



Appeal Decision

Site visit made on 9 December 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2021

Appeal Ref: APP/N5090/W/20/3255476

The Paddocks, Firth Lane, Mill Hill, London NW7 1PS

- 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 Al Kuwari against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/6062/FUL, dated 7 November 2019, was refused by notice dated 20 January 2020.
 - The development proposed is described as 'application seeking full planning permission to redevelop land from 4 storage units to 1 residential dwelling with associated landscaping and parking.'
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Decision

1. The appeal is allowed and planning permission is granted to redevelop land from 4 storage units to 1 residential dwelling with associated landscaping and parking at The Paddocks, Firth Lane, Mill Hill, London NW7 1PS in accordance with the terms of the application, Ref 19/6062/FUL, dated 7 November 2019, and the plans submitted with it, subject to the conditions in the Schedule of Conditions below.

Procedural Matter

2. The Council's decision notice refers to Policies from the London Plan (2016) which has recently been replaced by the new London Plan (2021) ('LP'). The Council has referred me to Policies D3 and G2 as equivalent replacement policies from the new LP and I have taken them into account in my Decision.

Main Issues

3. The main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt in terms of the National Planning Policy Framework ('the Framework') and development plan policy.
 - ii) Whether the proposal would result in the loss of an employment site, and whether this would be detrimental to the overall supply of employment space.

Reasons

Inappropriate development

4. The appeal site is approximately 0.3ha in area and triangular in shape. It incorporates a collection of four buildings of varying sizes. These include a larger single storey brick-built structure, and a number of smaller open barns. These

buildings are spread along a west-east alignment on part of the site, close to its northern boundary. The site and buildings benefit from a Lawful Development Certificate for a B8 Class use (Storage and Distribution).

5. The site also forms part of London's Green Belt. Consistent with the Framework, Policy G2 of the LP states that the Green Belt should be protected from inappropriate development. Similarly, the Green Belt aims of Policy DM15 of the Barnet's Local Plan (Development Management Policies) September 2012 ('DMP') are broadly consistent with the Green Belt provisions of the Framework.
6. Paragraph 145 of the Framework states that construction of new buildings in the Green Belt should be regarded as inappropriate, with some exceptions. Exception (g) permits redevelopment of previously developed land, whether redundant or in continuing use, provided that it would not have a greater impact on the openness of the Green Belt than the existing development.
7. There is nothing before me to suggest that the appeal site is not previously developed land. As such, its redevelopment, as proposed, would not be inappropriate development, subject to it not having a greater impact on the openness of the Green Belt.
8. The proposed dwelling would be single storey with a basement. The basement is of a similar size to the proposed ground-floor accommodation, which when aggregated would exceed the volume and footprint of the existing buildings. However, due to the subterranean nature of the basement, this would not have any material effect on openness.
9. The footprint area and volume of the proposed dwelling, above ground level would be similar to the extant buildings at the site, and its height would not exceed that of the tallest existing building. Furthermore, the design of the proposed dwelling because of its simple form, low-lying flat roof with recessed and glazed elevations, would limit its overall massing and bulk.
10. Moreover, the extent of the proposed dwelling would be consolidated as a single building, close to the existing dwellings off Westlinton Close. The Council has confirmed that the appeal site offers a large compound area which provides open storage space, unconstrained by restrictive planning conditions. In light of this, domestic paraphernalia associated with the proposed dwelling in its extensive garden would be insignificant.
11. For the above reasons, visually and spatially the proposed development would have no greater impact on the openness of the Green Belt than the existing buildings and use associated with the site. Consequently, the proposal would not result in urban sprawl and therefore would not conflict with any of the purposes of including land within the Green Belt.
12. Drawing on the above reasons, the proposed development is not inappropriate development in the Green Belt and accords with Paragraph 145 g of the Framework. Accordingly, I find no conflict with policies G2 of the LP and DM15 of the DMP. I also find no conflict with the design aims of Policy D3 of the LP, Policies CS1, CS5 and CS7 of the Local Plan Core Strategy, adopted September 2012 ('CS') and Policy DM01 of the DMP.

Loss of employment land

13. Policy DM14 of the DMP recognises the importance of employment sites outside designated areas and only permits the loss of these, where it can be demonstrated that a site is no longer suitable and viable for its existing or alternative business use in the short, medium and long term and a suitable period of effective marketing has been undertaken, usually for 12 months.
14. In this case, no marketing evidence has been provided. Despite this and the appeal site having an established B8 use, the site is of a modest size and its history suggests that it has largely been used for storage in association with local construction projects. Moreover, the unconstrained use of the site for B8 use, which could include an intensification of external storage, would not be suitable in proximity of dwellings within a Green Belt setting. The intensification of the use is also likely to lead to an increase in commercial vehicles accessing the site via a narrow lane along a Public Right of Way, which is used by members of the public and raises highway safety concerns. The site also has no WC facilities, electric or water supply. Cumulatively, these factors place limitations on the potential improvement and use of the site and existing buildings for alternative employment uses. For these reasons, I do not consider the appeal site to be particularly suitable or viable for employment use and attach limited weight to its loss.
15. Therefore, although the proposal would result in the loss of an employment site, contrary to Policy DM14 of the DMP and the similar aims of Policy CS8 of the CS, given the site-specific circumstances, when the development plan is read as whole, this would not result in an unacceptable loss to the overall supply of employment space in the Borough.

Other matters

16. Although the site forms part of the Green Belt, there is nothing before me to confirm that it is designated as open space or incorporates part of an ancient woodland.
17. Based on the available information and my visit, the proposal would not have any greater deleterious effect on the condition of the lane leading to the site or wildlife in comparison to the extant use. Given that the site is adjacent to a residential development and areas used by members of the public, the new dwelling and its occupants are unlikely to be at unacceptable risk from potential injuries arising from stray golf shots played from the adjacent golf course.
18. The Council has raised no specific issue about the provision of basements for new dwellings. Also, given the varied scale and designs of dwellings in the area, the contemporary design of the proposed dwelling which would be augmented by existing and proposed landscaping would complement the character and appearance of the area.
19. Notwithstanding the appellant's Arboricultural Survey, the proposed dwelling could have an impact on the roots of tree T1. However, the safeguarding of this and other existing trees could be addressed through conditions requiring a method statement, tree protection plan and a schedule of site supervision and monitoring, if the appeal were to succeed.
20. My attention has been drawn to refusals for other developments at the site and nearby within the Green Belt. Nevertheless, I have determined this appeal on the planning merits of the proposal, which is acceptable because of the aforementioned reasons. Matters relating to the appellant's rights of access to the appeal site are for

the relevant parties and do not alter my findings on the planning merits of the proposal.

Conditions

21. In addition to the standard timescale condition, I have imposed a condition specifying the relevant plans as this provides certainty.
22. Conditions requiring details of proposed materials, levels, boundary treatments and the implementation and maintenance of landscaping, including the protection of retained and proposed planting are necessary to ensure the satisfactory appearance of the development. For the reason already given, I have imposed conditions requiring a method statement, tree protection plan and a schedule of site supervision.
23. A condition to minimise the disruption caused by the works associated with the development on the highway, by requiring a Demolition and Construction Management and Logistics Plan is both necessary and reasonable. Given the modest scale of the proposal (single dwelling) I have made the requirements of this Plan proportionate. It is also necessary to limit the days and hours of demolition and construction activity at the site, to safeguard the living conditions of neighbours.
24. To promote sustainable developments, it is necessary for conditions requiring the incorporation of carbon dioxide emission reduction measures within the development and the provision of cycle storage facilities. To ensure that the development functions satisfactorily I have imposed a condition to secure a turning area and parking spaces within it.
25. In the interests of safeguarding the Green Belt it is necessary to ensure that the existing buildings at the site are demolished and any debris arising from this removed. While I have found that the extent of the proposal would not be harmful to the Green Belt, any alterations, or additions to the approved development above this would need to be assessed against relevant policies of the development plan. Therefore, there is clear justification for removing permitted development rights in respect of certain alterations and extensions to the approved dwelling.
26. Conditions requiring that the new dwelling is constructed to achieve the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 and to receive 100% of its water by mains water infrastructure, including water efficiency measures, would duplicate the requirements of Building Regulations and are therefore not necessary.
27. Conditions 3,5,6 and 7 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions to have their intended effect. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

28. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 039/0, 039/4, 039/5, 039/6, 039/7, 039/8, 00, 01, 02, 03 and 04.
- 3) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned tree protection plan and a method statement detailing precautions to minimise damage to trees have been submitted to and approved in writing by the local planning authority. No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.
- 4) A completed schedule of site supervision and monitoring of the arboricultural protection measures as approved under Condition 3 shall be submitted for approval in writing by the local planning authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.
- 5) No development shall take place until details of the levels of the building and site, in relation to the adjoining land and highway and any other changes proposed in the levels of the site have been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved details.
- 6) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the dwelling and hard surfaced areas hereby approved have been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved materials.
- 7) No site works or works on this development including demolition or construction work shall commence until a Demolition and Construction Management and Logistics Plan ('DCMLP') has been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in full accordance with the details approved under the DCMLP. The submitted DCMLP shall include the following information: i. the provision on site of a storage/delivery area for all plant and materials; ii. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway; and iii. details of contractor's compound and car parking arrangements for the duration of construction.

- 8) Before the development hereby permitted is first occupied the turning space and parking spaces shall be provided in accordance with drawing 039/8 and those areas shall not thereafter be used for any purpose other than the parking and turning of vehicles.
- 9) Before the development hereby permitted is first occupied cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The approved cycle storage facilities shall thereafter be permanently retained.
- 10) All work comprised in the approved scheme of landscaping as shown on drawing 039/5 shall be carried out before the end of the first planting and seeding season following occupation of the dwelling or completion of the development, whichever is sooner. Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
- 11) The site shall not be brought into use or first occupied until details of boundary treatments have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be implemented before first occupation and retained thereafter.
- 12) Prior to its first occupation, the dwelling hereby approved shall be constructed to incorporate carbon dioxide emission reduction measures which achieve an improvement of not less than 25% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.
- 13) Demolition and construction works associated with the development hereby permitted shall take place only between 8.00 am and 6.00 pm on Monday to Friday, 8.00 am and 1.00 pm on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A, B, C, D and E of Part 1 of Schedule 2 of that Order shall be carried out within the area of development hereby approved.
- 15) Within 6 months of completion or first occupation of the development hereby permitted, whichever is sooner, the existing buildings shall be demolished, and all resulting debris removed from the site.