



Appeal Decisions

Site visit made on 11 January 2023

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2023

Appeal Ref: APP/H1515/W/21/3289594

The Mesken Bar & Grill, 570 Rayleigh Road, Hutton CM13 1SG

- 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 The Mesken Bar and Grill against the decision of Brentwood Borough Council.
 - The application Ref 21/00705/FUL, dated 14 April 2021, was refused by notice dated 13 August 2021.
 - The development proposed is refurbishment of rear beer garden to include erection of timber screen and six dining pods and waiters station linked by timber boardwalks.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Brentwood Local Plan 2016-2033 (2022) ("BLP") was adopted on 23 March 2022. Policies of the new plan replace those of the Brentwood Replacement Local Plan (2005).
3. The development proposed has already been carried out. Separate proposals for a single storey side extension, kitchen ventilation system and glazed screens added to the rear veranda are also being considered in a separate appeal (ref: APP/H1515/W/21/3289441).
4. I have considered the appeal on this basis.

Main Issues

5. The main issues are:
 - whether the proposed development 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 of the proposed development on the openness of the Green Belt;
 - If the development is inappropriate, 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

Whether inappropriate development in the Green Belt

6. The appeal site is a bar and restaurant on the A129 Rayleigh Road, Hutton which runs between Brentwood and Billericay. It is an irregular plot on the northern side of the road, with car parking to the front and west, and a large area described by the appellant as a 'beer garden' to the rear. The building has been substantially extended from its original form at the front, rear and both sides. The appeal site, and all land in its vicinity, is in the Metropolitan Green Belt.
7. Policy MG02 of the BLP broadly conforms to the general thrust of national Green Belt policy set out in the Framework.
8. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to exceptions as set out in paragraph 149. One such exception relates to limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use, subject to certain limitations, including not having a greater impact on the openness of the Green Belt than the existing development.
9. The Framework does not provide a definition of 'limited infilling or the partial or complete redevelopment of PDL', and it is therefore a matter of planning judgement.
10. Development on the northern side of Rayleigh Road is generally aligned with the road which, to the west, results in some gardens abutting the appeal site boundary. A small number of sheds and outbuildings are found beyond houses in gardens either side of the appeal site, but they are not significantly developed. Therefore, although the development is limited, it does not fill a gap between built developments, and is therefore not infilling. It is also additional development, rather than partial or complete redevelopment of the land.
11. Even if it were to be considered limited infilling, I find below that it would have a greater impact on the openness of the Green Belt than the existing development. The exception therefore does not apply to the development.
12. As a consequence, the proposal is inappropriate development in the Green Belt, which is by definition harmful, and substantial weight should be given to any harm to the Green Belt.

Openness

13. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence.
14. The plans show that prior to the development, the entire area of land beyond the patio was undeveloped. The boardwalks and dining pods introduce built development into a large area of the undeveloped 'beer garden'. Despite being open-sided in part, each of the dining pods is a significant size, accommodating communal dining and, together and with the waiters' station, they amount to a significant volume. In terms of their area, the dining pods and boardwalks also cover a substantial proportion of the ground over a wide area. Spatially, there is therefore a significant reduction in openness as a result of the development.

15. Visually, the dining pods, boardwalks and waiters' station are large structures, and are sited such that there are only small gaps between them. Together they therefore read as a developed area of land. The timber screen adds further to the sense of enclosure and is seen as a solid visual barrier adding to the developed character of the space accommodating the dining pods, the boardwalks with their associated railings, and the waiters' station. The development therefore significantly reduces the visual openness of the Green Belt.
16. The more limited spatial and visual effects of the picnic benches on other parts of the "beer garden" contrast markedly with the development, clearly demonstrating the significant reduction in openness arising from the development.
17. The development therefore does not preserve the openness of the Green Belt. Unless very special circumstances are found to justify the development, it conflicts with BLP Policy MG02 and Chapter 13 of the Framework, which together seek to protect Green Belt land.

Other considerations

18. The appellant advises that the business has suffered a loss of income in recent years as a result of measures taken in response to the COVID-19 pandemic, and that the development is part of its recovery programme. It considers the development has, and will continue to play, a vital role in attracting customers and securing the future of the business and the jobs it provides. And in meeting customer demand for outside drinking, dining and socialising. However, the bar and restaurant is a large facility, and from the evidence before me it appears to be a popular venue. I have not seen compelling viability, or other, evidence which would support a particular need for these measures. I therefore attribute a limited degree of weight in favour of the development.
19. The appellant states that there is no limit to the number or size of marquees and gazebos which could be erected should the appeal be dismissed, and that the dining pods are of a higher quality than temporary structures. I have not been advised of which provisions the appellant relies on but, in the event that it refers to Schedule 2, Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015, those provisions are limited to a single moveable structure with a smaller combined floor area than the dining pods and waiters' station. A single moveable structure would also not require extensive boardwalks. The development would therefore have a similar or greater impact on openness, and I therefore attribute only limited weight to such provisions.
20. It is difficult to see how there may be some benefit to neighbours, as suggested by the appellant, due to any reduction in noise from the dining pods. Interested parties have also advised that, if not used as a restaurant, the external areas would be loud as the beer garden of a public house. The dining pods have significantly open areas which would allow noise to travel, and it seems likely that the dining pods will encourage more customers to stay longer in that area. I am therefore not persuaded that their presence reduces the noise to neighbouring residents.

21. The appellant also refers to an absence of harm in other respects, but that would weigh neutrally in the planning balance.

Conclusion

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. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
23. The development is inappropriate development in the Green Belt, and harms openness, to which I must attribute substantial weight against the development. The harm to the Green Belt is not clearly outweighed by the other considerations, and the very special circumstances required to justify a grant of planning permission have not been demonstrated.
24. For the reasons above, I conclude the development would conflict with the development plan as a whole and the approach in the Framework. There are no other material considerations that would suggest a decision should be made other than in accordance with the development plan, and the appeal should therefore be dismissed.

Peter White

INSPECTOR