



Appeal Decision

Site visit made on 28 August 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2023

Appeal Ref: APP/Q4245/W/23/3315462

Stables, Fairy Lane, Sale M33 2JT

- 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 Michael Chambers and Mrs Janean Naylor against the decision of Trafford Metropolitan Borough Council.
 - The application Ref 107361/FUL/22, dated 5 August 2022, was refused by notice dated 4 October 2022.
 - The development proposed is the demolition of existing stables and erection of dwellinghouse.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework ('the Framework') and any relevant development plan policies, including the effect upon the openness of the Green Belt and the purposes of including land within it;
 - b) the effect of the proposed development on the character and appearance of the surrounding area;
 - c) the effect of the proposed development on the living conditions of future occupiers, with particular reference to noise and disturbance; and
 - d) if the development is inappropriate, 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 necessary to justify the development.

Reasons

Whether Inappropriate Development

3. The Framework identifies 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 149 of the Framework explains that other than in connection with a closed list of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One such exception is (g) the limited infilling or

the partial redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

4. Policy R4 of the Trafford Local Plan: Core Strategy, adopted 2012 ('the CS') states that the Council will continue to protect the Green Belt from inappropriate development. It also states that new development within the Green Belt will only be permitted where it is for one of the appropriate purposes specified in national guidance, where the proposal does not prejudice the primary purposes of the Green Belt set out in national guidance by reason of its scale, siting, materials or design, or where very special circumstances can be demonstrated in support of the proposal.
5. The Council considers the appeal site comprises previously developed land. This has not been disputed by the appellant. From viewing the site on my visit, I have no reason to disagree with the Council's view. The matter to be considered therefore is whether the proposed development would not have a greater impact on the openness of the Green Belt than the existing development. There is no evidence before me that the proposal would contribute to meeting an identified affordable housing need within the area of the local planning authority and therefore the second indent of paragraph 149(g) of the Framework is not applicable.
6. The appeal site contains a stable building, shipping containers, an open-fronted storage building and a static caravan. The Council considers the static caravan and the shipping containers to be temporary and therefore has excluded them from their assessment in line with paragraph 149(g) of the Framework. This has not been disputed by the appellant and from the information before me, I have no reason to come to a different view. The permanent open-fronted storage building is to be retained.
7. The proposal is for the demolition of an existing stable building and the construction of a detached dwelling. The main parties have provided floorspace and volume figures that calculate the percentage increase between the existing and proposed buildings. The figures differ between the parties however, both sets of figures indicate that the proposed dwelling would have a greater overall size when compared to the existing stable building on site. Furthermore, the proposed dwelling would have a greater overall height than the existing stable building. Consequently, in spatial terms, the proposed development would reduce the Green Belt's openness.
8. The appeal site is set back from Fairy Lane by an intervening commercial use, while trees and hedgerows are positioned adjacent to the lane. Therefore, the proposed dwelling would not be highly visible from Fairy Lane to the south of the appeal site. However, gaps are present in the roadside hedgerow to the east of the appeal site and although separated by paddocks, the existing buildings/structures were visible at the time of my site visit. The increased height of the proposed dwelling would be discernible from this part of the lane and would be particularly visible during the colder months when the hedgerow is not in leaf. Consequently, in visual terms, the proposed development would reduce the Green Belt's openness.
9. For these reasons, the proposed development would have a greater impact on the openness of the Green Belt in both visual and spatial terms than the

existing development and therefore it would comprise inappropriate development in the Green Belt. The proposed development would not comply with the exception detailed at paragraph 149(g) of the Framework and will only comply with Policy R4 of the CS if very special circumstances can be demonstrated in support of the proposal that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal.

10. The Council's first reason for refusal refers to Policy L7 of the CS. However, this policy is not directly applicable to this reason for refusal.

Character and Appearance

11. The surrounding area comprises a mix of uses including commercial, equestrian and dwellings, some of which are demarcated with high solid metal fencing. Existing buildings are predominantly single storey and simple in their design and appearance. The proposed dwelling, while single storey, would include two steeply pitched gables either side of a central flat roofed section. It would include large expanses of glazing and be contemporary in appearance. Although the palette of materials would be similar to materials used on some of the existing commercial buildings, the building's contemporary design, steeply pitched roofs and fenestration would be in stark contrast to the existing character of the area, appearing alien and out-of-character. Its scale and massing would also appear prominent when viewed from Fairy Lane to the east of the appeal site.
12. For these reasons, the proposed development would have a harmful effect on the character and appearance of the surrounding area. It would conflict with Policy L7 of the CS which, amongst other things, seeks to ensure that developments are appropriate in their context and enhance the character of the area by appropriately addressing scale, height, massing, layout and elevation treatment. It would also be contrary to the Framework that seeks to achieve well-designed places.

Living Conditions of Future Occupiers

13. The surrounding area includes a number of commercial uses, telecommunication masts, overhead power lines, a tramline and the M60 motorway, and is within proximity of the flight path for Manchester airport. Therefore, at the time of my site visit, the immediate area was characterised by high levels of background noise. I did not experience any intermittent noise at the time of my site visit, however, I am unaware of the hours of operation of the surrounding commercial uses and I appreciate that this was a snapshot in time.
14. I have considered the submitted Acoustic Survey and Assessment for Proposed Residential Development at Land at Fairy Lane, Sale, M33 2JY, dated January 2022 ('the Survey') which assesses the effect of existing noise from the surrounding uses on the future occupants of the proposed dwelling. However, I note that the Survey was undertaken over one 24-hour period, and it does not indicate the weather conditions at the time the monitoring was undertaken. Furthermore, the Survey suggests that the adjacent use is for dog day-care which appears to conflict with both the Council and appellant's statement that suggest that it is used as dog kennels. Consequently, from the evidence before

me, I am not persuaded that the Survey provides an accurate assessment of the conditions that future occupiers may face.

15. Nevertheless, the Survey outlines that future occupiers of the proposed dwelling would experience sound levels above recommended levels. The survey suggests that for the proposed development to meet recommended noise levels, standard double glazing and trickle ventilators would need to be installed and all windows would need to remain closed. The Survey provides no information regarding the required acoustic performance of the proposed trickle vents. While trickle vents can provide some ventilation, they do not enable sufficient airflow to allow a significant cooling effect and therefore it is likely that future occupants would be required to open windows during periods of warm weather whereby they would experience detrimental noise levels both during the day and night. For these reasons, the proposal would result in unacceptable internal living standards for future occupants of the dwelling.
16. The Survey also details that the garden areas would be subject to sound levels above recommended levels. To meet recommended noise levels, the Survey suggests that a 2.5m high acoustic fence be erected around the garden area. While this may alleviate the predominant transport noise, the Council's Environmental Health Officer considers the protection afforded by a close boarded fence would be limited in respect of barking dogs, particularly as this sound can be intermittent and is different to the predominant transport background noise. Furthermore, barking could occur throughout the day and night and the frequency/noise level associated with barking is likely to fluctuate depending on the number of dogs being housed within the kennels at any one time, both of which have not been addressed in the Survey. Consequently, insufficient information has been provided to determine whether the garden areas could be adequately protected by the proposed 2.5m high fence.
17. I have been directed to the approval of a dwelling in connection with the adjacent kennels whereby the associated noise and disturbance was considered acceptable. However, this assertion has not been substantiated with evidence. Even if evidence was provided, it would appear that the occupiers of the kennels' dwelling would be directly associated with the operation of the kennels and therefore it is not directly comparable to the appeal proposal in respect of noise and disturbance. It has also been put to me that the adjacent kennels has ceased operating, and the site is only used for residential purposes. However, this has not been substantiated with evidence and does not prevent the kennels from re-opening at a later date.
18. The appellant states that the Council has justified other residential uses in the area due to the occupants' direct interest in an associated business, which is similar to the proposed dwelling. While limited information has been provided to substantiate this matter, the proposal is for an open market dwelling and therefore I must assess the impact of noise on all future occupants. The appellant states they would be agreeable to a condition restricting the occupation of the dwelling to those associated with the business operating from the appeal site. However, this would not overcome the impact of noise and disturbance on the living conditions of future occupiers. Furthermore, the Planning Practice Guidance states that it is rarely appropriate to use conditions to limit the benefits of a planning permission to a particular person or group of people and therefore, the use of a condition limiting occupation of the proposed dwelling should only be undertaken on exceptional occasions. From the

information before me, I am not persuaded that the proposal has demonstrated exceptional circumstances.

19. For these reasons, the proposed development would have a harmful effect on the living conditions of future occupiers, with particular reference to noise and disturbance. It would therefore conflict with Policy L7 of the CS which, amongst other things, seeks to not prejudice the amenity of the future occupiers of a development by reason of noise and/or disturbance. It would also conflict with the Framework that seeks to create places with a high standard of amenity for future users.

Other Considerations

20. The provision of one additional dwelling weighs in favour of the scheme. This would make a contribution, albeit moderate, to the Government's objective of significantly boosting the supply of new homes. The proposal would also provide a limited amount of short-term employment through the construction of the development. These benefits therefore carry moderate weight in favour of the scheme.
21. It has been put to me that the appeal site is currently untidy and does not benefit the overall character of the surrounding area; the appeal proposal would result in the demolition of old and unattractive buildings; and the proposed dwelling would improve the appearance of the appeal site. However, I am not persuaded that the appeal proposal is the only way of securing these benefits or is the least harmful to the openness of the Green Belt. The appellant also contends that the cessation of the existing stables would provide a more harmonious use that would benefit the Green Belt. However, an equestrian use is located opposite the appeal site and are not unusual within Green Belt locations. Therefore, these benefits carry limited weight in favour of the scheme.
22. I have been directed to a site named 'Freshfields' on Fairy Lane. However, other than a recent application reference¹, I have not been provided with any detailed information regarding this site, including any details of its planning history. I am therefore unable to determine whether this site is directly comparable to the appeal proposal. Furthermore, I must determine each case on its own merits. This matter therefore is neutral.

Other Matters

23. The Council has stated that it is unable to demonstrate a five-year housing land supply of deliverable housing sites. As such, the relevant policies for the supply of housing should not be considered up-to-date and paragraph 11(d) of the Framework is engaged which states, "where the policies which are the most important for determining the application are out-of-date, granting planning permission unless (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed".
24. The scale of the shortfall is between 3.47 and 3.75 years, however, the appeal site is located in the Green Belt (a protected area defined by Footnote 7 of paragraph 11(d)(i)). As I have already found that the proposed development would comprise inappropriate development in the Green Belt, this provides a

¹ Planning Ref: 110022/EIASCR/23

clear reason for refusing the development proposed and therefore, paragraph 11(d)(ii) is not engaged.

Conclusion

25. The proposal would be inappropriate development in the Green Belt and would harm openness. As such, the Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also be harmful to the character and appearance of the area and the living conditions of future occupiers. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
26. Given the substantial weight to be given to Green Belt harm combined with the other identified harm, relative to the limited/moderate benefits of the proposed scheme, the harm is not clearly outweighed by other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist.
27. For the reasons given above, having regard to the development plan as a whole and all other matters raised, the appeal should be dismissed.

A Berry

INSPECTOR