



Appeal Decision

Site Visit made on 9 March 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2021

Appeal Ref: APP/B1930/W/20/3264157

Land off Sandridgebury Lane, Sandridge, St Albans AL3 6JE

- 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 Cupids Green Ltd. against the decision of St Albans City Council.
- The application Ref 5/19/3071, dated 5 December 2019, was refused by notice dated 12 August 2020.
- The development proposed is erection of multi-span polytunnel and agricultural storage building, formation of hardstanding and track.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Despite the description of development set out above, I consider the description found on the Decision Notice and the Appeal Form better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'Erection of multi-span polytunnel and agricultural storage building with associated hardstanding, access track, fencing and gate'. I have therefore dealt with the appeal on this basis.
3. The appellant has provided new and amended plans, and additional information as part of the appeal process in order to address the concerns outlined by the Council in their second and third reasons for refusal. Moreover, the appellant has provided a Landscape Visual Impact Assessment (LVIA)¹ and the plans have been altered to omit the fence and proposed gate from the south boundary of the proposed plot, to enable fire and rescue vehicles to enter and leave in a forward gear, and a below ground water storage tank would also be provided. The layout and elevation drawings are therefore updated to reflect this (Drawing References: KCC2484/12A and KCC2484/15B) and new swept path drawings are provided (Drawings: KCC2484/23 and KCC2484/24).
4. The Council has suggested that the additional information and plans referred to above should not be accepted, as their consultees and interested third parties have not had an opportunity to comment. The Council were notified of the appeal being valid on 13 December 2020 and a timetable was provided on 15 January 2021. They therefore had ample opportunity to seek consultation responses from Trees and Landscape and Hertfordshire Fire and Rescue Service, Hertfordshire Highways Authority having already been consulted as part of the appeal. The Council's officers could also have arrived at their own conclusions, having regard to assessments undertaken during the planning

¹ Dated November 2020.

application process. Furthermore, it is commonplace for appellants to provide expert evidence such as an LVIA as part of appeals.

5. I am also conscious that the appeal process should not be used to evolve a scheme but, with cognisance of the 'Wheatcroft Principles', I am satisfied that the new and amended plans would not prejudice the interests of third parties who should have been consulted on the changes, as they are minor in nature and would not materially alter the proposed development.
6. Accordingly, for the reasons outlined above, I accept the new and amended plans and LVIA submitted with the appeal. I have therefore determined the appeal in accordance with the following plans: KCC2484/11, KCC2484/12A, KCC2484/13, KCC2484/14, KCC2484/15B, KCC2484/16, KCC2484/23, and KCC2484/24.

Background and Main Issues

7. I note that the provision of water supply for firefighting purposes is not referred to in the Council's third reason for refusal, but this was raised in the Council's Officer Report and the main parties have discussed this matter further in their evidence for the appeal. I have therefore had regard to this matter in formulating the following main issues: -
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the rural character of the landscape;
 - whether suitable provision would be made for firefighting, with regard to access for fire and rescue service vehicles and water supply; and
 - if the development is inappropriate within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

8. The National Planning Policy Framework 2019 (the Framework) sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. The Council's Local Plan² in Saved Policy 1 sets out the Green Belt Policy for the District. While the overall aim to control development in the Green Belt remains consistent with the aims of the Framework, and it includes exceptions to the presumption against development in the Green Belt, this list is not as extensive as those outlined in the Framework, so is not as positive as it and would not be fully consistent with it.

² City and District of St Albans District Local Plan Review (Adopted 30 November 1994).

10. Paragraph 145 of the Framework establishes that, within Green Belts, the construction of new buildings is inappropriate, subject to a number of exceptions, which include buildings for agriculture and forestry. The main parties do not dispute that the proposed polytunnel and storage building would be for agricultural use. They would not therefore be inappropriate development in the Green Belt.
11. Paragraph 146 of the Framework sets out that certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it [my emphasis]. I shall come onto openness in more detail later, but engineering operations are one of the forms of development listed.
12. The appeal scheme includes a hardstanding for the proposed agricultural buildings, fences around its perimeter and a long access track leading between this and the highway.
13. The Council has placed an Article 4 Direction on the wider field, which covers the 'Erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure'. I have also been referred to the permitted development rights with respect to hardstanding areas that apply to agricultural units of five hectares or more. However, the site is significantly smaller, so those rights have no relevance to this appeal proposal. Planning permission is therefore required for the proposed fences and hardstanding and they constitute development that should be assessed in relation to the exceptions referred to above.
14. Given that the proposed hardstanding, fences and access track would change the physical nature of the land, they would constitute engineering operations. Paragraph 134 of the Framework clarifies that the Green Belt serves five purposes, including to assist in safeguarding the countryside from encroachment. While the proposed hardstanding, fences and access track would be in connection with the aforementioned agricultural buildings they would, nevertheless, encroach into the countryside so conflict with the purposes of including land within the Green Belt.

Openness

15. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof are their openness and permanence. The physical presence of built or other forms may affect openness, which can also have a visual element.
16. The appeal site is situated to the south of Sandridgebury Lane and constitutes a smaller parcel of land, and its proposed access, within a larger agricultural field set within the wider undulating landscape north of St Albans. The area is generally rural in character but there are two dwellings at the frontage with the lane and a raised railway line to the west. The remainder of the field is largely open and absent of any other built form, including tracks. The frontage with the lane is currently partially screened from where public views can be obtained from of the proposed plot but the access track would be visible through the existing field access.

17. The proposal would involve the creation of a concrete bell mouth access onto Sandridgebury Lane, with the access track thereafter constructed of dark coloured road planings over a compacted hardcore base. The track would not take the most direct route from the lane to the proposed plot, as it would lead some distance in a southerly direction before turning 90 degrees to the west toward the proposed hard surfaced plot and buildings therein. Moreover, the appellants' supporting document³ indicates that this would be to avoid other plots within the field.
18. I appreciate that the proposed plot would require some form of access from the lane and there are spatial constraints as to the location of the proposed track, due to the other intervening plots of land. However, given the length of the track and the topography of the site, it would introduce a hard and prominent visible feature in the landscape. The hard surfacing for the hardstanding within the plot would also introduce development where there currently in none.
19. From more distant vantage points, the wire elements of the proposed post and wire stock fencing would be unlikely to be conspicuous within the landscape. However, the regular arrangement of posts to a height of two metres around the perimeter of the site would be more apparent. I accept that solid enclosures around the proposed plot would be likely to have a greater impact on openness than the proposed fencing, but this would not justify the magnitude of the effect of the proposed fences on openness.
20. I have considered the Council's argument that layout of the proposed access track around the perimeter of other notional plots within the wider field could encourage development of these plots. Whilst each scheme must be treated on its individual merits, I appreciate that approval of this proposal could be used in support of further similar schemes. This would not therefore be a generalised fear of precedent, but a realistic and specific concern as the site is one of a number of plots within the field that have been sold to separate landowners. Although I have not been made aware of any other plots having received planning permission for any development, allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would exacerbate the harm which I have described above.
21. I have not adopted the approach taken by the Council and Inspector for the appeal at Denholme⁴, as it is reasonable and proportionate to consider the implications of individual elements of proposals separately where they fall within different categories of the exceptions listed in the Framework. Rather, it would not be proper to categorise agricultural buildings as inappropriate development when, in policy terms, they are not.
22. The proposed access track, hardstanding and fences would result in a harmful loss of openness of the Green Belt in both visual and spatial terms. While this harm would not be significant due to the extent of the proposals, openness cannot be preserved if there is a finding that there would be an adverse impact on it of any kind. These aspects of the appeal scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above, including inappropriate development.

³ Supporting Statement and Agricultural Justification December 2019

⁴ Appeal Reference: APP/W4705/W/18/3206344.

Landscape

23. The viewpoints referred to in the LVIA were not agreed with the Council prior to its submission, but include views across the field from Sandridgebury Lane, including from properties to the north, and from Sandridge village. For the most part, there is no substantive evidence before me that would lead me to doubt the findings of the document, particularly the visibility of the proposal from the majority of these viewpoints. However, it is likely that elements of the proposal would be visible from the access to Sandridgebury Lane and from the gardens, and other land, associated with the properties to the west. Moreover, there are some trees within the gardens of the properties but the proposal would be likely to be visible through these during the winter months.
24. I accept that the proposed polytunnel and storage buildings would be of typical agricultural design and they would be low in height, so would not, of themselves, be visually harmful. Some space would also be maintained around the buildings for outdoor finishing of produce, and parking and manoeuvring of vehicles. I also appreciate that alternative siting within the plot and wider field is not an option for the appellant, particularly given the spatial and landownership constraints of the proposed plot, which forms a relatively small part of the wider field, with other individual plots of land around it.
25. Notwithstanding these factors and despite the backdrop of mature trees beyond the field to the south and west, the proposed buildings would appear cramped within the plot and, given the remote location of the proposed plot from the lane, they would also be conspicuous and visually intrusive within their surroundings, to the detriment of the rural character of the landscape. There would be very little space between the proposed fence and buildings for the mixed native hedgerow planting to establish to mitigate these effects and, in any event, this would be unlikely to have a meaningful effect for some time. I am therefore not persuaded that my concerns could be addressed with a planning condition in relation to landscaping.
26. Despite the use of darker road planings in its construction, which would be more recessive than a lighter coloured surface, due to its length and the topography within the landscape, the proposed access track would also represent a prominent addition, which contrast with the undeveloped appearance of the field within the landscape. Similarly, the presence of the elevated and exposed sections of the railway line as a detractor within the landscape, would not provide justification to instigate further harm to the landscape.
27. In light of the above, I conclude that the proposed development would have an unacceptably harmful effect on the rural character of the landscape. Hence, the proposal would conflict with the aims in respect of the integration of new development within existing landscapes, design and new landscaping, as expressed in Policies 1, 69 and 74 of the Council's Local Plan.

Firefighting

28. Emergency access and provision of water for firefighting purposes would ordinarily be addressed by the Building Regulations (BR), but the proposed buildings are for the purposes of agriculture so would be exempt from BR. While emergency access requirements are not repeated in Policy 34 of the Council's Local Plan, paragraph 110 of the Framework requires development to

provide access for emergency vehicles. This suggests that it is a legitimate planning matter. I have had regard to the amended plans submitted with the appeal and there is no competing substantive evidence before me to demonstrate that satisfactory access could not be provided for emergency vehicles.

29. The Framework also expects water supply to development to be addressed by policies within development plans. However, I have not been referred to any policies of the Council's Local Plan which set out such requirements. I have not therefore been provided with sufficient evidence in terms of specific policy requirements to substantiate the concerns identified by the council in respect of water supply. Nonetheless, even if a water supply was to be provided for this purpose, based on the proposals outlined in the appellant's Statement of Case and the options outlined in the consultation response from Hertfordshire Fire and Rescue Service, I can see no reason why an adequate technical solution could not be provided in terms of water supply to the site.
30. In light of the above, I conclude that suitable provision would be made for firefighting, with regard to access for fire and rescue service vehicles and water supply. Hence the proposal would not conflict with the highways considerations expressed in Policy 34 of the Council's Local Plan and the emergency access aims of paragraph 110 of the Framework.

Other Considerations

31. I appreciate that the appellant is an experienced horticulturalist and operates from several sites around the south east of England. The proposal could extend the growing season of the appellant's business to the year-round supply of salad, fruit, and vegetables, which may not be possible otherwise. There would therefore be economic benefits that would arise from the proposal, including employment. However, based on the evidence before me and the extent of the proposed development, these benefits would be likely to be limited in scale and kind. I have therefore afforded these benefits limited weight.
32. The appellant has suggested the use of a planning condition to remove the appeal buildings from the site, were agricultural use to cease within ten years. Although this would reduce the potential for long term impacts associated with the proposal there would, nevertheless, be harms caused to the Green Belt and character of the rural landscape throughout that timeframe, which undermines the necessity of that condition.

Planning Balance and Conclusion

33. The proposed access track, hardstanding and fences would be inappropriate development in the Green Belt. This is harmful by definition. These aspects of the proposal would reduce the Green Belt's openness which gives rise to additional harm. These harms render those proposals contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
34. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is 'clearly outweighed by other considerations.'

35. The other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and other harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
36. The proposed development would be contrary to the development plan. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR