



Appeal Decision

Site visit made on 12 April 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/X0415/W/21/3285517

Chenies Landscapes Limited, Bramble Lane, Amersham HP7 9DN

- 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 R Smith on behalf of PHD Modular Access Ltd against the decision of Buckinghamshire Council - East Area (Chiltern).
 - The application Ref PL/21/1742/FA, dated 27 April 2021, was refused by notice dated 30 September 2021.
 - The development is described as 'Retention of scaffolding storage yard (Class B8)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site is currently operating as a scaffold storage yard (Class B8) and the appeal is therefore retrospective. However, the development that has been carried out appears to differ from that shown on the submitted plans. Notably, there is a discrepancy between the extent of the appeal site shown on the submitted location plan and that on drawing number PHD-DWG-U0016-0-02 Revision P02 'AMERSHAM YARD - PROPOSED LAYOUT, CURRENTLY UNDER REVIEW'.
3. As such I have determined the appeal on the basis of the extent of the site shown on the submitted location plan. Moreover, as the proposal is for the use of the land as a storage yard rather than any particular use then I have treated drawing number PHD-DWG-U0016-0-02 Revision P02 as illustrative only and have determined the appeal on the basis of the use as shown rather than the specific layout or the extent of the site shown on this drawing.
4. The first refusal reason refers to Policy GB22 of the Chiltern Local Plan 1997 (including alterations 1 September 2011) Consolidated September 2007 and November 2011 (CLP), however the appeal submissions indicate that this should in fact be Policy GB22A. I have determined the appeal on this basis.
5. An update to the original Environmental Noise Assessment reference CH/ENA/2020/20 dated July 2020 has been submitted as part of the appeal. Given that the Council and interested parties have had the opportunity to comment on this no injustice would occur should I have regard to the additional information.
6. A Statement of Common Ground has been submitted by the appellant. However, this is in draft form and has not been signed by the parties, as such I

have treated it as part of the appellant's submissions rather than an agreed position.

Main Issues

7. 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 the living conditions of the occupiers of neighbouring properties having regard to noise and disturbance and 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

Whether inappropriate development

8. 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. Paragraph 150 e) of the Framework sets out that material changes in the use of land are not inappropriate, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
9. Policies GB2 and GB22A of the CLP reflect the presumption against inappropriate development in the Green Belt set out in the Framework.
10. Therefore, in order to determine whether the current use of the site would not be inappropriate in accordance with paragraph 150 e) of the Framework consideration is required as to whether the new use preserves the openness of the Green Belt when compared to the previous use.
11. The site is located behind the residential properties which front the A413 and those in Old Farm Lane, a cul-de-sac which adjoins the side boundary of the site. Its access is via Bramble Lane, which runs between the existing frontage development. The site, which rises towards the rear boundary, is roughly rectangular in shape. The land is currently being used as a scaffolding storage yard for the storage, maintenance and repair of scaffolding equipment for use in the construction industry. It includes existing buildings which are used as offices, storage and workshops, as well as the outdoor storage of masts and hoists, storage containers and a parking area.
12. The site previously operated as a gardening contractor's business, comprising the servicing and storage of garden machinery. The Inspector in an earlier appeal concluded that this commercial use was the lawful use of the site¹. I have no reason to disagree with this finding. It is therefore appropriate to

¹ APP/X0415/C/19/3231506

- regard the use as a gardening contractor's business as the previous use when considering the effect of this scheme and that it could resume if the appeal were dismissed.
13. The appeal submissions indicate that the extent of the appeal site reflects that of the lawful commercial use. The planning permission for the use as a gardening contractor's business was subject to a number of conditions including the use of the land, outdoor storage, time limits pertaining to the operation of machinery and noise levels. Specifically, the outdoor storage of vehicles, equipment, raw materials, parts, crates, packing materials and waste was restricted to areas on the site to be agreed with the local planning authority.
 14. The appellant contends that the outside storage in connection with the scaffolding storage yard, is similar in terms of spatial extent and height to that which could take place as a consequence of the lawful use of the site. However, whilst the earlier permissions allowed an element of external storage in association with the gardening contractor's business, there is no substantive evidence that the extent of outdoor storage ancillary to the previous use was or would be comparable to the current B8 storage use of the site.
 15. Whilst the evidence before me shows that some external storage took place in connection with the previous use of the site, even taking into account the spoil heaps which lie beyond the site boundary, the relevant aerial photograph of the site in 2016 appears to indicate that substantial areas of the site remained open. Moreover, appeal submissions fail to demonstrate that the gardening contractor's business required significantly more storage than shown in the evidence before me. By contrast, the current use of the site appears to require significantly more outdoor storage.
 16. Even if I were to accept that open storage up to 3m in height could take place across the site, there is no particular evidence that this would actually take place in connection with that use, in the event that it was to resume. I therefore find that the use of the site for a B8 storage use including the storage of scaffolding, comprises substantially more external storage than the lawful use.
 17. The concept of openness of the Green Belt has both a spatial and a visual dimension. The site is well contained by the existing built development and boundary treatment. As a consequence of the greater extent to which materials and equipment are now stored on the site, when compared to the previous use, the use of the land as a scaffold yard undermines the spatial sense of openness of the Green Belt.
 18. Whilst views of the site from short range vantage points are largely restricted by the boundary treatment, it is nevertheless visible from a number of first floor windows of the neighbouring residential properties. In addition, the site is also visible in views from the surrounding elevated open land. As such the current use of the site gives rise to a greater degree of visual intrusion due to the extent of the open storage, particularly in longer distance views of the site.
 19. I note that the appellant has taken steps to reduce traffic movements from the site through site management including the relocation of part of the business elsewhere and the infrequent movement of materials currently being stored at the site. Moreover, the Highway Authority raised no objection previously to the

current use on the basis that the lawful use of the site as a gardening contractor's business would generate vehicular movements comparable to or in excess of the use as a scaffolding storage yard. Therefore, from the evidence before me I am not persuaded that the current use generates a level of traffic that would have a greater effect on the openness of the Green Belt than the previous use. Nevertheless, this does not diminish the effects on openness that I have identified above.

20. I note that previous conditional planning permissions have been granted at the site, notwithstanding its Green Belt designation. However, no particular conditions have been suggested that would prevent this development being inappropriate in the Green Belt. For the reasons above, and while I note the appellant's position that the effects would be far improved compared to that at the time of the previous appeal, I conclude that the use of the land as a scaffolding storage yard has a greater impact on the openness of the Green Belt both in spatial and visual terms than the previous use of the site. As such the use of the land constitutes inappropriate development in the Green Belt which is harmful by definition. As such it does not benefit from the exception to inappropriate development in Paragraph 150 e) of the Framework.
21. Accordingly, the proposal is contrary to Policies GB2 and GB22A of the CLP and the strategy for the protection of Green Belt as set out in the Framework.

Character and appearance

22. In terms of its character and appearance, as set out above, the site enjoys a degree of containment because of the combination of boundary planting and adjoining residential development. It is located beyond the main built-up areas of Amersham and the nearby open countryside contributes to its pleasant semi-rural setting.
23. The use of the site for the storage of scaffolding equipment across a greater extent of the site and the loss of the open areas has resulted in a more dense and highly concentrated use of the land. The more intensive use of the site would provide a greater degree of intrusion. However, while I have found that this would harm openness, the site is reasonably well screened by the existing boundary vegetation and therefore would not have a significant effect on the character and appearance of the area. I note the Council's concerns that the height of the scaffolding being stored detracts from the rural character of the area, however, the height of the materials and equipment being stored is not dissimilar to that of the previous use and could be secured through a planning condition.
24. In the more visible distant views, I am therefore satisfied that the development assimilates with its existing residential and countryside context and would not harm the character and appearance of the area overall. This is supported by the absence of any alleged policy with which the development would conflict in that regard.

Living conditions

25. I note concerns expressed by interested parties that the noise generated by the use of the site as a scaffolding storage yard, including noise from scaffolding pole movement and vehicles, including reversing beepers on forklifts, is materially different to that from the previous use of the site.

26. An update to the Noise Assessment (dated 9 February 2022) has been submitted as part of the appeal. It concludes that, subject to mitigation measures, including the installation of a noise barrier in the form of a boundary fence and restricted delivery times, noise associated with the scaffolding storage yard would achieve acceptable levels. Accordingly, subject to appropriate planning conditions to secure the implementation of these measures, the use would not result in adverse noise impacts to residential receptors in the vicinity of the site. I have not been presented with any substantive evidence to the contrary. In addition, the suggested mitigation measures are reasonable and could be secured via suitable planning conditions.
27. With regards to outlook, I note that the appellant has reduced the height of storage to 3m, to reflect the previous height restriction, which could be secured by a planning condition. Some previously existing double-stacked containers have been removed and the operations and storage re-sited further away from the adjoining residential properties. In light of these considerations and the separation distance between the neighbouring properties and the outdoor storage on the site, whilst the equipment may be seen from the adjoining residential properties, the outlook from the first floor windows towards the wider landscape is not meaningfully affected.
28. For the forgoing reasons I conclude that, subject to the imposition of conditions, the development would not harm the living conditions of the occupiers of neighbouring properties with specific regard to noise and disturbance or outlook. It therefore accords with Policies GC3 and GC7 of the CLP, in so far as they seek to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties and prevent noise-generating development which gives rise to noise levels and/or noise characteristics which would cause an unacceptable degree of disturbance to the occupants of residential development in the vicinity. It would also comply with policies in the Framework which set out that developments should create a high standard of amenity for existing and future users.

Other considerations

29. The scaffolding storage yard business offers economic benefits, in particular employing 16 members of staff, including opportunities for apprentices and contributing to the economy, both locally and regionally. It is also consistent with paragraph 81 of the Framework in that it supports economic growth and productivity, taking into account both local business needs and wider opportunities for development. It supports the rural economy through providing business, including the use of previously developed land, which is well related to an existing settlement, in accordance with the Framework.
30. The storage yard also contributes to the ongoing provision of B8 employment space within the Functional Economic Market Area as set out in the Buckinghamshire Housing and Economic Development Needs Assessment Update (October 2016) which indicates low levels of vacancy in B8 premises and suggests a good market/demand for such premises. The assessment also indicates a need for additional B8 floorspace to meet the forecasted growth. These factors weigh heavily in favour of the development.
31. I note that the appellant has moved the business in part to an alternative site in Swindon as no alternative sites have been available nearby in the last 12 months. However, while I note that the dismissal of the appeal could lead to

closure of the site and potential loss of jobs, in the absence of evidence of a detailed, up to date assessment of alternative suitable sites, or any recent search for them, the alleged lack of alternative sites in the locality would carry limited weight.

32. In addition, I note that the Highway Authority did not object previously to the change of use of the site to a B8 use, however the absence of objection would be a neutral factor. Whilst I am sympathetic to the fact that the current use has been reduced in scale including in spatial terms and in vehicular movements, to that which was considered by the previous Inspector, I can only assess the current use on the basis of the information before me, which for the reasons set out above, I find is harmful.
33. The appellant has referred to their permitted development rights for various development which it is suggested could take place without planning permission, including new buildings, extensions and hard surfacing as a potential fall-back position. However, I have seen nothing compelling to suggest they would genuinely pursue these options if the appeal failed or that such a scheme would be similar to, or worse than, what is currently proposed in terms of the effect on the Green Belt. As such, it is a matter of negligible weight.

Green Belt balance and conclusion

34. I have found that the development represents inappropriate development in the Green Belt, which is harmful by definition. It also causes harm to openness. The Framework clarifies that substantial weight should be given to any harm to the Green Belt and that inappropriate development should not be approved except in very special circumstances.
35. I have found that the use of the land as a scaffolding yard, subject to planning conditions, does not give rise to harm to the character and appearance of the area or the living conditions of the occupiers of neighbouring properties. These are neutral considerations.
36. The development provides a range of other benefits which weigh in favour of the appeal, including the economic benefits set out above. Taken in totality, I attach significant weight to these. However, while important, they do not collectively clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist and the development conflicts with the Framework and Policies GB2 and GB22A of the CLP.
37. For the reasons given above the appeal does not succeed.

E Worley

INSPECTOR