
Appeal Decision

Site visit made on 12 July 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2022

Appeal Ref: APP/P5870/W/21/3284333

Little Woodcote Centre, Telegraph Track, Little Woodcote Estate, Carshalton SM5 4AZ

- 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 Oak Hill Education Trust against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/00811, dated 20 April 2021, was refused by notice dated 3 September 2021.
 - The development proposed is a change of use of school to a community store (sui generis) with ancillary storage.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of school to a community store (sui generis) with ancillary storage at Little Woodcote Centre, Telegraph Track, Little Woodcote Estate, Carshalton SM5 4AZ, in accordance with the terms of the application, Ref DM2021/00811, dated 20 April 2021, subject to the conditions set out in the schedule below.

Preliminary Matters

2. At the time of my site visit part of the ground floor appeared to be operating as a community store. This has no bearing on my decision, which I have based on the submitted plans.

Main Issues

3. The main issues are:
 - (a) whether the proposed development would be inappropriate development in the Green Belt; and
 - (b) would harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

4. Policy 24 of the Sutton Local Plan 2018 (the 'Local Plan') seeks to resist inappropriate development in the Green Belt unless other material considerations clearly outweigh the harm to the Green Belt and constitute very special circumstances. With specific regard to the re-use of buildings and structures in the Green Belt, proposals will be considered inappropriate development under Policy 24 unless they are for either: (i) agriculture, horticulture or animal-related businesses; or (ii) appropriate facilities for

outdoor sport and recreation and cemeteries. Additionally, the re-use of buildings and structures should also preserve the openness of the Green Belt. The proposal would not accord with either requirement (i) or (ii) and in this respect would be contrary to Policy 24.

5. Policy G2 of the London Plan 2021 broadly reflects Paragraph 147 of the National Planning Policy Framework 2021 (the 'Framework') which seek to protect the Green Belt from inappropriate development and ensure that proposals which would harm the Green Belt are refused except in very special circumstances.
6. Paragraph 150 of the Framework sets out those forms of development which would not be inappropriate development in the Green Belt, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Paragraph 150(d) includes the re-use of buildings, provided that the buildings are of permanent and substantial construction. There is no commentary or limitations on the nature of how the building is re-used.
7. Thus, the Local Plan shares the same broad objectives as the London Plan and Framework of seeking to protect the Green Belt from inappropriate development. However, with regard to the reuse of buildings the Local Plan is more restrictive.
8. In this respect the Council notes that the Local Plan was tested against the wording of the version of the Framework which existed at the time the Local Plan was adopted, and the wording has not changed in the interim. Nonetheless, the difference between the Local Plan and Framework is significant. As the Local Plan policy is more restrictive than both the London Plan and the Framework, I attach less weight to the Local Plan.
9. The Council has not raised any concerns that the building's construction is not permanent or substantial. From my observations the building appeared to clearly meet both requirements.
10. The Local Plan, at paragraph P24.2 and the Framework at Paragraph 138 set out the five purposes of including land within the Green Belt. The Council has not set out why the proposal would conflict with these purposes. Clearly the use of the land and the building would change as a result of the proposal but neither the buildings nor the site's existing boundaries would alter. In this respect the proposal would not lead to any of the 5 purposes specified being breached.
11. The Framework however makes clear that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Local Plan's requirement for proposals to maintain openness accords with the Framework.
12. The physical extent of the site and building would not change and so would not affect openness. However, the use of a site and in particular aspects such as parked cars can have an effect on openness. Although not permanent, vehicles associated with the use of the site may cause some loss of openness as a result of being parked. The appellant's appeal statement refers to the site having 10

car parking spaces, but it is also noted elsewhere that the number of cars on site in the past has exceeded this number.

