



Appeal Decision

Site Visit made on 21 June 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2021

Appeal Ref: APP/Z4310/W/21/3269465

Littlewood Lodge, Deysbrook Lane, W. Derby, Liverpool, Merseyside L12 6RA

- 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 Ronnie Gerrard against the decision of Liverpool City Council.
 - The application Ref 20F/2202, dated 27 August 2020, was refused by notice dated 15 January 2021.
 - The development proposed is described as "erection of dwellinghouse to replace kennels and outbuilding (destroyed by fire)."
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice, under the third reason for refusal relating to Site of Nature Conservation and adjacent Local Wildlife Site's, refers to emerging Policy GI15 of the Liverpool Local Plan. This appears to be an administrative error as the Council's Officer report refers to emerging Policy GI5 that relates to the Protection of Biodiversity and Geodiversity. The Council have submitted a copy of emerging Policy GI5. I am satisfied that given the circumstances that no parties have been prejudiced with this matter.

Main Issues

3. The main issues are:
 - i) Whether the development would be inappropriate development in the Green Belt;
 - ii) The effect of the proposal on the character and setting of the listed Croxteth Hall and Historic Park;
 - iii) The effect of the proposal on the Site of Nature Conservation and adjacent Local Wildlife Site;
 - iv) The effect of the proposal on trees; and
 - v) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the proposals.

Reasons

Whether inappropriate development

4. Saved Policies OE2 of the City of Liverpool Unitary Development Plan 2002 (UDP) and Policy GI1 of the emerging Liverpool Local Plan (LLP) relate to development within the Green Belt. Paragraph 145 of the National Planning Policy Framework (the Framework) also states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless the development falls within the exceptions list. This list includes the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces and also limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.
5. The proposal would be for a residential property and the appellants confirm that the buildings previously on the site were used as kennels with associated outbuilding. The proposal would not replace a building which is in the same use and therefore would be contrary to paragraph 145, part d) of the Framework.
6. The Framework indicates that openness is an essential characteristic of the Green Belt. Evidence provided including photos indicate that kennels and associated outbuildings were present on the site and they were destroyed due to an arson attack. From observations during my site visit, I did witness the remains of some buildings however it was not readily visible to establish the exact footprint or extent of previous buildings and hardstanding areas as the site was overgrown with vegetation.
7. The floor space of the proposed property would be approximately 140 square metres with the floor space of the previous kennel blocks measuring around 215 square metres, although the Council indicate this figure is different to measurements provided at pre-application stage. There are assertions that the kennel buildings had a volume of 532 cubic metres compared to 500 cubic metres for the proposed buildings. There is however insufficient evidence to support these assertions of the volume size of the previous kennel buildings.
8. Visual impacts form part of the concept of openness of the Green Belt, and whilst the site may not be highly visible from wider views, the proposal would be visible when viewed in closer proximity and from some of the surrounding properties. There are no substantial buildings or structures on the site with the majority of the land covered by vegetation. Whilst the appellant has indicated that site can be planted and landscaped to avoid a "domestic manicured appearance", a residential property would be lit at night, with light emitting from windows. Domestic items stored on the site would be visible, such as garden structures, clothes drying, parked cars and play equipment. All these factors would have an inevitable visual impact on the Green Belt when compared to existing circumstances. The nature of a residential property, in comparison with the existing use, would have a more intense visual impact on the openness of the area.
9. There is insufficient evidence for me to come to a conclusion with regards to spatial impacts. Nevertheless, in visual terms, the proposal would have a greater impact on the openness of the Green Belt than the existing situation at the site. The proposal is therefore inappropriate development in the Green Belt,

and as such conflicts with Policy OE2 of the UDP, Policy GI1 of the LLP and the Framework which seeks to safeguard the Green Belt from inappropriate development and impacts on openness.

Croxteth Hall and Historic Park

10. There is a dispute between the parties as to whether the appeal site falls within the curtilage of the listed Croxteth Hall and Historic Park. However, the appellants heritage assessment submitted with the application states that the site lies within Croxteth Hall Park.
11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Moreover, paragraph 193 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
12. The appeal site is surrounded, on the majority of its boundary, by high metal fencing and mature woodland which provides a visual separation from the historic park and the publicly accessible areas. Given the density of the surrounding woodland, the proposal would not be readily visible from public viewpoints.
13. The proposal, whilst not completely set on the same footprint as the previous kennels, would have similar form being single storey as well as having similar material palette. The design, form and materials of the proposed development would sit well within its setting and not have a detrimental effect on the surrounding area.
14. The proposed use would differ from the previous kennels use. However, the appeal site is well related to the residential property of Littlewood Lodge and within close proximity to the residential estate to the west. The proposal would introduce a domestic element to the appeal site with garden areas and boundaries and associated residential paraphernalia. Due to the close relationship with existing residential properties and the separation from the wider Historic Park and Croxteth Hall, the proposal would not have an adverse effect on the character, appearance or setting of these heritage assets.
15. I therefore find that the proposal would not have a harmful effect on the character and setting of the listed Croxteth Hall and Historic Park and associated heritage assets. The proposal would be in accordance with saved Policy HD15 of the UDP, Policy HD1 of the LLP and the Framework which seeks development in or adjacent to Historic Parks to not have an adverse effect on their character and setting and conserve or, where appropriate, enhance the historic environment.

Site of Nature Conservation and Local Wildlife Site

16. The Council state that the site is allocated as a Site of Importance for Nature Conservation (SINC) and is located within close proximity to various Local Wildlife Sites (LWS). An Ecological Assessment of the site has not been submitted with this appeal.

17. The appellant has indicated that the appeal site has negligible wildlife value, being, in the main the footprint of the kennels and outbuilding and a baron courtyard. As stated above, the kennels are no longer present with the site being heavily vegetated. The site is also surrounded by dense woodland. Given the vegetation on site and its location with regards to SINC and LWS, there are opportunities for the site and the surrounding area to support wildlife. Due to the lack of evidence in terms of ecological matters, I am not convinced that the proposal would not have an adverse effect on wildlife, the SINC and the LWS.
18. The appellant has suggested that, through the use of planning conditions, the proposal could bring opportunities to provide a high quality planting scheme and varied wildlife habitats such as a pond and nesting boxes to encourage local species of flora and fauna. However, without an ecological assessment indicating the existing habitat and wildlife situation, the introduction of the proposed development and other habitat species could be detrimental to the existing surrounding habitat.
19. Due to the lack of substantial evidence, the proposal would have a harmful effect on the Site of Nature Conservation and Local Wildlife Site. The proposal would be contrary to saved Policies OE5 and OE6 of the UDP and Policy GI5 of the LLP which seek to protect the nature conservation interest of land.

Trees

20. There are no mature trees located where the proposed property would be sited. There are however, a number of mature trees located where the proposed access to the site would be positioned, that are protected by Tree Preservation Orders (TPO).
21. A Tree Survey has been submitted which confirms that the proposed access driveway would be partially situated in the root protection areas (RPA) of some of the TPO trees. The survey suggests that a cellular confinement system or other no-dig engineering system should be used to achieve hard surface treatments in proximity to the TPO trees.
22. The Tree Survey provides a typical cross section for a confinement system showing approximately a 500mm gap between the access track and a tree. This cross section however, does not relate specifically to the appeal site as it is indicated that the distance between the proposed access track and some of the TPO trees are below 500mm.
23. The absence of convincing evidence that the proposed development, in particular the access track, can be constructed within the RPAs of the TPO trees, there is considerable doubt in my mind as to whether the proposed building can be adequately constructed without harming surrounding trees.
24. On the evidence that is before me, I am not convinced that the proposal could be constructed without causing harm to surrounding trees. The proposal would be contrary to Policy HD22 of the UDP and GI8 of the LLP which seeks proposals to provide adequate spacing between existing trees and development.

Other considerations

25. The proposal would have good road links with the M57 as well as the M62 and M58. In terms of public utilities, the proposal could be connected with the

services of Littlewood Lodge. The proposal would not arise any adverse effects in terms of noise. Off street parking and vehicular and pedestrian access would be provided for the proposed property. With regards to energy efficiency, the proposed property would look to integrate sustainable clean technologies as well as look at opportunities for recycling and reclamation. The proposal also considers crime prevention, safety and security including matters relating to Secured by Design, lighting, door locks and alarms.

Conclusion

26. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. In this appeal I have also identified that there would be harm to Site of Nature Conservation, adjacent Local Wildlife Site and TPO trees. Paragraph 144 of the Framework states that substantial weight is 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 is clearly outweighed by other considerations.
27. I have found that the proposal would not be harmful to listed Croxteth Hall and Historic Park and associated heritage assets. A number of benefits have also been identified and I attribute moderate weight to these benefits. These matters and benefits would not clearly outweigh the harm that I have identified above, particularly given the importance the government gives to the protection of the Green Belt as reflected in the Framework.
28. For the reasons outlined above, therefore, other considerations do not clearly outweigh the harm to the Green Belt and any other harm. Consequently, the very special circumstances needed to justify the development do not exist.
29. I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR