



Appeal Decision

Site visit made on 20 February 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2023

Appeal Ref: APP/W1525/W/22/3291951

Land adjacent to Woodlands Industrial Park, South Hanningfield Road, South Hanningfield, Chelmsford, Essex CM3 8HQ

- 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 Seabrook Developments against the decision of Chelmsford City Council.
 - The application Ref 21/01369/FUL, dated 18 May 2021, was refused by notice dated 8 November 2021.
 - The development proposed is described as 'retrospective application for the change of use of the land from Agricultural (Suis generis) to Commercial Business and Service (Class E), to allow for the current commercial business Seabrook Developments Ltd. to store plant, machinery and shipping containers. Access into the site is via Seabrook Developments Ltd. which is to the east of the site'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site address 'Land adjacent to Woodlands Industrial Park' in the banner above is taken from the application form. The main parties have also used 'Land at Elmfield'.
3. The appeal site contained a variety of plant, machinery, shipping containers and part of a concrete ramped access. I was unable to ascertain the full extent of a compacted hardcore surface, as shown in the existing and proposed plans. I have, therefore, determined the appeal on the basis that some of this part of the development has not taken place.
4. There is no objective evidence, such as a certificate of lawful development, that the current use of the appeal site, or any alleged historic or previous commercial storage use of some or all of it, is lawful. This appeal is concerned with whether planning permission should be granted for the development that has been applied for and carried out or which remains to be carried out.

Background

5. The appeal site is in the Green Belt. It was a parcel of undeveloped countryside bounded by hedgerow and trees, now largely cleared of internal vegetation. The appellant is a civil engineering and construction company with adjoining buildings and a yard in Woodlands Industrial Park (WIP). It uses the appeal site to store plant, machinery and shipping containers in the open in-between transportation to and from building sites.

Main Issues

6. Taking account of this background, the main issues are:

- whether the development is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies, including its effects on the openness of the Green Belt and the purposes of including land in it;
- the effect of the development on the character and appearance of the area; and
- whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to very special circumstances required to justify the development.

Reasons

7. Framework paragraph 137 states 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. Paragraph 147 sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Only part A of the Council's Local Plan¹ (LP) policy DM10 applies to development in the Green Belt. Despite what the main parties have suggested to me, part A does not refer to material changes in the use of land in the Green Belt, other than within the curtilage of a building that is itself subject to change of use (which does not apply in this case). Part A includes engineering operations in the Green Belt and this reflects the exception in Framework paragraph 150 b). LP policy DM10 does not therefore recognise the full extent of exceptions to inappropriate development in the Green Belt set out in the Framework. The exception in Framework paragraph 150 e) for material changes in the use of land is relevant in this case.
9. Though not referred to in the Council's decision notice, the main parties have referred me to LP policy S11. Part A of this policy protects the openness and permanence of the Green Belt and supports development consistent with the purposes of the Green Belt but not inappropriate development, except in very special circumstances. This policy reflects relevant aims of the Framework.

Whether inappropriate development and openness

10. Aside from the two exceptions that I have referred to above, the main parties have not suggested that the development should be considered against any other exception in Framework paragraphs 149 or 150. I have no reason to disagree. Framework paragraph 150 sets out that certain forms of development are not inappropriate development in the Green Belt. There is no suggestion that the concrete ramp and compacted hardcore are not engineering operations and it is agreed that the proposed material change of use has occurred.
11. However, for the development to comply with paragraphs 150 b) or 150 e) it is also necessary to consider its effect on openness and the purposes of including land within the Green Belt. Openness does not imply absence from any form of

¹ Chelmsford Local Plan May 2020

development. The effect on openness has spatial and visual aspects and is not confined to permanent physical works, it also relates to the location, scale, purpose or use of land. The starting point in this case is that the appeal site was innately 'open'.

Engineering operations (paragraph 150 b))

12. One end of a concrete access ramp protrudes a short distance into the appeal site and the compacted hardcore surface would stop short of three of its boundaries. Nevertheless, although having no appreciable vertical scale or massing, a large hard surface would cover most of the approximately 1,400m² appeal site. It would have a clear and definite degree of physical spatial permanence and be substantial in extent. This man-made intervention would fundamentally change the natural properties of the land and largely visually obliterate any semblance of the former purpose and use of the appeal site as part of the countryside.

Material change in the use of land (paragraph 150 e))

13. Plant, machinery and shipping containers are stored mainly around or towards the edges of the appeal site. There is space to park or manoeuvre transport vehicles, such as vans or lorries, low-loaders or trailers. Taken individually these items have a transient presence on the appeal site that likely varies in duration and at times the appeal site will appear more or less full. However, spatially, these parts of the appeal site would be used permanently for this activity. As I saw, there is potential for a large quantity of these items to stretch across a large part of the appeal site. Some items have appreciable individual size, height or bulk, others are tightly packed together and 24 shipping containers alone would constitute approximately 913m³ of built form. It is plainly evident that used in this way the appeal site has a visual impression that is quite distinct from its former purpose and use.
14. As a result, the appeal site is not 'open' in any equivalent or comparative sense to its original condition, nor is it unchanged. Though it is near part of the appellant's existing yard and the west and south boundaries are contained by hedgerow, this storage area juts out to one side, beyond the present extent of WIP. As such it adds significantly to the presence of existing development in the WIP and amounts to a substantial spread of commercial use and activity into the Green Belt.
15. While the loss of openness in relation to the Green Belt as a whole is limited the development has nonetheless reduced intrinsic openness in this particular part of it. This does not preserve openness and is at odds with Green Belt policy to keep land permanently open. Consequently, I find that it is inappropriate development in the Green Belt and has not safeguarded the countryside from this encroachment, which in Framework paragraph 138 c) is a purpose of including land within the Green Belt. The development does not, therefore, comply with LP policy S11 or DM10, fails to meet the exceptions set out in Framework paragraph 150 b) and 150 e), or any other exception, and conflicts with Framework paragraphs 137 and 138 c).

Character and appearance

16. The appeal site is on the edge of a small cluster of development either side of Hanningfield Road, a rural lane. It is the southern part of a parcel of land that

was previously covered by grass, scrub, hedgerow and some trees. In contrast, to a row of dwellings along the north side of the lane, the mostly much larger buildings and yards on the south side in WIP stretch in-depth to the rear, some on lower sloping land. This large pocket of commercial development is nevertheless unexpected in this location and inherently out of keeping with the mainly residential or agricultural development in the surrounding area. This is sporadic or scattered in nature, set amongst gently rolling, tranquil farmland with fields bounded by hedgerows and trees.

17. Albeit a snapshot, I saw that the plant, machinery and shipping containers present at the time on the appeal site were not visible in public views from the lane. This is because of the current height and extent of intervening hedgerow or trees (even though not in leaf) and, to the east, permanent buildings. However, there is no evidence that the appellant owns or controls any of these boundary hedgerows, including a similar hedgerow along the south boundary of the appeal site, thus is able to maintain these at all or at any given height.
18. Furthermore, the appeal site steps up to a higher ground level from the appellant's existing yard. I accept that a condition could restrict hours of operation on it but there is no evidence that the items currently stored on the appeal site reflect the height of all such items that the appellant might store (or stack) now or in the future. Even if briefly during transport, and despite the setback of the appeal site from the lane, many of the items that were present would become conspicuous above the hedgerows if these were loaded onto a van, lorry, low-loader or trailer on the appeal site. Nor have I been informed about any need for floodlighting on the appeal site or the possibility of forklifts or cranes operating on it and no site management plan has been suggested.
19. I am, therefore, unable to determine whether planning conditions that met the relevant tests of the Framework and Planning Practice Guidance could be imposed in any of these regards. No other mechanism, such as a planning obligation, has been suggested to me. In the absence of suitable controls or safeguards the development has significant potential to cause visual intrusion or noise disturbance where there was no such activity before. There is no objective evidence to the contrary before me in these regards.
20. Notwithstanding the above, WIP is located within a long rectangular shaped swathe of land along the south side of the lane. It is bounded by straight lines of hedgerows with trees with angular corners that border a large open field to the south which wraps around it on three sides. At one end a large dwelling with outbuildings and its extensive grounds provides a mostly undeveloped, low-key verdant buffer to one side of WIP. At the other end, and albeit smaller it was undeveloped and verdant, the appeal site had a similar effect. The absence of any significant development or built form on both sides of the original extent of WIP was locally distinctive. It also maintained pleasant views from the lane over this flat, gently sloping field, towards a distant horizon and an appreciable rural ambience beyond WIP.
21. A hard surface over most of the appeal site and plant, machinery and shipping containers stored around or towards its edges significantly erodes the buffer on this side of WIP. It unduly extends the presence of commercial activity further into the countryside with an urbanising effect hard up to the edge of this new interface with the open field next to it.

22. I therefore find that the development has had a significant negative effect on important intrinsic features of the appeal site. This undermines its relationship to the countryside next to it, appreciably diminishing the way in which it is experienced and in the immediate surrounding rural context. This has caused moderate harm to the character and appearance of the area. Consequently, it conflicts with LP policy DM10 which includes that engineering operations (which in this case facilitate the change in the use of the land) should not harm the character and appearance of the area.

Other considerations

23. The appellant has occupied its premises in WIP for a number of years and I have no reason to doubt that albeit not a national company it is a successful local business. It has invested in its premises, including a new office building and security equipment which I saw. However, the alleged benefits and contribution to the local and rural economy from its operation at WIP have not been explained or quantified, not has the need for additional storage space.
24. I appreciate that plant, equipment or shipping containers are expensive, generate insurance overheads and that renting a premises elsewhere would be a cost to the business, especially in the current economic climate. But there is no objective evidence that storing these items on the appeal site is the only viable way to guard against theft or damage or that using the appeal site is therefore essential. Particularly in the absence of any information about what other potential sites or solutions have been considered and the reasons why these were rejected, including why it would not be logistically practical or feasible to transport stored items from another premises to sites, instead of to and from the appeal site.
25. Consequently, while sincere, I give little weight in this appeal to these largely anecdotal considerations.

Green Belt Balance

26. The development is inappropriate development in the Green Belt and would diminish openness, in clear conflict with local and national policy to protect the Green Belt. I am required by the Framework to give substantial weight to any harm to the Green Belt. The development also causes moderate harm to the character and appearance of the area. Accordingly, the other considerations outlined above in support of the development do not individually or collectively clearly outweigh the harm to the Green Belt due to inappropriateness, and to the character and appearance of the area. Consequently, very special circumstances to justify the proposal do not exist.

Planning Balance and Conclusion

27. The development does not accord with the development plan taken as whole and conflicts with the Framework. There are no other considerations which outweigh these findings.
28. For the reasons given above the appeal does not succeed.

Robin Buchanan

INSPECTOR