



Appeal Decisions

Site Visit made on 8 March 2021

by Mr Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2021

Appeal A Ref: APP/W0530/W/20/3264149

Brian McKay Commercial Vehicles, Newmarket Road, Stow Cum Quay CB25 9AR

- 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 Brian McKay Commercial Vehicles against the decision of South Cambridgeshire District Council.
 - The application Ref 20/02895/FUL, dated 26 May 2020, was refused by notice dated 26 October 2020.
 - The development proposed is Erection of Building for Vehicle Sales & Repair and Office Use.
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Appeal B Ref: APP/V0510/W/20/3265563

Brian McKay Commercial Vehicles, Newmarket Road, Stow Cum Quay CB25 9AR

- 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 Brian McKay Commercial Vehicles against the decision of East Cambridgeshire District Council.
 - The application Ref 20/00923/FUL, dated 26 May 2020, was refused by notice dated 29 October 2020.
 - The development proposed is Erection of Building for Vehicle Sales & Repair and Office Use.
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Decision

1. Appeal A is dismissed, and Appeal B is dismissed.

Preliminary Matter

2. The appeal site straddles the administrative boundary that falls between the South Cambridgeshire and East Cambridgeshire Districts. Two identical planning applications were submitted, such that the same scheme is the subject of each of the appeals now before me for determination.

Main Issues

3. The main issues in both appeals are:
 - Whether or not the proposal would be inappropriate development in the Green Belt; and
 - If the proposal would be inappropriate development, whether or not the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (February 2019) (the Framework) specifies that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several stated exceptions apply. The exceptions to new buildings being regarded as inappropriate include limited infilling or the partial or complete 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.
5. Policy NH/9 of the South Cambridgeshire Local Plan (September 2018) (the SCLP) lists exceptions to redevelopment in the Green Belt being considered inappropriate. The policy is broadly consistent with the Framework in so far as the circumstances prescribed where the partial or complete redevelopment of previously developed sites would qualify for an exception. Policy ENV10 of the East Cambridgeshire Local Plan (April 2015) (the ECLP) sets out that development in the Green Belt shall be strictly controlled and limited to certain exceptions as prescribed in the Framework.
6. In the above policy context, it falls for me to consider whether the proposed building would have a greater impact upon the Green Belt's openness when compared to existing on-site development. Indeed, the appeal site is made up of a fenced area of hardstanding that is occupied by a vehicle sales and repair business. It comprises previously developed land. The site contains various temporary buildings and structures (the existing buildings), which I understand have been incrementally erected to assist with the operation of the business.
7. The existing buildings are comprised of a range of portacabins and storage units. None of which have been the subject of planning permission or a certificate confirming lawfulness, and all could be removed relatively straightforwardly from the site owing to their non-permanent nature and composition. They are temporary structures and thus do not represent existing development for the purposes of assessment against the provisions of paragraph 145(g) of the Framework.
8. The scheme is supported by a Landscape and Visual Appraisal (March 2019) (the LVA). A not insignificantly sized Principal Zone of Visual Influence is identified in the LVA, and several specific viewpoints are individually considered. Whilst the assessed level of visual impact for all identified receptors is reported to be slight or neutral, there is recognition in the LVA that partial views of the new building would be glimpsable/evident to passing road and footpath users and that there would be potential for the building to be partially visible to a range of more distant receptors.
9. It was evident from my own inspection that the proposed building would be visible, at least in part, from a range of different vantage points. Indeed, the planting that is in place to the site's frontage and southwestern boundary provide far from impenetrable screens to views. The building, which would incorporate a large two storey element, would appear as a prominent addition when experienced from close-quarters upon Newmarket Road (the road) and would also be apparent from longer range vantage points, including from the road to the west and Little Wilbraham Road to the southwest.

10. Various mitigation measures centred upon the retention of existing perimeter planting and the addition of new planting are set out in the LVA and are reflected upon the submitted plans. However, as observed to be the case here, planting cannot be relied upon to provide a solid and permanent buffer to views. This is because it is ever evolving, is reliant on regular maintenance to retain a consistent form and can be reduced in scale or extent in the future. Furthermore, any new planting would realistically take time to properly establish.
11. It must also be noted that an assessment of landscape and visual impact effects does not represent an appraisal of the effects upon Green Belt openness. Indeed, such considerations are distinct. Moreover, the openness of the Green Belt has a spatial aspect as well as a visual aspect. In this case a new building of large size (in footprint, height and volume terms) is proposed. Whatever its external finishes and notwithstanding the existence of other buildings at the same small estate, the proposed building would inevitably lead to a loss of Green Belt openness in both a visual and spatial sense.
12. Various references have been made by the appellant to a previous 1997 enforcement appeal at the site, which I understand related to a material change of use of land from an agricultural use to a use comprising the parking and storage of vehicles. However, no new building was under consideration in 1997. Indeed, the parking and storage of vehicles would hold significantly less potential to cause harm to the openness of the Green Belt when compared to the addition of the sizable new building that is now proposed. The references made in this sense are thus of limited relevance.
13. Furthermore, from the evidence before me, a successful 2004 cross-boundary application¹ for the erection of a workshop and office building at the same commercial estate involved the removal of a former petrol station building and canopy. Thus, Green Belt openness considerations in that case would have factored in the removal of permanent, and likely sizeable, built elements. The 2004 scheme is thus of limited relevance to my considerations here.
14. For the above reasons, and on the basis that the proposed building would have a greater impact on openness when compared to the site's baseline condition and would not preserve the Green Belt's openness, the proposal would be inappropriate development in the Green Belt. The proposal conflicts with Policies NH/8 and NH/9 of the SCLP, Policy ENV10 of the ECLP and with the Framework in so far as these policies affirm that inappropriate development is, by definition, harmful to the Green Belt and that the essential characteristics of Green Belts are their openness and their permanence.

Other Matter

15. East Cambridgeshire District Council (ECDC), in their sole reason for refusing planning permission, has identified conflict with Policies GROWTH2 (Locational strategy) and EMP2 (Extensions to existing businesses in the countryside) of the ECLP. Nevertheless, the wording of the refusal reason relates exclusively to Green Belt impact. Thus, in the interests of fairness, I have not set out (a) main issue(s) to consider whether or not the site represents a suitable location for the proposed development having particular regard to ECDC's locational strategy and/or the character and appearance of the locality. As I have

¹ S/0116/04/F & 04/00042/FUL

ultimately found the proposal to be unacceptable for other reasons, it is not necessary for me to explore such matters further here. Indeed, even were I to do so and identify compliance with Policies GROWTH2 and EMP2, as well as no associated harm, it would not alter my above findings nor the ultimate outcome of either appeal.

Whether very special circumstances apply

16. 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 also indicates that substantial weight should be given to any harm identified to the Green Belt.
17. It has been suggested that many of the existing buildings are immune from potential enforcement action due to the length of time they have occupied the site. Indeed, notwithstanding their temporary nature, I accept that many of the existing buildings would be likely to continue to occupy the site in the long-term should these appeals be unsuccessful. However, even were I to accept the current on-site situation to represent the baseline position for existing development at the site, the proposal would still lead to a noticeable loss of Green Belt openness due to the considerable size of the new building that is proposed.
18. It is stated in the Framework that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings. The new building that is proposed would improve working conditions and capabilities at the site and would offer the opportunity for staff numbers to double from four to eight. When noting the somewhat modest extent of new business floorspace proposed (indeed, the scheme is not classified as major development), I afford these economic benefits moderate weight.
19. It has been suggested that the proposal would offer opportunities for the site to be tidied up through the removal of the existing buildings, and for the appearance of its perimeter fencing to be softened through the imposition of new landscaping. However, I observed most of the existing buildings to be of small size and to have an often discreet and low-key presence upon the site. Furthermore, some planting already exists to the site's perimeter and I did not observe the existing fencing, which is setback from the road, to appear as particularly prominent or jarring in the streetscene. Thus, any potential benefits in an appearance sense attract limited weight.
20. The new planting that is proposed would realistically be anticipated to bring forward associated biodiversity benefits. When noting the fairly constrained extent of the external areas earmarked for new landscaping, I attribute limited weight to this benefit of the proposal.
21. The scheme's benefits, considered cumulatively, would be relatively modest and would not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness) so as to amount to the very special circumstances necessary to justify the proposal. The scheme conflicts with the development plan in the South Cambridgeshire District when read as a whole and with the development plan in the East Cambridgeshire District when read as a whole, and material considerations do not lead me to decisions otherwise.

Conclusion

22. For the reasons given above, both Appeal A and Appeal B are dismissed.

Andrew Smith

INSPECTOR