



Appeal Decision

Site Visit made on 21 September 2021

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2021

Appeal Ref: APP/R5510/W/21/3279160

Land At Heathrow North Service Station, Shepiston Lane, Hayes UB3 1LL

- 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 EG Group Limited against the decision of London Borough of Hillingdon.
 - The application Ref 76359/APP/2021/1525, dated 16 April 2021, was refused by notice dated 21 June 2021.
 - The development proposed is the development of an electric vehicle charging facility, access road, substation, switchgear enclosure and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). The timing of this appeal has been such that both main parties have had the opportunity to comment on the effect of the revised Framework upon their respective cases and I have taken these matters into consideration in reaching my decision. I have determined the appeal in the context of the revised Framework, using the paragraph numbers of the latest version of the Framework.

Main Issue

3. The main issues are:
 - Whether or not the proposed development would be inappropriate development within the Green Belt, having regard to the Framework and any relevant development plan policies;
 - Whether or not the proposed development would preserve the openness of the Green Belt or conflict with the purposes of including land within it;
 - The effect of the proposed development on the character and appearance of the surrounding area; and
 - If inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

4. The appeal site is located within the Green Belt, sandwiched between the M4 motorway to the south of the site and Shepiston Lane to the north. Heathrow airport is a short distance to the south of the M4. The appeal site lies immediately adjacent to a recently developed drive-through coffee shop and car park on Shepiston Lane, itself an extension to an existing petrol filling station (PFS) complex, whilst a short distance further west lies a large modern hotel.
5. The appeal site is comprised of sloping bunds surrounding the southern and eastern sides of the coffee shop car park and access roads. Photographs submitted by the appellant show these areas to be recently re-graded and replanted to grass. Trees and shrubs provide a visual screen atop the bund to the south and the motorway beyond, with a more overgrown scrubby area to the east. Three trees, protected by a Tree Preservation Order, stand within the site.

Whether inappropriate

6. The fundamental aim of Green Belt policy, the Framework states, is to prevent sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence. Openness is the absence of development and it has both spatial and visual aspects. Framework paragraph 138 sets out the five purposes of the Green Belt.
7. The construction of new buildings within the Green Belt should be considered, with the exception of the forms of development set out at Framework paragraph 149, to be inappropriate. Framework paragraph 150 goes on to state that certain other forms of development are also not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Local Plan: Part One (LP1) policy EM2, Local Plan: Part 2 (LP2) policy DME14 and London Plan policy G2 reflect the provisions of the more recent Framework and I give them weight accordingly.
8. It is submitted by the appellant that the proposed electric vehicle (EV) charging station is not inappropriate development by virtue of Framework paragraph 150. That paragraph states that engineering operations¹ and local transport infrastructure which can demonstrate a requirement for a Green Belt location² may be considered to be not inappropriate development, subject to the provisos set out above.
9. However, with regard to engineering operations whilst the proposal does contain elements which may be considered engineering operations in their own right, these works are part and parcel of a larger overall development which should be assessed as a whole. Taking the proposal as a whole, therefore, I do not consider the proposed development to be an engineering operation for the purposes of Green Belt assessment.
10. The Framework does not define what constitutes 'local transport infrastructure'. However, the Council have not explicitly challenged the appellant's approach that the proposed development should be considered under the local transport

¹ Framework paragraph 150(b)

² Framework paragraph 150(c)

infrastructure provision set out in the Framework². Nor have the Council, despite disputing the extent to which the proposal requires a Green Belt location, sought to challenge the appellant's assessment of alternative EV charging points close to the appeal site and the nearby motorway junction.

11. The proposal would provide transport-related infrastructure in the form of ten EV charging units in an immediate area not well served by the fastest public EV charging points. Whilst the source and nature of the energy provided by the charging units may differ from that provided by fuel pumps at a conventional PFS they are essentially similar in purpose. Neither party has robustly or comprehensively demonstrated how the proposal falls within the Framework's description of 'local transport infrastructure' as opposed to merely being infrastructure related to transport.
12. Even if I were to conclude that the proposed EV charging station could satisfactorily be considered as 'local transport infrastructure' however, the Framework states that a requirement for a Green Belt location must be demonstrated. The appellant is in the business of providing roadside facilities that provide a fuel, retail and food and drink offer. This, it is explained, precludes the delivery of stand-alone EV recharging facilities, or the delivery of EV charging facilities at other, non-Euro Garages, sites.
13. The appellant operates two other sites within the vicinity of Heathrow airport and the motorway network. Neither, the appellant states, are suitable or preferable to the appeal site. I have no evidence to suggest that that is disputed but nor does it demonstrate a requirement for a Green Belt location in the current instance. For the appellant, it may be desirable but that does not amount to a requirement in the parlance of the Framework. Nor has it been demonstrated that existing facilities at the appellant's other sites could not be repurposed to accommodate the shift, likely to continue ahead of legislative changes regarding the sale of new petrol and diesel-engined vehicles in 2030, from petrol and diesel vehicles to EVs. As such, the extent of the appellant's demonstration of alternative sites is limited and fettered as a consequence and cannot be relied upon to demonstrate a requirement for a Green Belt location.
14. Thus, for these reasons, the proposed EV charging station development is not local transport infrastructure, nor has it been demonstrated that it requires a Green Belt location. The exception provided by Framework paragraph 150(c) does not therefore apply to the proposal before me.

Openness

15. Even if I were to conclude that the proposal was 'local transport infrastructure' which could demonstrate a requirement for a Green Belt location, Framework paragraph 150 development must also preserve the openness of the Green Belt and not conflict with the purposes of including land within it. I turn now to the matter of openness and the purposes of including land within the Green Belt.
16. The existing drive-through coffee shop building stands adjacent to the forecourt entrance to the PFS. In very broad terms, its physical and visual relationship with the PFS canopy is very similar to that of the kiosk / shop / sales building with the canopy. It is also evident upon reading the conclusions

of a previous Inspector in relation to the 'drive-thru' development³ that this relationship was a key element of the reasoning in allowing that appeal.

17. The appeal site is on the far side of the drive-through coffee shop's car park from that building and, in turn, the rest of the PFS. Although not substantial structures in the manner of the PFS forecourt canopy or the drive-through building, the canopies over the charging bays are nevertheless not insignificant structures. Whilst the appellant seeks to emphasise the modest scale of the charging points and downplay their size, I do not agree, and they add to the bulkiness and clutter of the proposed development.
18. Each canopy would stand between approximately 3.2 metres and 3.8 metres in height, each supported by a single vertical column. Their sloping roofs would be angled towards the south, with solar panels atop, in two rows of three and four canopies, respectively. The roofs would almost overlap each other resulting in a rise-and-fall roofline along the length of both rows.
19. Although essentially open-sided, the structures would not, from many angles, be viewed in the manner projected by the submitted elevations. Viewed dynamically, the height of the canopies and their rise-and-fall roofs and the cumulative impact of two rows of charging units and canopies would be a substantial intervention on a site some distance from the existing coffee shop and PFS complex.
20. Unlike the coffee shop unit relative to the PFS, the charging station would stand some distance from the coffee shop building and further still from the PFS. Although seen in close context with the furthest, open extent of the existing car park, the canopies would appear dislocated in both visual and physical terms from the existing buildings and structures within the coffee shop and PFS complex. So too would the substation and switchgear enclosure, where two substantial cabinets would be set within a recessed area in the northern bund, detached from both the existing development and structures, and also detached from the proposed EV charging stations and canopies.
21. Moreover, both elements would be sited within what is currently a sloping, landscaped bund beyond the eastern and northern edges of the existing car park. Neither the canopies, the charging units, substation and switchgear nor access road and turning area would be within, or contained by, the existing bunds. That the coffee shop building and its car park was contained within the existing bunds was a source of support for the previous development. That would not be the case in this instance, the proposal instead extending into and beyond the existing bunds previously considered to visually contain other developments, and into an area of scrub vegetation and trees beyond.
22. Due to the distance between the appeal site, the proposed structures within it and existing buildings and structures at the coffee shop and PFS complex, the proposal would result in the further, incremental, outward spread of existing development. There would as a consequence be a loss of openness in both spatial terms, through the presence of the canopy structures and charging units, and in visual terms from the further outward spread of development along Shepiston Lane.

³ APP/R5510/W/19/3229922

23. Although the extent to which the appeal site and neighbouring group of buildings can spread further eastwards along Shepiston Lane is limited by the narrowing spit of land between it and the motorway, the continued spread of development at this location would cause harm to the openness of the Green Belt. I acknowledge the constant presence of the motorway and its proximity to the appeal site, and the effect that this has on the experience of the Green Belt in this location. However, this to my mind does not diminish the Green Belt harm that would arise from the proposed development.
24. The area of scrub vegetation and trees beyond the existing developed area of the petrol filling station and coffee shop building makes an important contribution, in the context of the surrounding uses, to Green Belt openness. The appeal site is part of that area and contributes to openness and as such contributes to providing relief from the oppressive nature of the motorway and its traffic. The further outward spread of development around the existing PFS complex would erode the openness of a pressured area of Green belt, causing further, albeit limited, harm to openness.
25. Local Plan: Part 1 (LP1) policy EM2 states that proposals within the Green Belt will be assessed against national and London Plan policies, whilst Local Plan: Part 2 (LP2) policy DMEI4 and London Plan policy G2 reflect the Framework's approach to development in the Green Belt. The proposal would not, for the reasons set out above, benefit from the exceptions provided by Framework paragraph 150(b) or 150(c) and is therefore inappropriate development in the Green Belt.

Character and appearance

26. The proposed EV charging station would be viewed in the commercial and transport related context of the existing PFS and drive-through buildings. Within the drive-through building's associated car park are a range of fixtures and fittings, including lighting columns, height restriction beams, signage and an intercom unit for ordering. The EV charging units and canopy structures would not be out of place amongst such features.
27. Whilst the proposal would result in moderate harm to Green Belt openness for the reasons set out above, it does not necessarily follow that the proposal would be harmful to the character or appearance of the surrounding area. Despite the loss of overgrown vegetation from the area to the east of the existing car park, the proposed development would be seen in the context of the heavily commercialised PFS and drive-through building. The hotel building further to the west adds to the cluster of commercial and transport-related buildings, whilst the motorway is an ever-present factor within the Shepiston Lane environment.
28. The charging units and canopies would not be entirely alien structures in the context of the PFS complex and whilst the proposal would fail to preserve openness, causing moderate harm in terms of Green Belt openness, it would not cause harm to the character or appearance of the appeal site and its immediate locality. However, the absence of harm or conflict with LP2 policy DMEI4, insofar as its provisions relate to matters of character and appearance, is a neutral factor and weighs neither in support of, nor against, the proposal.

Other considerations

29. It is not disputed between the parties that local EV charging provision is limited in terms of both numbers of units and access to the fastest forms of charging units. The need for further and improved provision is noted by the Council. The 2030 Government target for prohibiting the sale of new diesel and petrol vehicles is drawing closer and the parties acknowledge the need for increased provision of, and access to, EV charging facilities to further facilitate the shift in the method of propulsion and the uptake of EVs.
30. The proposed development would also facilitate access to some of the fastest chargers currently available – capable, it is stated by the appellant⁴, of adding up to 218 miles of range to a suitable vehicle in just 15 minutes – and faster than the locally available alternatives. Despite the somewhat limited qualitative and quantitative assessment of provision and demand for charging facilities, these broad factors nevertheless carry significant weight in support of the proposal.
31. The canopy above each charging unit would accommodate solar PV panels which would provide the main power source for the charging points. The sustainable source of energy for the units, at least in the main, is also a positive factor which weighs moderately in support of the proposed development.
32. Taken together, these factors, and the contribution that the scheme would make towards an albeit unquantified reduction in carbon emissions and improving local air quality, all weigh in support of the proposal. I therefore give these factors significant weight in the role that they would play in encouraging a shift away from petrol and diesel-engined vehicles and ensuring that EV charging facilities become as accessible as petrol filling stations.

Green Belt balance

33. Inappropriate development is, by definition, harmful to the Green Belt. Substantial weight should be given to any harm to the Green Belt and proposals should not be approved except in very special circumstances. Such 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.
34. The proposed development is inappropriate development in the Green Belt which fails to preserve the openness of the Green Belt. It would also result in the further outward sprawl of development around the petrol filling station. These are all matters to which I give substantial weight, in line with the Framework's approach to such matters. The proposal would as a consequence be in conflict with the purposes of including land within the Green Belt.
35. There are, as I have set out above, other considerations to which I give moderate and significant weight to and which weigh significantly in support of the proposal. The absence of harm to character and appearance is a neutral factor which weighs neither in support of nor against the proposal.

⁴ 'Charging Times and Distance Guide' Electric Car Chargers UK / Office of Low Emission Vehicles – based on chargers being 150kW (Ultra) to 375kW

36. The Framework is clear that not only should substantial weight be given to any Green Belt harm, but that 'very special circumstances' will not exist unless that harm, and any other harm, is clearly outweighed by other considerations. Whilst there are therefore other considerations that weigh in support of the proposal in the Green Belt balance, they would not, either individually or cumulatively, clearly outweigh the Green Belt harm sufficient to amount to the 'very special circumstances' envisaged by the Framework.

Conclusion

37. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR