



Appeal Decision

Site visit made on 28 September 2020

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2020

Appeal Ref: APP/W5780/W/20/3247238

Railway Cottages, Railway Nursery Adjacent, Forest Road, Hainault, Ilford IG6 3HE

- 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 Russell of BC Properties Essex Ltd against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 3377/19, dated 12 August 2019, was refused by notice dated 21 November 2019.
 - The development proposed is described as: to remove the temporary nursery structures and construct 4 new terraced houses to complete the existing adjacent terrace of 6 houses. Off street parking is provided and each house shall have its own front and rear garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's second reason for refusal relates to the effect of the development upon the Epping Forest Special Area of Conservation (SAC). The appellant has submitted a receipt of a payment to the Council for mitigation measures for the SAC. I return to this matter later.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, including its effect upon the openness of the Green Belt; and,
 - if the proposal would be inappropriate development, whether the 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 it.

Reasons

Inappropriate development

4. The National Planning Policy Framework (2019) (the Framework) identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is

harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt subject to exceptions set out in paragraph 145.

5. In reflecting the purposes of Green Belt set out in paragraph 134 and in seeking to resist new development regarded as inappropriate development in the Framework, Policy LP34 of the Redbridge Local Plan (2018) (the RLP) is consistent with the Framework. Policy 7.16 of the London Plan (2016) (the London Plan) advises the strongest protection will be given to the Green Belt in accordance with national guidance and inappropriate development should be refused, except in very special circumstances. Therefore, it is consistent with the Framework.
6. There is a dispute between the parties about whether the proposal constitutes inappropriate development in the Green Belt. The Council concludes that it is inappropriate development under paragraph 145. The appellant advocates the proposal constitutes the exception under paragraph 145g), which is infilling or redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development.
7. The descriptions of development for previous permissions at the site refer to agricultural buildings (Refs 2048/98, 0685/98, 1967/00 and 2575/03). The first three permissions also make reference to a horticultural nursey use of the land. The definition of previously developed land in the Glossary of the Framework excludes land that is or was last occupied by agricultural or forestry buildings. Section 336 of the Town & Country Planning Act 1990 defines agriculture to include horticulture, market gardens and nursery grounds.
8. The premises being permitted for some retail sales is not unusual for a horticultural business. The appellant does not detail the level of retail activity or associated vehicle movements to demonstrate this was the primary use of the site. Furthermore, condition 2 of Ref 0685/98 required when the land ceased to be occupied by that applicant, retail sales of non-site grown plants shall cease and all equipment and materials associated with it be removed.
9. The evidence before me leads me to the conclusion the use of the site is agricultural and is occupied by agricultural buildings. Therefore, it is not previously developed land defined by the Framework, and this residential development of market dwellings would constitute inappropriate development. Paragraph 143 of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
10. In the event it was demonstrated the site would constitute previously developed land, the exception under paragraph 145g) of the Framework requires that redevelopment does not have a greater impact upon openness than existing development. Based upon the plans before me and my visit, the site was occupied by four polytunnels approximately 3.5m in height, a smaller shed building, some hardstandings, and piles of waste materials. Whilst now appearing unkempt, the buildings are typical horticultural buildings that do not appear out of place within the urban edge and partly rural surroundings.
11. Although occupying a reduced floorspace, the new dwellings would be up to approximately 4m taller than the polytunnels. Due to their solid construction,

bulk, massing and layout they would also have a greater appearance of permanence. At approximately 4.2m in height to the eaves and 7.6m to the ridge, together with access and parking, the development would result in a considerable amount of physical built development at the site.

12. Based upon the plans before me, even excluding any bin and cycle storage requirements, garden buildings and sustainable drainage requirements the dwellings would result in several hundred cubic metres of additional buildings on the site. There would also be paraphernalia and activity associated with the dwellings, with comings and goings and vehicles parked at the site for long periods. The dwellings would be significantly more visible above the perimeter hedgerows from Forest Road, gardens of neighbouring dwellings and the golf course. Therefore, notwithstanding the new garden areas and landscaping, the proposed development would result in a significantly greater visual and spatial impact and harm to the openness of the Green Belt than the existing development.
13. For the reasons set out above, the proposed development would constitute inappropriate development in the Green Belt that would have a significantly harmful impact upon the openness of the Green Belt. Therefore, it would conflict with Policy LP34 of the RLP and the Framework in these regards. It would also conflict with Policy 7.16 of the London Plan insofar as it seeks the strongest protection to London's Green Belt in accordance with the Framework.

Other considerations

14. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework is clear that substantial weight should be given to any identified harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
15. The development would result in a small temporary economic benefit during construction, and once occupied a small sustained benefit to the local economy. Compliance with resource efficiency standards such as water, would help offset the environmental impacts of the development, but are more of a neutral factor. The development would result in a social benefit through the provision of four accessible family sized dwellings well located for services, facilities and transport. As a small site this could be built-out reasonably quickly. The appellant suggests the Council was only able to meet 43% of its housing completions for 2017/18, but the up to date housing land supply and housing delivery target position is not clear from the information before me. Even if need is very acute, the combined benefits of these four dwellings attracts moderate weight in favour of the scheme.
16. The dwellings would provide internal and external space in accordance with and above the London Plan and RLP requirements. There might be some reduction in vehicle movements and activity during working hours, but the site is limited in size and there is no substantive evidence that site activity from the permitted use adversely affected the living conditions of neighbouring occupiers. The new development would be compliant with policies in respect of the living conditions of future and neighbouring occupiers. This attracts neutral weight.

17. The Council has set out issues with some aspects of the design, but these matters were not listed as a specific ground for refusing permission. The dwellings would be of a scale and design generally in keeping with the character and appearance of those nearby which is a neutral effect. I note the measures to prevent fly tipping, unauthorised occupation and the suggested costs involved. The limited information before me does not demonstrate the removal of the materials, tidying or beneficial use the site is only possible with this appeal scheme. There is no substantive evidence before me to suggest that the surrounding verdant hedgerows are to be removed. Such an act may result in greater visibility of the existing appeal site, but this would also be true for the appeal proposals, thereby increasing their visual effect upon the openness of the Green Belt. Overall, I attribute these matters limited weight.
18. The land charges register indicates a restrictive covenant from 1909 that it was only to be used for residential purposes for the workers of the railway company. The current use appears not to be compliant with it and its legal effect is not clear, so this matter attracts limited weight. In appeal Ref APP/K0425/A/13/2192149, a detailed marketing report and definitive information in respect of vehicle movements appeared to be before the Inspector. Furthermore, the dwelling was significantly smaller in area and no higher than the buildings it replaced, which the Inspector found was beneficial to openness. Therefore, the nature, circumstances and information accompanying that appeal proposal are significantly different to that before me, which I have considered on its own merits.
19. The information submitted suggests the development would be compliant in respect of archaeology, which is a neutral effect. The scheme would provide above the minimum parking requirements, although the Highway Authority objected to the proposals, suggesting significant revisions would be necessary. If compliance with the highway policies could be achieved in respect of access and parking, this would attract neutral weight.

Other Matters

20. Reason for refusal No. 2 on the Council's decision notice relates to the impact of the development on the European designated Epping Forest Special Area of Conservation (SAC). The Conservation of Habitats and Species Regulations 2017 requires where a project is likely to result in a significant effect on a European site (in this case the SAC), the competent authority is required to make an Appropriate Assessment (AA) of the implications of that project on the integrity of the European site adopting the precautionary principle.
21. The appeal site is within the 3km Zone of Influence (ZOI) of the SAC. If constructed, the appeal scheme would facilitate a permanent increase in the number of people living within a short drive of the SAC. Natural England's interim advice (September 2018) is that development in the ZOI would have a likely significant effect upon the features of interest of the SAC through increased recreational pressure. To mitigate such effects, a costed package of Strategic Access Management Measures (SAMMs) have been prepared. The appellant has made a payment as a financial contribution to the costed SAMMs. As it would provide a contribution towards mitigating impacts on the SAC, it would not have benefits that would weigh in favour of the appeal scheme. Therefore, it is not necessary to look at this matter in detail.

22. In its reason for refusal the Council has referred to Policies LP33 and LP38 of the RLP. As these relate to heritage assets, protecting trees and enhancing the landscape, they are of less relevance to this reason for refusal.

Planning Balance & Conclusion

23. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The policies of the Framework are material considerations.
24. The proposed design of the development would preserve the character and appearance of the area, provide acceptable living conditions to future and neighbouring occupiers, be acceptable in respect of archaeology and the effect upon trees and landscaping. In these regards the development does not conflict with the relevant requirements of Policies LP24, LP26, LP29, LP33 and LP38 of the RLP and Policies 3.5, 7.4, 7.6, 7.8, 7.15 and 7.21 of the London Plan. Compliance with the relevant aspects of these policies attracts neutral weight. The development would integrate some sustainable design and resource efficiency measures which would off-set the impacts of the new dwellings. Compliance with Policy 5.3 of the London Plan and LP32 of the RLP attracts neutral weight.
25. If the development could be made acceptable in respect of access and parking arrangements, this would attract neutral weight. The combined economic and social effects of the development in accordance with Policies 3.3 and 3.4 of the London Plan, Policies GG4 and H2 of the Draft London Plan Intend to Publish Version (2019) referred to by the appellant and LP2 of the RLP attract moderate weight in favour of the scheme.
26. However, the development would be inappropriate development in the Green Belt which is by definition harmful to the Green Belt and it would result in a significant adverse effect upon the openness of the Green Belt. The harm to the Green Belt carries substantial weight against the proposal. Whilst there are benefits to the development, overall, all of these combined would not amount to very special circumstances that clearly outweigh the harm identified to the Green Belt which attracts substantial weight. Therefore, the development conflicts with Policy LP34 of the RLP, Policy 7.16 of the London Plan and the Framework.
27. In-light of my finding in relation to the Green Belt, the application of policies in the Framework that protect areas of particular importance in footnote 6 of paragraph 11, provide a clear reason for refusing the development. Therefore, the presumption in favour of sustainable development does not apply and the proposal is not a sustainable development for the purposes of the Framework.
28. The proposed development would be contrary to the development plan and the National Planning Policy Framework taken as a whole and there are no considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR