



Appeal Decision

Site visit made on 28 February 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

Appeal Ref: APP/N1920/W/22/3306810

The Manor Hotel, Edgwarebury Lane, Elstree WD6 3RE

- 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 Ali Moledina against the decision of Hertsmere Borough Council.
 - The application Ref 22/0106/FUL, dated 19 January 2022, was refused by notice dated 17 March 2022.
 - The development is described as 'Retention of single-story flat roofed building comprising lounge restaurant with use of Hotel parking area'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already been carried out. The plans before me appear to reflect the development constructed, as such the appeal is determined on the basis of the submitted plans.
3. The second refusal reason refers to the Hertsmere Planning and Design Guide Part D 2006. However, the document that has been provided as part of the appeal submissions is the Hertsmere Draft Planning and Design Guide Supplementary Planning Document Part D dated 2016 and it is this that I have considered.

Main Issues

4. The main issues are:
 - whether the development is 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 development on the character and appearance of the area;
 - the effect of the development on highway safety; and
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

5. The appeal site lies within the Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraph 149. One such exception is limited infilling or the partial or complete redevelopment of previously developed land (PDL), which would not have a greater impact on the openness of the Green Belt than the existing development. The definition of PDL in the Framework includes land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.
6. Policy CS13 of the Hertsmere Core Strategy adopted January 2013 (HCS) reflects the aims of the Framework in relation to the Green Belt. It sets out that development proposals, including those involving previously developed land and buildings, will be assessed in accordance with the Framework. Policy SADM26 of the Hertsmere Site Allocations and Development Management Policies Plan adopted November 2016 (SADMPP) states that proposals for development in the Green Belt will be assessed in accordance with Policy CS13 of the HCS and lists a number of principles with which development should comply.
7. The appeal site includes a single storey restaurant building, located to the side of the existing hotel and it is that building which is the subject of this appeal. The hotel sits within generous landscaped grounds which contribute to its spacious and verdant setting. The appeal submissions indicate that the single storey building, which has a footprint of 387m² replaced a block of six garages and a concrete hardstanding area which were ancillary to the hotel. The parties agree that the appeal site constitutes PDL and I note that there is support for this in the HCS.
8. Whilst details of the specific dimensions of the garages which previously occupied the site have not been provided, the location plan submitted as part of the planning application shows the garages comprising a much smaller footprint than the building that has replaced them.
9. The concept of Green Belt openness has both a spatial and a visual dimension. Given that the available evidence suggests that the development has introduced a building that is greater in footprint and volume than the original development, it represents an increase in the scale of development at the site. Consequently, despite its low profile the built form nevertheless has an appreciably greater impact on the spatial aspect of openness than the previous garage buildings and associated areas of hardstanding, which results in moderate harm to the Green Belt.
10. Having regard to the visual dimension of openness, the building which is low in height is sited within the wider hotel grounds, surrounded on 3 sides by mature trees. As such it is not readily visible from the public domain. Whilst the development is not visually prominent in long and medium distance views of the site, it would be visible from immediate vantage points, including from the hotel, and its gardens as well as the car park. As such the effect in terms of the

visual dimension of openness would be localised and therefore the harm would be limited.

11. Having regard to my findings in relation to the spatial and visual dimensions, overall, the development has a moderate effect on openness of the Green Belt. Whilst additional landscaping and the removal of manmade structures would help to improve the appearance of the development, this would not overcome the harm identified to openness.
12. I conclude therefore that whilst the development has involved the redevelopment of PDL, it has a greater impact on openness than the development that it replaced as there is a moderate loss of openness. Consequently, it fails to meet the exception set out in Paragraph 149 g) of the Framework and constitutes a type of development that is inappropriate in the Green Belt, which is, by definition, harmful to the Green Belt. In accordance with paragraph 148 of the Framework substantial weight is given to any harm to the Green Belt. It also conflicts with HCS Policy CS13, SADMPP Policy SADM26 and policies in the Framework that protect the Green Belt.

Character and appearance

13. As stated above, the appeal site forms part of the extensive grounds of the main hotel building. The timber and glass single storey building is located on sloping land within an area of woodland a short distance from the existing hotel, where it is viewed against the backdrop of the existing mature trees. As a consequence of the relatively modest height and footprint of the building, it is subservient in scale to the much larger existing hotel buildings. As such, due to its scale and siting it does not appear as an unduly dominant addition to the existing group of buildings on the site.
14. Furthermore, the simple form and low profile nature of the building, including the timber decked area, is sympathetic to the decreasing gradient of the land. As such the building sits comfortably within its immediate context. The external materials, including timber and glazing reflect the garden pavilion design of the building and woodland setting.
15. Whilst I note the Council's concerns regarding the current unfinished appearance of the building, in particular the covered balcony area, the appellant indicates that it is intended that external finishing work to the elevations will be carried out in the event that permission is granted. Such work could be secured by the imposition of a planning condition.
16. In light of the above considerations, I conclude that the development does not harm the character and appearance of the area. In that regard it would accord with HCS Policy CS22 in so far as it seeks high quality design, Policy SADM30 of the SADMPP, which among other things requires development to be of a high quality design that complements the local character of an area and Chapter 12 of the Framework which sets out the need to achieve well-designed places. The development also reflects advice in the Council's Planning and Design Guide Part D 2016 which seeks high quality design.

Highway safety

17. There is no parking provision within the appeal site itself to serve the development. Visitors to the restaurant use the existing car park at the hotel, which is shown to be in the same ownership. Whilst there is some discrepancy

regarding the number of parking spaces available and these are not shown on the submitted drawings, the appellant's Statement of Case, which postdates the earlier submissions, confirms there are approximately 120 parking spaces available at the hotel. The Council indicates that this reflects an earlier planning application at the site (Ref. TP/10/0489) for the change of use of the hotel to office use which set out that parking provision at the hotel comprised 120 off street parking spaces.

18. In accordance with the Council's Parking Standards Supplementary Planning Document July 2014 (SPD) the restaurant requires 1 space per 5m² of public floorspace which equates to 77 spaces. My attention is drawn to the Council's Draft Sustainable Transport and Parking Supplementary Planning Document 2022. Whilst this is of limited weight due to its early stage, the Council indicate that the parking standards set out therein are unchanged from that in the adopted SPD.
19. The Council suggests that, based solely on the number of bedrooms, the hotel triggers a requirement for 49 parking spaces. The parking for the 2 uses together therefore amounts to a total of 126 parking spaces. The appellant does not dispute this requirement, nor the Council's contention that the site is not in a sustainable location having regard to accessibility by public transport.
20. I note from the appeal submissions that the restaurant has been in use for some time with no substantial evidence of any harm to highway safety. In addition, no highway safety objections have been raised in relation to the development by the highway authority. Moreover, given that the shortfall in parking provision, when assessed against the parking standards is very modest, together with the extensive hotel grounds, it is unlikely that this would give rise to demonstrable harm to highway safety in the locality.
21. I therefore conclude that the development does not have a harmful impact on highway safety. Accordingly, whilst the development does not accord with the SPD in so far as it relates to the levels of parking to be provided at new developments, it does not conflict with Policy CS25 of the HCS which requires, among other things, that the quantity of off-street parking at new developments will be based on an assessment of highway safety considerations.

Other considerations

22. I note that the appellant has already invested financially in the development, however, as the work that has been carried out was done so without the benefit of planning permission this consideration does not weigh in favour of the development. Furthermore, whilst the restaurant provides employment for 12 part time staff, given the relatively modest scale of the enterprise, any economic benefits associated with the restaurant would be moderate.
23. The appeal submissions indicate that the restaurant is a hub for the Asian community. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes race. The effect of not granting planning permission may result in the loss of the facility.

24. However, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of not allowing the scheme on those with protected characteristics would be proportionate having regard to the harm I have identified in relation to the Green Belt. Whilst I sympathise with the appellant's desire to provide the facility, I have not been presented with any evidence to demonstrate that a shortfall in the provision of such facilities exists or that a similar facility could not be provided elsewhere, or what the long-term consequences would be if the restaurant is refused planning permission. For those reasons, although the restaurant is advantageous for the Asian community, I can only attach moderate weight to the need for and benefits of the development for the Asian community.
25. I note that the development is of a sustainable construction, including a modular design, recyclable materials, is well insulated and has large areas of glazing in order to facilitate light and heat from the sun. However, as this is an expectation of all new development, this consideration is a neutral factor.
26. Furthermore, the Council raise no objection to the development in relation to the living conditions of nearby residential properties, having specific regard to noise and disturbance, subject to planning conditions. However, this represents an absence of harm in relation to these matters rather than a positive benefit that weighs in favour of the development.

Whether very special circumstances exist

27. I have found that the development represents inappropriate development in the Green Belt, by virtue of the greater impact it has on Green Belt openness relative to the original development which occupied the site. Inappropriate development is harmful by definition and in accordance with paragraph 148 of the Framework, any harm to the Green Belt must be given substantial weight, weighing against the appeal development.
28. In terms of the other considerations, there are no other matters weighing against the development. I have found that the development provides benefits in terms of employment and the provision of a social facility for the Asian community which carry moderate weight in favour of the appeal development.
29. Overall, I conclude that the matters weighing in favour of the appeal development do not clearly outweigh the harm to the Green Belt that I have found. Consequently, in this particular instance the very special circumstances required to justify allowing the development do not exist.

Other Matters

30. The Council's Built Heritage Consultant confirms that whilst there are a number of listed buildings nearby and that the main hotel building, The Manor, is also a locally listed building, their setting is not affected by the development. Having regard to the scale and nature of the development and to its position relative to these buildings, I am satisfied that the setting and significance of the listed buildings is not adversely affected.

Conclusion

31. The development is inappropriate development in the Green Belt. The Framework requires that substantial weight should be given to any harm to the

Green Belt. For the reasons set out above the harm to the Green Belt is not clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. The appeal is therefore dismissed.

Emma Worley

INSPECTOR