



Appeal Decision

Site visit made on 18 July 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal Ref: APP/D3640/W/22/3312237

Atv Go Karts Ltd, Blackstroud Lane East, Lightwater GU18 5XR

- 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 & Mrs Hood against the decision of Surrey Heath Borough Council.
 - The application Ref 21/1180/FFU, dated 15 October 2021, was refused by notice dated 26 September 2022.
 - The development is described as 'Demolition of 3 existing buildings for 3 replacement buildings.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed.
3. The decision notice sets out four reasons for refusal. The Council advises that it no longer disputes reason for refusal 3, which relates to the provision of insufficient information to assess the likely impacts on a retained tree. The Council advises that should the appeal be allowed, conditions could be imposed to protect the retained tree. Based on the evidence before me I find no reason to take a different view to that of the Council on this matter, and therefore determine the appeal on the main issues arising from the remaining three reasons for refusal.

Main Issues

4. 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);
 - the effect on the openness of the Green Belt,
 - the effect on the character and appearance of the area,
 - whether the appeal site is an appropriate location for the proposal, with particular regard to the local development strategy; 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.
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Reasons

Inappropriate development

5. The appeal site forms part of a larger site that until recently was in active use as a go kart track with associated business. At the time of my site visit it comprised four small buildings served by a hard-surfaced access off Blackstroud Lane East. The site and wider landscape form part of the Green Belt.
6. The Framework states at paragraph 147 that inappropriate development is, by definition, harmful and should not be permitted 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.
7. The proposal would replace the existing buildings on the site with four new buildings for flexible B8/Class E use along with an enlarged toilet block and associated parking.
8. In light of the use of the site as part of a go karting facility, the proposal would be classed as the redevelopment of previously developed land. Paragraph 149 g) of the Framework states that the partial or complete redevelopment of previously developed land is not inappropriate in the Green Belt provided it does not have a greater impact on the openness of the Green Belt than the existing development. There is no requirement under paragraph 149 to separately assess the proposal against the purposes that the Green Belt serves.
9. The appellant argues that the proposal also represents a material change of use of land falling under paragraph 150 e) of the Framework. However, paragraph 150 e) relates to the change of use of land and as the proposal goes beyond this by proposing the construction of new/replacement buildings, it is not a form of development covered under paragraph 150 e). I have considered the two appeal decisions¹ put forward by the appellant in support of their argument in relation to paragraph 150 e) but do not find them comparable to this appeal as neither comprises the construction of new or replacement buildings.

Openness

10. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness.
11. The site is located at the junction of Blackstroud Lane East with the A322. The site is bounded by significant tree planting broadly to the east with some further planting between the site and the A322. However, from Blackstroud Lane East and broadly from the south, the site and buildings are highly visible within a generally open site context.
12. Even if the appellant were to re-open the karting business and were able to construct the previously approved workshop, I consider that by reason of the larger buildings proposed as part of the appeal with their associated significant increase in volume and floorspace, the proposal would have a greater spatial and visual impact on the openness of the Green Belt than the existing

¹ APP/P1805/W/21/3283122 and APP/X0360/W/22/3291510

development. Even if it were possible for the appellant to also construct the previously approved towers, the proposal would still result in a greater spatial and visual impact upon openness by virtue of the overall increased size of the buildings proposed.

13. Consequently, I find that by reason of the increased volume, floorspace and resultant size of the proposed buildings, the proposal would have a greater impact on the openness of the Green Belt than the existing development. The proposed development would not therefore fall within the exceptions set out in paragraph 149 of the Framework and should be considered inappropriate development in the Green Belt.

Character and Appearance

14. The planting adjoining and within the site, along with the grassed field broadly to the south, give it an open verdant setting that is particularly noticeable from the site frontage with Blackstroud Lane East.
15. By reason of the small scale and lightweight nature of the existing buildings, their timber clad finish, informal layout, informal car parking arrangement, and verdant setting, the site is open and is not highly prominent in the landscape.
16. Although it is appreciated that there would be noise associated with the karting use, and activity, outdoor storage and associated car parking when operational, the site would still benefit from its open and verdant setting with the size of the site and buildings limiting any associated visual harm.
17. The introduction of the more formal layout proposed, along with an increase in building volume and floorspace, alongside the provision of the roller shutter doors serving the proposed business units, would result in a harsh form of development that would not be in keeping with the more open and less formal layout and verdant appearance of the area. I consider this to be the case even if the appellant were able to construct the additional workshop and towers forming part of a previous planning permission on the site. Consequently, the proposal would be more prominent within, and visually incompatible with, the open and verdant landscape within which it would be situated.
18. In the absence of details and certainty over the end users and specific uses of the proposed buildings, it is not certain that the proposal would result in a reduction in people using the site, fewer parked cars, less paraphernalia and less noise. I have considered the appeal² referenced by the appellant in 2020. However, that appeal site was re-using existing buildings located between two road arteries. As a result, that appeal is significantly different to the current proposal.
19. Therefore, I conclude that the proposal would significantly harm the character and appearance of the area contrary to Policy DM9 of the Surrey Heath Borough Council Core Strategy & Development Management Policies 2011-2028 (February 2012) (CS). Amongst other things, the policy seeks to achieve high quality design and layouts that respect and enhance local and natural character. Although this policy pre-dates the Framework, it is generally in accordance with its aims of achieving well-designed places and as such I give the policy considerable weight in relation to this appeal.

² APP/D3640/W/10/3238656

Appropriate location

20. The site is accessed off a lane in the countryside and does not fall within the hierarchy of locations under Policies CP1, CP2 and CP8 of the CS outlining where new development should be located. The site being located just outside of the settlement boundary for Lightwater.
21. However, CS Policy DM1 supports farm diversification proposals and the re-use, adaption, or conversion of buildings for economic purposes within the countryside and Green Belt subject to meeting the relevant criteria. Criterion (iii) allows economic uses, subject to no conflict with the wider countryside or Green Belt objectives. Although the appeal site would comply with the policy in principle by retaining the site in economic use, I have found above that the proposal would have a greater impact on the openness of the Green Belt than the existing development and results in significant harm to the character and appearance of the area.
22. Criteria (i) and (ii) to CS Policy DM1 are not relevant to the proposal as they relate to agricultural diversification and the conversion of existing buildings. As criteria (iv), (v) and (vi) relate to proposals beyond the Green Belt, they are not relevant to this appeal.
23. I acknowledge that paragraph 84 of the Framework supports a prosperous rural economy enabling the growth and expansion of business. However, the proposal is not for the growth or expansion of the existing business but for redevelopment to provide new businesses. In relation to paragraph 85 of the Framework, it supports previously developed sites adjacent to settlements. The appeal site being previously developed and adjacent to a settlement. In light of the existing commercial use of the site, and the sites' location physically well-related to the settlement, the site is an appropriate location to continue to meet local business needs. However, support from paragraph 85 is subject to the development being sensitive to its surroundings and I have found above that the development would harm the Green Belt and character and appearance of the area.
24. The appellant has referenced the 2020 appeal mentioned above in relation to this main issue. However, that appeal site was outside of the Green Belt re-using existing buildings. As a result, that appeal is significantly different to the current proposal and does not alter my findings in relation to this main issue.
25. In light of the above, I conclude that the appeal site is not an appropriate location for the proposal, with particular regard to the local development strategy. As a result, the proposal is contrary to CS policies CP1, CP2, CP8 and DM1. Although the CS pre-dates the Framework, as these policies generally accord with it and paragraph 219 of the Framework clarifies that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework, I give them significant weight. As a result, the proposal is also contrary to the Framework.

Other considerations

26. I acknowledge the economic benefits from the proposal through the provision of new business units and associated employment. However, given the small scale of the proposal, I give this moderate weight in support of the proposal.

27. I have considered the concerns put forward regarding fly tipping should the site remain vacant but in light of the secure fencing and gates to the site, I give this limited weight in my decision.
28. I have had regard to the proposed use potentially generating less traffic, noise, and lower activity levels than the lawful use. However, the proposals would still generate a considerable level of traffic, noise and activity and as such I also give this matter limited weight in my decision.
29. I acknowledge the planning permission in place for the dog walking facility broadly to the south of the site and that this use may not commence if the appeal is dismissed. However, this benefits from a separate planning permission with fencing and signage in place at the time of my site visit that indicated that this use may have commenced or would do shortly. As a result, I give the possibility of this use not commencing limited weight.
30. In the absence of a Certificate of Lawfulness demonstrating that the workshop and observation towers approved under planning permission reference 18/0713, could be implemented, and in light of the current closure of the karting business, I give this limited weight in my consideration.
31. I note that the site is not within a flood zone or a Special Protection Area, that there would be no harm to ecology and that there has been no objection from two Parish Councils. Nonetheless, these matters are neutral in my consideration.
32. I have considered the letter of support for the proposal, but given the limited details within the letter, I give it limited weight in my decision.

Conclusion

33. The proposal would result in moderate harm to the openness of the Green Belt. As a result, the proposal would be inappropriate development in the terms set out by the Framework. Having regard to the Framework, I give this Green Belt harm substantial weight. The proposal also results in significant harm to the character and appearance of the area, and I have found that the appeal site is not an appropriate location for the proposal, with particular regard to the local development strategy. These factors weigh heavily against the proposal.
34. In this context, very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. I have given limited and moderate weight to the other considerations cited in favour of the development. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the scheme do not therefore exist.
35. Overall, for the reasons given above, the proposal conflicts with the development plan and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

C Rose

INSPECTOR