all types of business in rural areas. The development provides economic advantages as it supports the growth of a rural business. This is a benefit that attracts significant weight.

30. The appellant refers to a 2014 appeal decision for the use of a barn at Spring Farm as a dwelling, however details of that case are not before me. Nevertheless, I have determined the appeal scheme on its own merits with regard to the current policy framework.

31. I find that the other considerations identified in support of the scheme do not clearly outweigh the totality of the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal is therefore contrary to the Framework and Policy GB1 of the BLP which seek to protect the Green Belt.

Conclusion

32. For the reasons given above I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR