



Appeal Decision

Site visit made on 16 November 2021

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2021

Appeal Ref: APP/H1515/W/21/3273447

Land opposite Cherrywood, Blind Lane, Herongate CM12 9SN

- 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 Raymond Howlett against the decision of Brentwood Borough Council.
 - The application Ref 20/01070/FUL, dated 29 August 2020, was refused by notice dated 23 October 2020.
 - The development proposed is described as 'retention of hard standing'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the heading above is taken from the planning application form. The form sets out that the development was completed in June 2020. I have made this decision based on the development as completed on site.
3. The National Planning Policy Framework (Framework) was revised on 20 July 2021. It replaces the version from 2019 that the Council took into account when it determined the application. The appellant and the Council were provided with an opportunity to comment on any potential implications from this, but no comments were submitted. In any case, there are few differences between the 2 versions of the Framework regarding the matters in dispute.
4. The appellant has requested that prior to making a decision I consider whether a lesser amount of development could be granted planning permission. However, the appeal process should not be used to evolve a scheme and it is important that the scheme I consider is essentially that which was considered by the Council and on which interested parties' views were sought. To do otherwise would be prejudicial to the Council's position and to that of other parties. Therefore, in the interests of fairness, I have considered the appeal based on the scheme as decided by the Council.

Main Issues

5. The main issues are:
 - whether or not the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including any effects on the openness of the Green Belt and the purposes of including land within it;

- the effect of the development on the character and appearance of the area;
- the effect of the development on ground conditions in respect of contamination; and
- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriate development

6. The site constitutes an area of hardstanding located within the Green Belt. It is enclosed by trees and various fences and a gate along Blind Lane. The surrounding area features residential properties located amongst paddocks, open fields and wooded areas and has a prevailing rural character. The application form sets out that the hardstanding comprises crushed concrete and tarmac scalplings.
7. The appellant describes the site as being in domestic use, with the hardstanding used for suppressing weeds. It is also indicated that use of the site as an equestrian facility may be sought in the future. The appellant says that the site previously comprised untended land with overgrown vegetation, but a previous use of the land has not been confirmed explicitly and the lawful use of the site is unclear. However, the Council contends that the site previously consisted of undeveloped rural land and interested parties refer to it as having been an open field with bushes and greenery, which has not been disputed by the appellant. I have made my decision based on the land being undeveloped prior to the hardstanding being laid.
8. Policy GB1 of the Brentwood Replacement Local Plan (LP) sets out that permission will not be given, except in very special circumstances, for changes of use or the construction of new buildings or extensions, for purposes other than those appropriate in the Green Belt, or for the reuse of existing buildings that do not comply with other policies.
9. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It identifies specific exceptions to this at paragraphs 149 and 150; however, none have been expressly relied upon by the appellant.
10. Paragraph 149 of the Framework provides exceptions for buildings in some circumstances. The hardstanding does not constitute a building and thus none of those exceptions are relevant. Based on the evidence before me, the most relevant potential exception is the one for engineering operations at paragraph 150(b). In order to determine whether the development fits within this exception, the development must preserve the openness of the Green Belt and not conflict with the purposes of including land within it. Whilst it is unclear whether a material change of use of the land has occurred, the Framework's tests for determining whether such changes of use are not inappropriate are the same as for paragraph 150(b). No other exceptions in the LP or the Framework appear relevant.

11. Although there is no evidence that the hardstanding is set higher than the level of the ground as it was prior to the development, it nevertheless extends across a large area and is clearly visible from Blind Lane. It has therefore harmed the openness of the Green Belt substantially. In addition, having regard to the extent of the hardstanding and its degree of enclosure, the development is an urbanising feature that substantially harms the Green Belt's purpose to assist in safeguarding the countryside from encroachment.
12. Based on the submissions, no landscape works have been undertaken in an attempt to mitigate the impacts of the development. Whilst the implementation of a scheme of landscaping could be required by a planning condition, I do not consider that this would overcome the harm to openness or the Green Belt purpose identified.
13. I therefore find that the development fails to preserve the openness of the Green Belt. In addition, it conflicts with the Green Belt's purpose to assist in safeguarding the countryside from encroachment. The development thus constitutes inappropriate development in the Green Belt for the purposes of the Framework. In addition, it conflicts with LP Policy GB1, as the development does not fall within the LP's exceptions to inappropriate development. The development also conflicts with LP Policy GB2, which sets out that development should not harm the openness of the Green Belt or conflict with the purposes of including land within it.

Character and appearance

14. Following on from my above findings, the hardstanding contrasts sharply with and detracts from the rural character and appearance of its surroundings. The harm to the character and appearance of the area is substantial. Consequently, the development conflicts with LP Policy CP1, which requires that development does not have an unacceptable detrimental impact on the character and appearance of an area.

Ground conditions

15. The Council identifies that there is no assessment of whether the materials used for the hardstanding are free from contaminants. However, there is no substantive evidence indicating that the crushed concrete and tarmac scalings used are causing land contamination. Furthermore, planning conditions can require ground investigations and any necessary remediation measures to take place. On that basis, the development is acceptable in respect of ground conditions. In this limited respect, the development accords with LP Policy CP1, which requires that development does not have unacceptable detrimental impacts on health, the environment or amenity due to the release of pollutants.

Other matters

16. The Council alleges that the development conflicts with LP Policy C5, which relates to the retention and provision of landscaping and natural features. However, it is not put forward that the vegetation removed from the site was of any specific importance, or that the hardstanding is currently harming any landscaping or natural features. Notwithstanding that additional landscaping would not be able to offset the harm identified, a condition could nevertheless be imposed to require landscaping to be provided. On that basis, the development does not conflict with LP Policy C5.

17. Having regard to the location of residential properties in the vicinity of the site, I do not consider that the development is harmful to the living conditions of neighbours.

Other considerations and whether very special circumstances exist

18. Paragraph 148 of the Framework explains that very special circumstances to justify development in the Green Belt will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
19. The appellant has not referred to any specific considerations that may amount to very special circumstances other than that the development suppresses weeds and enables the site and the land behind it to be accessed. However, there is no evidence that the development was necessary to achieve access or suppress weeds. Whilst the site may be sought to be used for equestrian purposes in the future, that is not the scheme before me. As such, these matters do not indicate in favour of the development.
20. The hardstanding is inappropriate development in the Green Belt which is, by definition, harmful. The development harms the openness of the Green Belt and its purpose in assisting in safeguarding the countryside from encroachment substantially. Paragraph 148 of the Framework explains that any harm to the Green Belt attracts substantial weight. Additionally, the development harms the character and appearance of the area substantially.
21. Overall, other considerations do not clearly outweigh the harm identified. Therefore, the very special circumstances necessary to justify development in the Green Belt do not exist.
22. The development's conflict with LP Policies GB1, GB2 and CP1 leads me to conclude that it is contrary to the development plan taken as a whole. No material considerations outweigh the development's conflict with the development plan.

Conclusion

23. For the reasons given above, the appeal should be dismissed.

Mark Philpott

INSPECTOR