13. Given the nature of the previous and proposed uses, it seems to me that the travel patterns would change, with journeys more likely to be spread out through the day with the proposed use rather than being concentrated around the beginning and the end of the school day. The Council's Senior Highway Engineer accepts that overall vehicle movements are likely to decrease as a result of the community store, which is restricted through a membership scheme to approximately 120 households. Whilst it also seems likely that the overall number of people on site on a day-to-day basis would also be reduced, the extent to which all of this translates into the number of cars being parked on site is less clear.
14. The appellants suggest that school staff numbers fluctuated between 10 and 15 plus there could be visiting professionals and/or parents on site. The appellants estimate that given the likely numbers of staff, deliveries and if 80% of members were to visit the store during the average week, the total number of visits per week would be somewhere in the region of 111. Averaged out over 6 days, this would be a figure of approximately 18.5 vehicles per day. The Council does not disagree with these figures.
15. Whilst the total number of cars on site for the store might appear to be slightly higher than that associated with the school, aside from members of staff, most cars would not be on site for more than a short period of time. The teachers at the school were likely to have been parked on site for most of the day.
16. Despite the extent of the previous permission and intimations to the contrary, there is no evidence that the school did actually open consistently during the summer months. However, even allowing for the school not operating for 6-8 weeks over the summer, it seems to me that over the course of a year, the use of the site as a community store would be unlikely to see the car park becoming less open overall. On this basis, I consider that this aspect of the proposal would have a neutral effect on openness.
17. The proposal would not accord with the two purposes listed in Local Plan Policy 24 in terms of the re-use of buildings, but I consider that the proposal would preserve openness and not conflict with the purposes of including the land as Green Belt. Coupled with my view that the proposal accords with Paragraph 150(d) of the Framework, this leads me to a conclusion that the proposal would, in the context of the London Plan 2021 and the Framework, not be inappropriate development. This conclusion outweighs the conflict I have identified with Local Plan Policy 24.
18. As the proposal would not have an adverse effect on the openness of the Green Belt and would therefore not be inappropriate development in the Green Belt, it would not conflict with Policy G2 of the London Plan and the Framework which, amongst other things, seek to restrict inappropriate development in the Green Belt.

Other considerations

19. Despite the conflict with Local Plan Policy 24, due to my conclusion on the first main issue, it is not necessary for me to explore whether or not there is a need for the community store or whether alternative sites were considered.

Accordingly, I do not need to reach a conclusion on whether or not such matters clearly outweigh any harm so as to amount to the very special circumstances that might otherwise be required to justify the proposal.

Conditions

20. I have had regard to the planning conditions suggested by the Council and reviewed them in accordance with the tests set out in the Planning Practice Guidance (PPG), revising where necessary to better reflect its requirements and guidance.
21. As the change of use has commenced there is no need for the standard time limit condition. However, a condition is required in the interests of certainty that lists the approved plans.
22. My findings on openness have in part been informed by the level of usage of the car park, which is based on the use of the building as a community store by up to 120 households. Given the limited evidence available to me, I cannot be certain whether or not a larger scale of operation would harm the openness. The main parties were consulted on whether there was a need to limit or control the operations on site.
23. To my mind, any limitations would have two purposes. Firstly, to provide certainty in defining the extent of the permission as a community store. Secondly, it would ensure a level of operation that would maintain levels of openness across the site. However, I do not consider that any permission needs to be restricted to the appellants, as this would not directly address or control either of these matters.
24. Accordingly, I consider that a condition is necessary which restricts the use to that of a community store outside of Class E of the Use Classes Order. Furthermore, the amount of floorspace given over to sales would provide a natural limit on the likely number of users, the use of the car park and thus the openness of this site within the Green Belt.
25. The appellant has confirmed that the sales area would comprise the ground floor level, with the other floors intended to provide ancillary storage, offices and toilets etc. The submitted drawings indicate the ground floor is 225m². Whilst I see no planning reason to restrict the sales area to the ground floor, no doubt from a practical point of view this is likely to happen anyway. However, provided that there is an overall upper limit on the amount of floorspace for sales, then limits on which floors can be used would not be necessary.
26. The Council has suggested a condition limiting opening hours and on which the appellant has not commented. Whilst I agree that there needs to be some restriction on the hours of opening in order to maintain the character of the area and the living conditions of those living nearby, I see no reason why they should be more restrictive than those of the school, given that there would be likely to be less noise and disturbance overall. The appellant's Supporting Statement indicated the store would open 6 days a week and so opening hours of 0800 – 1800 Mondays – Saturdays seems reasonable and broadly in line with what was being sought by the appellant.
27. The Council has suggested a cycle parking condition. However, I have not been provided with any details as to the level of provision required. As such, it is not

possible for me to impose a sufficiently precise condition which would inform the appellant of what they would need to do to discharge the requirements. Whilst the Framework seeks to encourage the use of more sustainable modes of transport, I am satisfied that in this instance the absence of cycle parking at this particular site for this particular development is not critical to make the development acceptable in planning terms.

Conclusion

28. For the above reasons, taking into account the development plan as a whole, the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan showing 2 marked road names
 - Site Plan
 - Block Plan
 - Proposed Basement, Ground and First Floor Plans – Drawing No. 01 (April 2020)
 - Existing Basement, Ground and First Floor Plans – Drawing No. 01 (April 2015)
- 2) The premises shall be used as a community store, in accordance with the Walton & Co Supporting Statement (April 2021), and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) The community store hereby permitted shall not trade outside of the hours of 08:00 to 18:00 Monday to Saturday, including Bank and Public holidays. No customers are permitted on the premises outside of these trading hours.
- 4) The net trading area for the community store hereby permitted shall not exceed 225 square metres.

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