



Appeal Decision

Site visit made on 27 May 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th July 2021

Appeal Ref: APP/R5510/W/20/3262935

Riverdale, Old Mill Lane, Uxbridge UB8 2JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Praveen Sharma against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 2410/APP/2020/87, dated 11 January 2020, was refused by notice dated 11 May 2020.
 - The development proposed is one single storey residential bungalow of area of 300 square metres.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal was made in outline with all matters reserved for future determination. I have had regard to the submitted plan showing the location of the proposed house in reaching my decision, but have regarded all elements of this drawing as indicative.
3. Since the application was determined, the London Plan 2021 (LP) has been published. Policies 7.16, 7.8, 5.12 and 7.28 of the London Plan 2016 referred to in the Council's decision notice have been replaced by Policies G2, HC1, SI12 and SI14 of the London Plan 2021 respectively. Both parties have been provided with an opportunity to comment on the implications of this.

Main Issues

4. 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;
 - the effect of the proposed development on the character and appearance of the area, including the riverside setting;
 - the effect of the proposed development on heritage assets;
 - the effect of the proposed development on flooding;

- the effect of the proposed development on protected species; and
- if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

5. Riverdale and its grounds form a large, roughly rectangular area of land with a long frontage to Old Mill Lane. Iver Lane runs along the northern boundary and Fray's River runs along the eastern side of the site close to where it bisects the Grand Union Canal. The site is enclosed by a mix of hedgerow and mature trees. Centrally positioned within the site, there is a substantial detached dwelling surrounded by mature gardens and a stable building which does not appear to be in use. Old Mill Lane is a narrow semi-rural lane, characterised by scattered residential development and bordered by vegetation.
6. The appeal site is positioned to the north of Riverdale. It is identified as a rectangular area of land and a narrow strip of land providing access to Old Mill Lane. It is located within a field which appears to have previously been used as a paddock.
7. The entire site is located within the Metropolitan Green Belt and within the Cowley Lock Conservation Area (CLCA).

Whether inappropriate development in the Green Belt

8. The Framework sets out in paragraph 133 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belts are their openness and their permanence. 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. Paragraph 145 sets out that the construction of new buildings is inappropriate within the Green Belt subject to a number of exceptions. Policy EM2 of the Hillingdon Local Plan: Part 1 – Strategic Policies 2012 (LPP1) sets out that any proposals for development in Green Belt will be assessed against national and London Plan policies. Policy DMEI 4 of the Hillingdon Local Plan: Part 2 – Development Management Policies 2020 (LPP2) expands on this. In summary it sets out that redevelopment on sites in Green Belt will only be permitted where the proposal would not have a greater impact on the openness of the Green Belt than existing development, having regard to the size of the proposal, the amount and distribution of other development on the site and the visual amenity and character of the Green Belt.
10. The proposed dwelling would be constructed within an open field where there is currently no development. None of the exceptions set out under paragraph 145 are relevant to this proposal.
11. For these reasons, I conclude that the proposal would be inappropriate development in the Green Belt. It would conflict with Policy G2 of the LP, Policy EM2 of the LPP1, Policy DMEI 4 of the LPP2 and national policy to protect Green Belt. In accordance with the Framework, I attach substantial weight to this harm.

Openness of the Green Belt

12. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework although it is commonly taken to mean the absence of built or otherwise urbanising development. An assessment of openness requires a consideration of the scale of the development, its locational context and both its spatial and visual implications.
13. The proposed dwelling would be positioned centrally within the northern part of the site behind the boundary vegetation. However, the appeal site is positioned at a lower level than Iver Lane and the proposed dwelling would be visible from this public highway. Furthermore, with many of the boundary trees deciduous, during the winter months when the trees have lost their leaves, the proposed house would be more visible. This would include from the publicly accessible towpath running along the Grand Union Canal. As such, the proposed house would result in a significant reduction in the visual openness of the area.
14. The indicative location plans show the proposed house would have a substantial footprint, indicated to be 300 square metres and not dissimilar to that of the existing dwelling on the site. Whilst details of the design of the building has not been provided, the proposed house would nevertheless result in a significant increase in built development, physical large in all three dimensions, than currently exists. The spatial openness of the appeal site would be significantly harmed by the proposals.
15. I conclude that the proposed development would result in significant harm to the openness of the Green Belt conflicting with the Framework's aims in that regard. I give significant weight to that harm.

