

Appeal Decision

Site visit made on 11 May 2021 and 14 July 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 16th July 2021

Appeal Ref: APP/G5180/W/20/3253588

Ruxley Nursery, Maidstone Road, Sidcup DA14 5BG

- 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 David Dobson (Ruxley Nursery) against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/20/00453/FULL1, dated 3 March 2020, was refused by notice dated 22 May 2020.
 - The development proposed is change of use of part of site to storage of cars for a temporary period of 3 years and 6 months.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Part of the site is currently in use for the storage of cars. The proposal seeks to retain the use for a temporary period.
3. A second site visit was undertaken as procedural issue linked to the sharing of statements gave rise to a need to make further site observations.

Main Issues

4. The main issues in the appeal are:
 - Whether the proposal is inappropriate development in the Green Belt.
 - Whether the location conflicts with policies for locating new industrial/economic development.
 - The effect on the character and appearance of the surroundings.
 - The effect on local biodiversity and ecology, with particular regard to the adjoining Site of Importance for Nature Conservation (SINC) and protected species.
 - Whether harm by reason of inappropriateness, and any other harm resulting from the proposal, would be clearly outweighed by other considerations so as to amount to very special circumstances.

Reasons

Green belt – inappropriate development

5. The National Planning Policy Framework (the Framework) says that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Inappropriate development is, by definition, harmful and should not be approved except in very special circumstances.
6. Paragraph 146(e) of the Framework says that material changes in the use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Policy 49 of the Bromley Local Plan (Local Plan) partially repeats Paragraph 146, omitting 146(e) and therefore being inconsistent with the Framework in this respect. Notwithstanding this omission, as the policies in the Framework are a material consideration, assessment against 146(e) is necessary.
7. The site sits to the rear of Ruxley Nursery on land that slopes upwards from the busy Maidstone Road. As the site is mostly open to the nursery and includes a number of structures associated with it, it has a very strong physical and functional connection. Ruxley Wood is at the rear and one side boundary, separated from the site by high palisade fencing, and provides a heavily wooded backdrop. Despite the sloping nature of the site, surrounding buildings associated with the nursery and Ruxley Wood provides an element of visual containment.
8. The Council do not dispute that the use of the site for activities associated with Ruxley Nursery is legitimate. Indeed, during my site visits I observed storage and staff parking that might be regarded as ancillary to the nursery present on the site, alongside the use that is the subject of this appeal. Nursery activities are, however, low key, informal and part of the spatial transition from the urban area on the north side of Maidstone Road, through the nursery and Ruxley Wood towards the countryside.
9. The proposed use for what is shown on the plans as up to 81 vehicles brings with it a use of a different scale and nature to that which might be expected of the plant nursery. The scale of the proposed use is such that, at full capacity, parked vehicles would take up much of the land and therefore dominate the site and land which the evidence indicates would otherwise be more open or devoted to activities connected to the plant nursery.
10. The nature of the use, with cars of a similar, metallic appearance, lined in continuous rows, brings with it a uniformity and regularity that is inconsistent with the less formal nature and appearance of buildings and other structures in the immediate surroundings.
11. Even allowing for the temporary nature of the proposal and parking not being at full capacity at all times, when both the spatial and visual effects are considered, the proposal does not preserve the openness of the Green Belt. The effects are inconsistent with the purposes of including the land within the Green Belt, in particular preventing unrestricted sprawl and safeguarding the countryside from encroachment.

12. In conclusion, the proposed development would be inappropriate development in the Green Belt. Paragraph 143 of the Framework therefore indicates that the proposal is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Consequently, there is also conflict with Policy 49 of the Local Plan in relation to development within the Green Belt.

Location

13. The site is not located within a Renewal Area, Strategic Economic Growth Area, Strategic Industrial Location, or Locally Significant Industrial Site which are relevant to Policies 13, 80, 81, and 82 of the Local Plan respectively. These policies include provisions that are aimed at supporting commercial development within the defined areas.
14. The policies do not specify the need for substantial restraint on commercial development outside the defined areas. It is unclear from the evidence presented how the proposal would compromise the wider delivery of the economic strategy promoted by Policies 13, 80, 81, and 82. As such, in the absence of more detailed justification, an in principle policy objection to the proposed development would not represent positive encouragement of sustainable economic growth.
15. Overall, based on the evidence presented, the proposal would not conflict with policy for locating new industrial/economic development set out in Policies 13, 80, 81, and 82 of the Local Plan which collectively govern development relating to Renewal Areas, Strategic Economic Growth Areas, Strategic Industrial Locations, and Locally Significant Industrial Sites.

Character and appearance

16. The character of the site is defined by its role in providing spatial transition between the urban and those areas that increasingly share more characteristics with the countryside. There is a presence of built development and other structures, but they are less dense and ordered than that evident on the more regimented housing areas nearby on the north side of Maidstone Road.
17. As discussed above, the large volume of parked vehicles presents a metallic appearance, with a uniformity and regularity that comes from them being lined in continuous rows. This conflicts with the less formal nature and appearance of buildings and other structures in the immediate surroundings which in turn impacts negatively on the character of the land.
18. The site is relatively contained due to the screening provided by the surrounding buildings associated with the nursery and Ruxley Wood. This containment serves to limit the appearance of the proposal in wider public and private views.
19. Notwithstanding this, there are closer public views of the proposal, including from the woodland footpath adjacent to the side boundary of the site. Whilst this particular view is filtered to a degree by trees, fencing, and other planting, the appearance of a large quantity of parked vehicles in this location does not contribute positively to the character and appearance of the area and contrasts unfavourably with the greenery provided by Ruxley Wood and other nearby open land.

20. Overall, the proposal would have a harmful effect on the character and appearance of the surroundings. Consequently, there is conflict with Policy 37 of the Local Plan in relation to the general design of development which requires proposals to be of a high standard of design.

Biodiversity and ecology

21. The location of the site adjacent to the Ruxley Wood SINC is noted. There is limited evidence on whether the proposal may significantly affect the nature conservation interest of the SINC or any protected species that may be present.
22. Given the nature of the use, extent of potential site coverage with parked cars and potential for greater vehicle movement around the site at different times, there is a risk that the proposal could have negative effects that may either need to be mitigated or would render the proposal unacceptable.
23. In reaching this view I have paid regard to the Appellants points, including the role that the palisade fencing may play in preventing larger mammals from foraging on the site and the potential effect that existing recreational activity in Ruxley Wood may already have on the SINC. Whilst potentially relevant, these points and others are not evidenced in any real depth.
24. Taking a precautionary approach to this issue, and in light of the conclusions reached elsewhere, the evidence does not demonstrate that the proposal will not have a harmful effect on local biodiversity and ecology, with particular regard to the adjoining SINC and protected species. Consequently, there is conflict with Policy 69 and 72 of the Local Plan in relation to development affecting SINC and protected species.

Other considerations

25. I have considered the Appellants evidence relating to the need for car storage on the site, including the link with proposals to modernise the nearby car dealership. The merits of any development requiring planning permission associated with the car dealership are beyond the remit of this appeal. It is also understood that there is presently no planning permission for associated development at the car dealership. As such, any substantive modernisation that could presently take place would be that which could be done without the need for planning permission. Overall, I am not persuaded that a justifiable need on the site for temporary vehicle storage linked to any wider modernisation of the car dealership has been established. Efforts that have been made to find storage elsewhere do not strengthen the justification.

Conclusions

26. The proposal is inappropriate development in the Green Belt which is, by definition, harmful. As such, there is conflict with policies in both the Framework and Policy 49 of the Local Plan. Paragraph 144 of the Framework is clear that any harm to the Green Belt should attract substantial weight.
27. I have also identified other harm, in particular to the character and appearance of the surroundings.
28. The need for temporary storage linked to the modernisation of the car dealership can be given only limited weight for the reasons discussed above.

29. The Appellants other points, including relating to the economic contribution that the car dealership makes to the local area (and effects related to Covid), the relevance of the business model, and the temporary nature of the proposal, are of relevance but do not provide compelling and specific justification for the proposal.
30. Weighing the issues up, I conclude that the harm by reason of inappropriateness, and the other harm resulting from the proposal, is not clearly outweighed by the other considerations. Consequently, very special circumstances do not exist and the Framework and other policies direct that planning permission should be refused.
31. For the avoidance of doubt, it has not been necessary to factor the lack of evidence on local biodiversity and ecology into my final balancing as the relative weight attached to other issues was sufficient to allow me to draw a conclusion on this appeal.
32. For the above reasons and having regard to all other matters, I conclude that the appeal should be dismissed.

D.R. McCreery

INSPECTOR