



Appeal Decision

Site visit made on 22 August 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/B1550/W/23/3317233

Concord Lodge, The Chase, Ashingdon SS4 3JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Ricky Grice against Rochford District Council.
 - The application Ref 21/00917/FUL, is dated 17 August 2021.
 - The development is proposed outbuilding for dog grooming business.
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Decision

1. The appeal is dismissed and planning permission for proposed outbuilding for dog grooming business is refused.

Preliminary Matters

2. The appeal follows the Council's failure to determine the respective planning application. In response to the lodging of the appeal, the Council has confirmed that it has a number of concerns regarding the appeal proposal. The appellant has had the opportunity to respond to these concerns in their final comments. They are not, therefore, prejudiced by me formulating the appeal's main issues based on the concerns set out at appeal stage.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect on the living conditions of neighbouring occupiers with respect to noise and disturbance;
 - The effect on highway safety having particular regard to the width and specification of The Chase; 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

Inappropriate development

4. The appeal site is located within the Metropolitan Green Belt. The Local Development Framework Core Strategy (2011) (CS) Policy GB1 sets out that development will be directed away from the Green Belt as far as practical and that the protection of Green Belt land will be prioritised based on how well it helps achieve its purposes. Further, the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. Moreover, paragraph 149 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate subject to a number of identified exceptions. The main parties have not suggested that any of the listed exceptions are relevant to this case and there is nothing before me that would lead me to reach a different conclusion.
6. For these reasons, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with CS Policies GB1 and GB2, and the associated aims of the Framework.

Openness

7. The Framework, at paragraph 137, sets out 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. Openness has both spatial and visual aspects.
8. The building would be contained within a plot defined by fences and mature landscaping. It would not be visible from the highway and views, if any, would be limited to glimpses from nearby properties. Nonetheless, the introduction of a building of not inconsequential size and in a position stepped away from the existing building line would reduce the openness of the Green Belt in a spatial sense, albeit to a limited extent. The loss of openness, would, to my mind, be exacerbated to some degree by the fairly anticipated introduction of additional parked vehicles associated with the operation of the planned dog grooming business.
9. Therefore, on this issue, I conclude that there would be a loss of openness in the Green Belt which conflicts with Framework paragraph 137.

Living conditions

10. The proposed building would be sited within the large side garden of an existing dwelling, Concord Lodge, relatively close to a number of other residential properties.
11. The appeal is accompanied by a Noise Impact Assessment (NIA), dated 14 July 2022. The NIA is a technical document and incorporates the results of noise survey work undertaken at the site. It indicates that noise generated within the proposed dog grooming parlour from drying and barking, identified as the loudest activities, could be addressed through appropriate sound insulation of the building, and by keeping the door and windows closed whilst dog grooming is taking place. No substantive evidence has been provided that would lead me

to dispute such findings. The recommended mitigation measures could be secured by conditions on any planning permission.

12. The NIA assesses noise and disturbance arising from the use of a car park served off an existing track further along the Chase, some distance from the proposed building. However, other appeal documents indicate that such a car park does not form part of the current proposal and that the parking would be on the existing driveway of Concord Lodge. Although the NIA assesses the impact of the dog grooming parlour on the two nearest residential receptors to the proposed building and the driveway, it does not assess the noise impact from the proposed car park and vehicle movements on these receptors. Nevertheless, the intention is to operate during the working day when other vehicular movements on The Chase could realistically be anticipated and this would ensure that clients do not arrive or leave at especially quiet times. Consequently, the additional journeys, which would be relatively modest in number, would not materially increase the existing noise levels generated by vehicular movements in the locality to the detriment of the living conditions of neighbours. Conditions could be imposed on any planning permission to limit the number of customers each day and the business operating hours.
13. The NIA has not assessed the barking of dogs that would be walked to the appeal site. Nonetheless, whilst the area is generally quiet, it is reasonable to consider that dog walking is an activity that takes place in the area and that some nearby householders would have dogs of their own. As such some dog barking would not be entirely unexpected and any additional barking associated with the proposed use would not, to my mind, have a noticeable impact. In the absence of anything before me that suggests otherwise, I do not consider this particular aspect of the appeal proposal to be a significant issue.
14. Overall, while there is the potential for the proposed dog grooming business to generate noise, controls imposed through planning conditions would acceptably mitigate any potential impact on living conditions.
15. Therefore, I conclude that, subject to the use of conditions, the proposal would not harm the living conditions of neighbouring occupants with respect to noise and disturbance. The proposal would accord with CS Policies DM1 and DM33 which, amongst other things, seek to ensure that development positively contributes to, and does not have a significant adverse effect on, residential amenity.

Highway safety

16. There is conflicting information within the various appeal documents as to the hours of operation of the proposed dog grooming business and the number of dogs that would be groomed each day. Taking the worst-case scenario, set out in the Planning Statement, 4 to 5 dogs would be groomed each day between 0900 and 1600 hours. This would amount to a maximum of 20 vehicular movements per day by customers. It is, however, likely that some customers would arrive on foot, and some would wait in the car whilst their dog is groomed, thereby reducing the number of journeys.
17. The Chase is a long private road serving several dwellings. My observations on site, which I acknowledge relate to a snapshot in time, and the findings of a submitted Technical Note, dated October 2020, indicate The Chase being lightly trafficked and that vehicles tend to travel along it at low speed. Whilst for much

of its length its width is restricted, it is sufficient to allow a vehicle to safely pass a pedestrian and has good visibility. In addition, there are regular places to pull clear of the carriageway if vehicles meet when travelling in different directions. Also, there is no convincing evidence before me that would suggest that any reversing of vehicles into passing places to enable vehicles to pass would be detrimental to highway or pedestrian safety.

18. Accordingly, I conclude that the proposal would not harm highway safety, having particular regard to the width and specification of The Chase. The proposal therefore accords with CS Policy DM33 which, amongst other things, seeks to ensure that development will not create unacceptable highway problems.

Other matters

19. I have noted objections/concerns raised by interested parties with respect to matters including the disposal of foul water/waste and the effect upon trees. However, as I have found the proposal to be unacceptable for other reasons set out above and below, it is unnecessary for me to explore these matters further here.

Very special circumstances

20. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
21. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. I have also found that harm would result from the loss of Green Belt openness. The Framework, at paragraph 148, indicates that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
22. Reference has been made to a possible fall-back position, namely the potential construction under permitted development (PD) rights of an outbuilding of the dimensions proposed. The consideration of a fall-back position, including what could be erected under PD rights, is a well-established principle. However, for a fall-back position to weigh heavily in favour of a proposal there shall normally be real prospect of a closely comparable form of development occurring.
23. For an outbuilding to be PD at this site it would have to be used and reasonably required for purposes incidental to the enjoyment of a dwellinghouse. The proposed building would, however, be used as a dog grooming parlour and be fairly anticipated to lead to a material change of use of land. From the evidence before me, it has not been clearly demonstrated otherwise. Accordingly, a directly comparable development to the appeal proposal could not be brought forward under PD rights should planning permission be refused. Indeed, in the absence of substantive evidence to the contrary, such an outbuilding could not be used for the intended purposes. As such, I attach limited weight to this potential fallback position.
24. The absence of harm to highway safety and to the living conditions of neighbouring occupiers are neutral factors. As such they do not weigh in favour of the proposal.

25. The introduction of a dog grooming business would support economic growth and provide a service to the local community. However, owing to the modest size of the intended operation, such benefits attract limited weight in favour of the proposal. Moreover, other considerations do not clearly outweigh the identified harm to the Green Belt so as to amount to the very special circumstances necessary to justify the development.

Conclusion

26. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

27. I therefore conclude that the appeal should be dismissed and planning permission refused.

Elaine Moulton

INSPECTOR