Character and appearance

16. Riverdale with its extensive grounds and riverside location has a rural character. The limited development along Old Mill Lane is largely confined to the opposite side of Old Mill Lane or further south of the appeal site. The land around Riverdale including the appeal site provides open space adjacent to Fray's River. The riverbank itself is lined with a few mature trees. This is a spacious and undeveloped area which contributes to the setting of the river.
17. The proposal is for a modestly sized bungalow which would utilise an existing access and occupy a relatively small area within the context of the large site. Nevertheless, the proposed dwelling with its domestic garden and paraphernalia would have an urbanising effect on the site. This would erode its rural character. It would reduce the open land adjacent to the river and its natural setting. This would be harmful to the setting of the river. This would be visible from a number of public viewpoints, including from the towpath and canal and Iver Lane.
18. The appellant has suggested that this could be mitigated by tree planting, however, whilst this may provide some screening of the proposal it would not overcome the harm to the open character of the site that would occur.
19. As such, I conclude that the proposed development would harm the character and appearance of the area, including the riverside setting. It would therefore conflict with Policy BE1 of the LPP1, Policies DMHB 11 and DMHB 12 of the

LPP2. These policies together require development to both integrate with and make a positive contribution to the surrounding area and for new buildings to harmonise with the local context, taking into account views both from and into the site. It would also conflict with Policy DMEI 8 of the LPP2 which requires development along watercourses to enhance the waterside environment and respect the character of the waterway. I have found no conflict with Policy SI 14 of the LP which is concerned with the strategic role of waterways.

Heritage assets

20. The CLCA is a semi-rural area extending from Iver Lane in the north to Packet Boat Lane in the south. The Grand Union Canal runs along its eastern boundary with Fray's River and areas of lakes interspersed by scattered development within sizeable plots and fields making up much of the area. The wider site and the appeal site within it, as a sizeable area of open land along the banks of Fray's River, makes a positive contribution to the significance of the CLCA.
21. In addition, the appeal site is located within the setting of the Grade II Listed Bridge that carries Iver Lane over the Grand Union Canal. Whilst much of the land to the north of the bridge has been developed, the appeal site and the wider site of Riverdale, as an area of undeveloped land, contributes to the historic rural setting of the bridge.
22. Based on the indicative drawings, the large footprint and public views of the proposed house would reduce the open and undeveloped character of the site. This would significantly reduce its contribution to both the CLCA, the riverside setting and the listed bridge. Whilst there is an industrial estate on the opposite side of Iver Lane and to the north of the site, this is not within the CLCA unlike the appeal site. The appeal site is also visually separated from this by Iver Lane. The industrial estate does not form part of the visual context of the appeal site and does not provide justification for the proposed development.
23. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the listed building in accordance with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special regard must be given to the desirability of preserving a listed building or its setting. I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the CLCA, as required by Section 72(1) of the Act.
24. The harm the proposal would cause to the significance of the heritage assets would be significant though less than substantial. Paragraph 196 of the Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.
25. The appeal proposal in providing a single dwelling would make a small contribution to the supply of housing, which could include non-specialist housing for older Londoners as supported by the LP. This would be a small public benefit of the scheme. It would also provide the appellant and his wife with a retirement home, better suited to their needs. However, this is a personal benefit of the scheme. I give this limited weight.
26. These combined benefits carry limited weight in the balance. The harm to the significance of the conservation area and the setting of the listed building

carries great weight, and is not outweighed by the limited public benefits which would arise from the proposed development.

27. I conclude that the proposed development would fail to preserve or enhance the character and appearance of the CLCA. It would therefore conflict with Policy HE1 of the LPP1, Policies DMHB 1, DMHB 2, DMHB 4, DMHB 11 of the LPP2 and Policy HC1 of the LP. These policies together require development to protect features of positive value including the safeguarding of heritage assets, require proposals to preserve or enhance the character or appearance of conservation areas, to make a positive contribution to the area and not harm a heritage asset or be detrimental to the setting of a listed building.

Flooding

28. Paragraph 163 of the Framework advises that new development should ensure that flood risk is not increased elsewhere and that where appropriate, a site-specific flood-risk assessment (FRA) should be provided in accordance with footnote 50. This sets out that a site-specific FRA should be provided for all development in Flood Zone 2.
29. The indicative position of the proposed dwelling lies within Flood Zone 1 although the proposed access and part of the site lies within Flood Zone 2. As such a FRA is required.
30. No FRA has been provided. In the absence of this, it has not been demonstrated that the proposal would not be affected by flooding nor that it would not increase flood risk elsewhere.
31. I appreciate that the appellant obtained information from the Environment Agency's website in support of his application. However, this does not remove the requirement for a FRA for development which is located or partially located within Flood Zone 2. I also note that the appellant would be willing to provide a FRA as part of a full or reserved matters application. However, such matters should be assessed before planning permission is granted.
32. For this reason, I find the proposal would be contrary to Policy EM6 of the LPP1, DMEI 9 of the LPP2, Policy SI 12 of the LP. These policies together require development to be directed away from Flood Zones 2, for a FRA and for development proposals to ensure flood risk is minimised and mitigated. It would also be contrary to the Framework as referred to above.

Ecology

33. Paragraph 99 of Government Circular 06/2005: Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system (the Circular), states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it, '...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision'.
34. The appeal site is an area of undeveloped and natural land, surrounded by trees and close to a natural watercourse. Due to its undeveloped nature, extensive vegetation and proximity to the River, it would be likely to provide

habitat to various species. In these circumstances, an ecological survey is required to demonstrate that the proposal would not harm the site's ecology.

35. The appellant has submitted a Wildlife Assessment Check. This confirms that the site is not within a statutorily designated site. However, it advises that depending on habitats present on site, including watercourses, trees and hedgerows, that an ecologist may need to consider the effects on wildlife from the proposed development. These habitats are present on the site. The appellant has not provided a survey. In accordance with guidance set out in the Circular, this should be provided before planning permission is granted and not as part of a reserved matters application.
36. The appellant has indicated that he was unaware of the requirement to provide an ecological survey and that this was not raised by the Council. However, this is a procedural matter and does not affect the merits of the case.
37. In the absence of survey information, I am unable to conclude that there would be no harm to protected species. The proposal fails to meet the requirements of the Conservation of Habitats and Species Regulations 2017. It would therefore conflict with Policy DMEI 7 of the LPP2 which requires appropriate surveys and assessments to be provided where development is proposed on or near to a site considered to have features of ecological value.

Other considerations

38. The LP sets out that the provision of specialist older person housing can meet the needs of older Londoners. However, I have no evidence that the proposed development would provide specialist accommodation. I give this very limited weight.
39. The LP recognises that some older Londoners may wish to downsize and that non-specialist residential development can provide suitable and attractive accommodation for them. The appellant and his wife are shortly to retire and are seeking to downsize whilst remaining close to their son who would continue to occupy the host property. This would provide them with any care and support that they might need rather than relying on services being provided by the care sector.
40. Whilst the proposal would provide a smaller home close to the appellant's family, I have no evidence that there are no other less harmful options available to the appellant. Furthermore, it seems to me that the personal needs of the family are likely to be short term compared with the introduction of a new, permanent dwelling in the Green Belt. They are therefore matters of limited weight in my determination of the appeal.
41. Policy H2 of the LP supports the provision of housing on small sites. Whilst the appeal scheme would qualify as such a small site, this would not override the Green Belt location where inappropriate development is harmful. This carries very limited weight in the balance.
42. The appellant considers that this area of Green Belt is very small and already includes a significant amount of residential development, including for the development of 30 dwellings behind the appellant's land at Old Mill House. In this context, the addition of one further house would not have any impact. I have been provided with no details of the existing development nor the more

recently built scheme for 30 dwellings and the circumstances in that case. I therefore give this very limited weight.

43. In any event, the presence of other development and the size of the Green Belt itself does not justify the addition of another dwelling within the Green Belt which would be harmful to the purposes of the Green Belt.

The Green Belt Balance

44. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause significant harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 144 of the Framework.
45. I have also found that the proposal would be harmful to the character and appearance of the area, the riverside setting and would fail to preserve or enhance the character and appearance of the CLCA and the setting of a listed building. In addition, insufficient information has been provided to demonstrate that the proposal would not be adversely affected by flooding, cause flooding elsewhere and not cause harm to protected species. These factors weigh heavily against the development.
46. The proposal would provide the benefit of smaller accommodation for the appellant. This minor and private benefit would have very little weight and would not outweigh the substantial harm to the Green Belt I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
47. As such the proposal would be contrary to the Framework, Policy G2 of the LP, Policy EM2 of the LPP1 and Policy DMEI 4 of the LPP2 which set out that Green Belt should be protected against inappropriate development.

Conclusion

48. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR