



Appeal Decision

Site Visit made on 23 November 2020 by Hilary Senior BA (Hons) MCD MRTPI

Decision by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal Ref: APP/D0650/W/20/3258060

Land To The South East Corner, Of Harefield Cottage Water Gardens Warrington Road, Rainhill L35 6PG

- 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 & Mrs D Williams against the decision of Halton Borough Council.
 - The application Ref 20/00213/FUL, dated 12 May 2020, was refused by notice dated 2 July 2020.
 - The development proposed is the erection of a single storey detached dwelling, with access off Warrington Road, following the demolition of the existing poly tunnel building, the removal of the storage container and the cessation of the commercial use of the land by Green World North West Limited.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey detached dwelling, with access off Warrington Road, following the demolition of the existing poly tunnel building, the removal of the storage container and the cessation of the commercial use of the land by Green World North West Limited at Land To The South East Corner, Of Harefield Cottage Water Gardens Warrington Road , Rainhill L35 6PG in accordance with the terms of the application, Ref 20/00213/FUL, dated 12 May 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr & Mrs D Williams against Halton Borough Council. This application is the subject of a separate decision.

Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

4. The appellants have submitted additional information as part of their appeal. These include a revised site plan which shows the area to be excluded from the proposed residential use, images prepared to show the existing building and the same view with the appeal proposal and an image of the car parking area at the adjacent Harefield Water garden Centre.
5. I note the concerns of the Council regarding the images that have been prepared. While I have accepted them, I have relied on my site visit to get an

accurate representation of the area and the plans submitted with regard to the proposal. They have not therefore been determinative. The site plan and image of the car park do not provide any new information and therefore I am satisfied that no one would be prejudiced if I were to accept them. I have therefore proceeded on that basis.

Main Issues

6. The main issues are:

- whether the proposal would be 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 proposal on the openness of the Green Belt
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations and if so, whether this would amount to the very special circumstances required to justify the proposal.

Reasons

Whether the Proposal would be Inappropriate Development/Openness

7. The appeal site lies off Warrington Road set behind existing properties and is accessed via an existing shared drive that serves The Coach House and other buildings.
8. Paragraph 143 of the NPPF states inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the NPPF says the construction of new buildings in the Green Belt should be regarded as inappropriate development unless certain listed exemptions apply. One of these exceptions is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) that would not have a greater impact on the openness of the Green Belt than the existing development.
9. From the evidence I note that both parties agree that the appeal site meets the definition for previously developed land. From all I have seen and read, I have no reason to disagree with this conclusion. However, to meet the test of this exception, the Framework also states that development should not have a greater impact on the openness of the Green Belt than the existing development.
10. The site includes an area currently occupied by a hybrid polytunnel building, a storage container and part is used for the outdoor storage of plants, plant and equipment. The polytunnel building was the subject of a Certificate of Lawful Development to establish that it is a building for the purposes of planning¹. In addition, I saw at my site visit that the building is substantial and has a strong presence in the landscape due to its size, location and colour. As such this together with the commercial activity on the appeal site has a considerable impact on openness.

¹ 18/0316/ELD

11. The proposed dwelling would use timber cladding and a lightweight glulam roof structure, to mimic the characteristics of the polytunnel. It would have the same footprint as the polytunnel and, while slightly higher, would be constructed to mirror its bulk and mass. Furthermore, its volume would be less than the sum of the volume of the buildings to be removed. Consequently, in spatial terms there would be a marginal reduced impact on openness.
12. I note the concerns of the Council regarding what it considers to be a lightweight structure, more ordinarily associated with the countryside being replaced with a solid residential building, together with associated residential paraphernalia.
13. However, the proposed house would be of a similar scale to the existing polytunnel. Furthermore, it would be contained within the existing built form which includes residential properties and therefore this edge to the countryside is already urbanised. While the dwelling would be higher than the existing polytunnel, it would not be significantly so. This together with its location and muted appearance would mean that the building itself would have a reduced impact on openness. As well as the replacement of the open storage area with garden, this would ensure that the proposal would not have a greater impact on openness than the existing development. While there would be a possibility of domestic paraphernalia within the proposed garden, given its relatively small size it is unlikely to be on the scale of the existing commercial storage that would be replaced.
14. The Council has concerns that the existing commercial activity would be relocated to the adjacent Harefield Water Garden centre. I appreciate its concern, notwithstanding the various leasing agreements in operation. However, there is no substantive evidence before to suggest that even if the commercial activity were to be located that it would not require planning permission, or in any case, given the configuration and form of the garden centre that it would cause material harm.
15. I have had regard to the appeal decision APP/D0650/W/18/3213705 where in the Council's view the Inspector concluded that the cumulative effects of proliferation across an area equivalent to the size of this appeal site would be significant and would have a greater effect on openness than the existing lawful use of the site. However, whilst I do not have the full details of the scheme before me, it would appear that the visual impact of that proposal was different from the appeal proposal, in that the existing nature of that appeal site had very little effect on the openness of the Green Belt. That is not the case here.
16. For the reasons given above, I conclude that the appeal proposal would not have a greater impact on openness than the existing development and would not therefore be inappropriate development in the Green Belt. That being the case there is no need for me to consider whether there are any very special circumstances.

Conditions

17. I have considered the conditions suggested by the Council in accordance with the Planning Practice Guidance. For clarity, I have amended the wording of a number of the suggested conditions so that they comply with the tests set out in the Planning Practice Guidance and the Framework.

18. In the interest of proper planning I have attached a condition relating to time limits, and a condition specifying relevant plans to provide certainty. Conditions concerning levels, external materials and landscaping and boundary treatment are necessary in the interests of the character and appearance of the area.
19. A condition limiting working hours is necessary to safeguard the living conditions of adjoining occupiers.
20. Conditions relating to drainage and contamination are necessary to ensure the area is adequately drained and any contamination is remediated.
21. The Council submitted a plan to accompany a condition restricting the use of the land currently occupied by the polytunnel. As I have accepted the appellant's revised plan in this regard, I have used that plan to achieve the same aim. This is necessary to protect the openness of the Green Belt. I have also imposed a condition to ensure that the Poly tunnel is removed prior to the construction of the dwelling also to protect the openness of the Green Belt.
22. A condition removing permitted development rights for development within the curtilage of the dwelling s necessary in the interests of the character and appearance and openness of the Green Belt. I have amended the Council's condition to make it more precise.
23. Conditions relating to visibility splays and the layout of parking area are necessary for highway safety.
24. Conditions in relation to drainage, levels and contamination need to be pre-commencement as any works may disturb the ground which needs to be recorded.

Conclusion

25. For the reasons given, I conclude that the appeal should succeed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's decision

26. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Zoe Raygen

INSPECTOR

Conditions Schedule

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 following approved plans: A5798-b-b-00 Location Plan; A5798-c-b-02 Elevations as Proposed; A5798-c-b-03A Site Plan existing and proposed; A5798-b-b-04 Existing site topographical and existing proposed south elevation; site visibility splays and access improvements -Drg No 3 Rev C
3. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the Council as local planning authority. The development shall be carried out in accordance with the approved levels.
4. No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme for the disposal of surface water, in accordance with the SuDS hierarchy, have been submitted to and approved by the Council as Local Planning Authority. The scheme shall be implemented prior to the occupation of the dwelling and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - I. A management and maintenance plan for the lifetime of the development which shall include the arrangements for i) drainage to soakaway, including calculations and arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime or ii) if i) is not feasible then drainage to watercourse or iii) if i) or ii) is not feasible connection to any system adopted by any public body or statutory undertaker.
 - II. Interceptors, attenuation structures and calculations to demonstrate a reduction in surface water runoff rate to greenfield runoff rates for the new hardstanding areas as a minimum, with additional improvements for existing runoff where practical (50% reduction required as a minimum in critical drainage areas). Calculation should demonstrate no flooding to buildings in the NPPF design event (1 in 100 year + climate change allowance).
5. No development shall take place until the following has been undertaken:
 - a) A site investigation and assessment shall be carried out by an appropriately qualified and experienced person or persons. This shall determine the status of contamination, including chemical / flammable or toxic gas / asbestos/ physical hazards / other contamination at the site. The investigations and assessment shall be in accordance with current Government and Environment Agency recommendations and guidance and shall identify the nature and concentration of any contaminants present, the potential for migration and risks associated with them. This is to include a risk assessment with regard to controlled waters. Results of the investigation shall subsequently be submitted to and agreed in writing by the Council as Local Planning Authority.

b) A remediation strategy shall be formulated that includes a timetable for implementation, monitoring proposals and remediation validation methodology. This shall be submitted to and approved in writing by the Council as Local Planning Authority.

c) The agreed remediation strategy shall be demonstrably and successfully completed in accordance with the details agreed above before the proposed use commences.

A Site Validation/Completion Report shall be submitted to and approved in writing by the Council as Local Planning Authority within 4 weeks of the completion of the implementation of the agreed strategy and shall be completed by a suitably qualified professional. This shall include details on the remediation works undertaken; validation testing of the adequacy of the remediation; certificates of the suitability of the imported cover materials from a suitably qualified independent person; the fate of any excavated material; and any necessary verification-monitoring programme including details of any installed post-completion monitoring devices, together with measures to be undertaken should action limits be exceeded.

6. Prior to the construction of the dwelling hereby approved, the existing polytunnel shall be removed from the site in accordance with plan ref A5798-c-b-03A .
7. Construction works shall take place only between 0800 to 1800 on Mondays to Fridays, 0800 to 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
8. Full details of the materials to be used in the construction of external surfaces of the development hereby approved shall be submitted to and approved in writing by the Council as local planning authority prior to any above ground construction works being carried out. Development shall be carried out in accordance with the approved details.
9. No above ground construction works shall take place until a landscaping and boundary treatments scheme has been submitted to and agreed in writing with the Council as Local Planning Authority. The scheme shall include the following:
 - Layout drawing/planting plans
 - Planting Schedule (indicating size, species, spacing, number and density of plants)
 - Written specifications
 - Tree pit specifications
 - Ground condition enhancement (including cultivation and other operations associated with trees, shrub, hedge or grass establishment)
 - Areas of hard standing
 - Method statements
 - Implementation and maintenance programme
 - Management and monitoring plans

- Drainage details, where appropriate.
- Proposed finished site levels

The agreed scheme shall be implemented prior to any part of the development being brought into use.

Any planting which within a period of 5 years of implementation dies, is removed, or becomes seriously damaged or diseased shall be replaced during the next planting season with others of a similar size or species, unless the Council as Local Planning Authority gives written consent to a variation.

Should replacement planting be necessary, the Council shall be notified in writing not less than 7 days prior to the planting taking place. Notification shall include details of the problem with the implemented scheme and the specification and timing of the replacement planting.

10. The development shall not be brought into use until the areas indicated on the submitted plans to be set aside for parking and servicing have been surfaced, drained and permanently marked out or demarcated in accordance with the details and specifications shown on the Site Plan Existing and Proposed – Scale 1:100 @ A1 Drg no. A5798c-b-03 – Date Apr 20 and Updated Site Access and Site Visibility Splays – January 2020 – Scale 1:500 @ A1 – Drg No. 3 Revision C – Date Mar 2020. The parking and servicing areas shall be retained as such thereafter.
11. Prior to the first occupation of the dwellinghouse hereby approved, the revised site access from Warrington Road and the requisite visibility splays as detailed on Drg No. 3 Revision C shall be implemented. Once created, the visibility splays shall be maintained clear of any obstruction and shall be retained at all times.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that order) no development falling within Class A, AA, B, C, D and E of Part 1 of Schedule 2 of the said order shall be carried out without the prior written permission of the local planning authority.
13. The area outlined in blue on plan ref A5789c-b-03A shall not form part of the residential curtilage to the dwellinghouse hereby approved or be used for commercial purposes.