



Appeal Decision

Site visit made on 28 February 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2023

Appeal Ref: APP/P4415/W/22/3307036

17 Reneville Road, Moorgate, Rotherham S60 2AR

- 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 A Baby against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2021/0079, dated 21 January 2021, was refused by notice dated 21 July 2022.
 - The development is the importation of material and change of use of land to form widened access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The material has been imported and the widened access has been created.

Main Issues

3. 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 of the proposal on biodiversity interests;
 - the effect of the proposal on land stability and soil resources; and
 - whether any 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

4. The development has involved the importation of materials to form an enlarged embankment to facilitate the widening of the existing access road that serves the host property and the dwelling at 15 Reneville Road.
5. Paragraph 147 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. The Framework states that openness and permanence are the essential characteristics of the Green Belt. Paragraph 150 of the Framework states that engineering operations are not inappropriate

- in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
6. Policy CS4 of the 2014 adopted Rotherham Local Plan Core Strategy 2013 – 2028 (the CS) seeks to protect land within the Green Belt from inappropriate development as set out in national planning policy. Policy SP2 of the Rotherham Local Plan Sites and Policies, adopted 2018 (the SP) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
 7. The Council does not consider that the development has affected the openness of the Green Belt. Given the nature of the works that have been carried out and what I observed on my site visit, I have no reason to disagree with these conclusions. The development does not harm, and therefore preserves, the openness of the Green Belt.
 8. One of the Green Belt purposes is to assist in safeguarding the countryside from encroachment. Based on the submitted evidence, it appears that the widened access road does not lie in the Green Belt. The works undertaken in the Green Belt are therefore those related to the regrading of the embankment. This has involved the removal of vegetation which the Council describes as low level scrub and some self-set trees forming the early stages of a woodland, and the tipping of material.
 9. The tipping of the material and regrading works will have altered the shape of the existing landform to an extent. The affected area has started to revegetate with grass and low level scrub vegetation, with the appellant's Ecological Mitigation Report¹ identifying the species mix as typical of recently colonised substrates.
 10. The works have changed the character of the site given that the submitted evidence indicates that trees have been removed. Nevertheless, the works undertaken have not had an urbanising effect on the site given their nature and scale. While the site is clearly visible due to its elevated position, when viewed from vantage points in the surrounding area the works undertaken do not appear as an encroachment into the countryside. The development does not therefore conflict with Green Belt purposes.
 11. For these reasons, the development is not inappropriate development in the Green Belt. It does not therefore conflict with the requirements of Policy CS4 of the CS, Policy SP2 of the SP, or chapter 13 of the Framework, the most relevant of which are summarised above.

Ecology

12. Policy CS20 of the CS seeks to protect biodiversity with priority being given to conserving and enhancing sites and features that have demonstrable biodiversity value including woodland. Policy SP33 of the SP requires suitable mitigation or compensation to ensure no net loss of biodiversity as a minimum. Policy SP34 does not normally allow for development that would either directly or indirectly, adversely affect a non-statutorily protected site.
13. The site lies within the Canklow Wood Local Wildlife Site (LWS). The only ecological assessment undertaken at the site was carried out after the

¹ Ecological Mitigation Report, reference HE 1500821, 7 October 2021

importation of the material and the regrading works to the embankment. There is therefore no clear evidence before me, in terms of an ecological appraisal or similar assessment, to demonstrate what habitats or species may have been present prior to the development. Nevertheless, there will clearly have been a biodiversity value in an area of emerging woodland and its associated understorey sitting within a LWS.

14. The clearing of vegetation and depositing of material will have diminished this biodiversity value, notwithstanding that revegetation with low level scrub has started to occur. The biodiversity value of the LWS will therefore have harmfully deteriorated as a result of the development.
15. The slope of the embankment is very steep, which is not generally conducive to establishing trees. The landscaping proposed by the appellant in their landscape plan extends to the wider area of land where trees have also been removed. This could be secured through a suitably worded planning condition, given that it is within the appellant's control. However, the landscaping proposals would take several years to provide similar biodiversity and visual interest. It would not therefore adequately mitigate or compensate for the harm caused.
16. I conclude that the development has adversely affected the biodiversity interest of the LWS and so it has not conserved, nor will it suitably enhance its biodiversity value. The development therefore conflicts with the requirements of Policy CS20 of the CS and Policies SP33 and SP34 of the SP as summarised above. There is also conflict with Policy SP32 of the SP which requires development to support the protection, enhancement, creation and management of multi-functional green infrastructure assets and networks, and the objectives for the natural environment in chapter 15 of the Framework. However, I do not have sufficient evidence to conclude that there would be a conflict with Policy SP35 of the SP which addresses protected and priority species.

Land Stability

17. Amongst other matters, Policy SP54 of the SP addresses situations where there are adverse ground conditions caused by unstable land. Policy SP36 of the SP seeks to conserve soil resources.
18. The imported material is described in the appellant's evidence as aggregate material. However, I also observed bits of brick and rubble within the embankment. While it may be inert material that has been imported there is nevertheless a lack of evidence about its composition. There is also no clear evidence to demonstrate what protection was given to any soil resources that may have been present prior to the development being carried out.
19. There is also no evidence, in terms of a land stability or slope stability risk assessment or similar, to demonstrate whether there is any risk of slippage associated with the depositing of the material on the embankment. There appears to have been some settlement, which is not unexpected, and the appellant states that the widened access is used by residents of 15 and 17 Reneville Road without problem. Nevertheless, there is no substantive evidence to demonstrate that the site is stable or will remain so in the long term, or if there is a stability risk, whether that can be adequately mitigated.

20. As set out in the supporting text to Policy SP54, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer. I am not satisfied that this has been adequately addressed.
21. In light of the very limited nature of the evidence before me, I am unable to conclude that the development is acceptable as regards land stability and the conservation of soil resources. Consequently, it does not comply with Policies SP36 and SP54 of the SP, as summarised above. It also conflicts with paragraph 174 of the Framework, which seeks to prevent development being put at unacceptable risk from, or being adversely affected by, unacceptable levels of land instability amongst other matters.

Other Considerations

22. As the development is not inappropriate development in the Green Belt, and hence there is no harm caused to it, it has not been necessary for me to take into account other identified considerations.

Other Matters

23. I note the permission² granted in 2012 for a new dwelling to the rear of the host property subject to a condition to extend the first 10 metres of the access road to 4.5 metres in width. The appellant states that this is in line with the guidance in the South Yorkshire Residential Design Guide and Manual for Streets and which would be a requirement were the two existing dwellings to be permitted now. While this may be the case, there is no evidence to demonstrate that there is no less harmful means of achieving a wider access.
24. I appreciate that a wider access would provide benefits for the appellant and the residents of 15 Reneville Road. However, vehicle numbers using the access are unlikely to be high given that it serves two dwellings, visibility is reasonable along much of its length and the Council's photographs prior to the development show a grass verge along at least part of its length which pedestrians could use.
25. The appellant states that the serving of an enforcement notice to remove the material would be counterproductive and more harmful. However, in determining this appeal, I am only able to have regard to the planning merits of the case.

Conclusion

26. I have found that the development does not amount to inappropriate development in the Green Belt. However, it has harmed the biodiversity interests of a LWS and I am unable to conclude that it has been carried out without unacceptable harm to soil resources and land stability. To this extent there would be conflict with the development plan when considered as a whole as well as the Framework. Therefore, the appeal should be dismissed.

F Wilkinson

INSPECTOR

² Reference RB2011/1762