



Appeal Decision

Site visit made on 4 October 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal Ref: APP/W5780/W/21/3282890

Former Railway Nurseries, Forest Road, Hainault IG6 3HE

- 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 Brian Russell (BC Properties Essex Ltd) against the decision of London Borough of Redbridge.
 - The application Ref 0823/21, dated 10 February 2021, was refused by notice dated 12 May 2021.
 - The development proposed is demolition of existing poly tunnel structures and buildings, construction of new bungalows with shared access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An additional plan drawing number 4133_SK10 has been submitted with the appeal to show compliance with the Building Research Establishment (BRE) Report, Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice. As the Council have not raised an objection and no party would be prejudiced, I have accepted the additional plan.
3. The appellant's statement simultaneously refers to the development as consisting of the conversion of a building to flats and erection of 4 dwellings. The submitted plans show 3 dwellings. I have determined the appeal based on the plans before me.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the living conditions of the future occupiers with regard to outlook; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate Development

5. The appeal site is located within the Green Belt. Paragraph 149 of the Framework indicates that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Limited infilling or the partial or complete redevelopment of previously developed land, is one of the exceptions and upon which the appellant relies.
6. Policy LP34 of the Redbridge Local Plan 2018 (RLP) reflects the purposes of Green Belt set out in paragraph 134 of the Framework in seeking to resist new development regarded as inappropriate development. In addition, Policy G2 of the London Plan 2021 (the London Plan) advises that inappropriate development within the Green Belt should be refused, except where very special circumstances exist, such that it is consistent with the Framework.
7. The appeal site is described by the appellant as containing buildings and polytunnels relating to a garden centre business that ceased trading some years ago. I am referred to previous planning permissions at the appeal site (references 0373/95 and 0685/98) which are said to have allowed the sale of imported goods, over and above the growing of plants, as well as additional buildings to serve the garden centre use. However, full details of these permissions including the plans and decision notices are not before me. The previous Inspector (appeal decision 3247238) concluded that the use of the land related to a horticultural nursery, meeting the definition of agriculture set out within section 336 of the Town and Country Planning Act 1990, rather than being a garden centre. Given that there is little substantive evidence before me to suggest that I should disagree with the findings of the Inspector, I am unable to conclude anything other than the use of the appeal site for agricultural purposes. It seems to me therefore, that the appeal site does not constitute previously developed land, as defined within the Framework.
8. Even if I were able to conclude that the appeal site was previously developed land, it is a prerequisite of paragraph 149g that the proposed development should not have a greater impact on the openness of the Green Belt, than the existing development. Paragraph 137 of the Framework indicates that openness is an essential characteristic of the Green Belt, with a fundamental aim being to keep land permanently open. Openness has both a visual and spatial dimension. This principle was established in *Turner v Secretary of State for Communities and Local Government and East Dorset Council* [2016] EWCA Civ 466 which I am referred to by the appellant.
9. At the time of my site visit, any buildings and polytunnels previously in existence had been demolished and cleared. Consequently, the calculations provided in respect of the size of the previous buildings, are not determinative here, in respect of the question of the impact of the proposal on openness. The erection of 3 dwellings, would result in the construction of buildings where presently there are none, thereby eroding 3-dimensional space. Public views of the appeal site would be obtained from Forest Road and the golf course to the south. Although a hedgerow exists along the front boundary of the site, it is intermittent. The dwellings would therefore be visible through and above the hedgerow, and from the proposed vehicular access points. Notwithstanding, the creation of landscaped gardens, the scale and mass of the proposed dwellings

would result in a significantly greater and harmful impact on the openness of the Green Belt.

10. The appellant refers to the R (Lee Valley Regional Park Authority) v Broxbourne Borough Council [2015] EWHC 185 (Admin) judgement, where the presence of existing buildings affected the consideration of openness. This differs from the circumstances of the case before me where there are no existing buildings to consider.
11. It is appreciated that the number and height of dwellings has been reduced in an attempt to overcome the Inspector's concerns (appeal reference 3247238). However, that does not overcome the harm identified in respect of this proposal, with regard to the openness of the Green Belt.
12. Consequently, the proposal would not meet the exception for previously developed land under paragraph 149g of the Framework and would be inappropriate development, which is by definition, harmful to the Green Belt and should not be approved, except in very special circumstances. It would also conflict with the aims of Policy LP34 of the RLP and Policy G2 of the London Plan which aim to protect Green Belt land and safeguard the countryside from encroachment.

Living Conditions of Future Occupiers

13. Each of the proposed dwellings would have the same internal layout with the third bedroom located in the middle of the property such that their windows would face towards either the shared boundary with the neighbouring bungalow, or the external site boundary in the case of plot C. It is suggested that the rooms comply with the London Plan guidelines but it is not clear from the evidence before me, whether these provisions relate to outlook. Even with the proposed splayed arrangement of the dwellings, the bedroom windows would look out onto a boundary fence (as shown in drawing 4133_SK10) and the flank wall of the neighbouring property in the case of plots A and B, and a hedgerow for plot C. The outlook of the rooms would therefore be severely restricted and combined with their small size, inferior and claustrophobic living conditions would be created for the future occupiers.
14. I find that the proposed development would have an adverse effect upon the living conditions of the future occupiers of the proposed dwellings, with regard to outlook. Conflict is therefore found with Policy LP26 of the RLP which seeks amongst other things, to provide high standards of accommodation for housing in terms of the arrangement of internal space.

Other Considerations

15. Reference is made to appeal decision 3258060 where the replacement of a poly tunnel by a bungalow was not judged to significantly affect the openness of the Green Belt. Very special circumstances including highway safety benefits and an improvement to the living conditions of neighbouring residents were demonstrated in appeal decision 2192149, to overcome the harm of inappropriate development in the Green Belt. The demolition of numerous nursery buildings and replacement with one dwelling was further seen to have a positive impact on the openness of the Green Belt, unlike the case before me where there are no buildings or structures to consider the scheme against. As a

result, I do not find the circumstances of either appeals comparable to that before me.

16. Whether or not the appeal site was originally designated to accommodate cottages for railway workers or is subject to a restrictive covenant specifying such, does not indicate that the site is suitable for residential development in planning terms. Planning law is clear that decisions must be in conformity with the development plan that is in place at the time.
17. The appellant states that the proposal would result in less traffic and activity than a commercial operation. The appeal site is vacant so there would be a net increase in traffic and comings and goings arising from the proposed development, rather than a reduction. There is no evidence before me that the proposal would offer highway safety improvements such that I could attach weight in favour of allowing the appeal.
18. Reference is made to the proposal improving the appeal site as it is said to visually detract from the character and appearance of the area. Although there may have been previous issues with fly tipping and an unauthorised encampment, at the time of my visit (although a snapshot in time), the appeal site had been cleared and was relatively tidy. Even if it was considered to detract from the character of the area, that would not justify permitting development that would be harmful to the openness of the Green Belt. I attach little weight accordingly.
19. The Council did not refuse the proposal in relation to the impact on the daylight and sunlight afforded to the proposed dwellings. Compliance with the BRE guidelines shown in drawing 4133_SK10 is therefore a neutral matter that weighs neither for, nor against allowing the appeal. The same can be said for the provision of landscaped gardens, car parking spaces, cycle and bin storage, retention of hedgerows and construction of dwellings to current Building Regulation standards and National and London Plan space standards, which are to be expected from all developments.
20. It is common ground that the Council's Housing Delivery Test (HDT) results are below the necessary requirement. As such, in the context of paragraph 11d of the Framework, the policies most important for determining the application would be deemed out of date. However, as the site is in the Green Belt the application of policies in the Framework that protect areas of particular importance, provides a clear reason for refusing the development proposed. Consequently, the appeal scheme would not benefit from the presumption in favour of sustainable development.
21. The proposed dwellings would be within walking distance of local shops and services, recreational facilities and schools. I saw that they would also be close to Fairlop tube station and the bus network, which I recognise would be of benefit to the future occupants. The proposal would add to the local housing stock, provide employment during construction and add to the customer base for local businesses. While any contribution is worthwhile, the benefits of 3 new dwellings would inevitably be modest in these respects and in this instance, to the detriment of the openness of the Green Belt.
22. The Framework indicates that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the Framework sets out that substantial weight

should be given to any harm to the Green Belt. In this case, I have found harm from inappropriateness and additional moderate harm to the living conditions of the future occupiers of the proposed dwellings.

23. The modest weight I have attached to the location of the development with respect to services and public transport and the contribution to the housing stock would not therefore, clearly outweigh the substantial weight to be given to Green Belt harm. As such, the very special circumstances necessary to justify the proposed development do not exist.

Other Matters

24. The Council has indicated that the proposal would result in a net increase in residential dwellings within the zone of influence for the Epping Forest Special Area of Conservation (SAC). As I am dismissing the appeal on other substantive grounds, I have not been required to consider further, whether the proposal would result in significant adverse effects upon the SAC.

Conclusion

25. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

M Clowes

INSPECTOR