



Appeal Decision

Site visit made on 4 September 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2023

Appeal Ref: APP/P1940/W/22/3310785

Land Adjacent to Red Cottages, Old Uxbridge Road, West Hyde, Hertfordshire WD3 9XU

- 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 Artemis Tree Services against the decision of Three Rivers District Council.
 - The application Ref 22/1253/RSP, dated 30 June 2022, was refused by notice dated 22 September 2022.
 - The development proposed is described on the planning application form as “retrospective planning application for the change of use from agricultural to a car park, with associated landscaping.”
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is an area of land to the north of an existing yard which contains a number of storage buildings and a range of stables. I understand that the appeal site itself was formerly a grassed area in its entirety. However, it has been subdivided on an east/west basis, with the western portion currently used as a car park in relation to the appellant’s business, with the eastern portion remaining as a grass field. I understand that the current parking area within the appeal site does not benefit from planning permission.
3. The plans before me indicate a different arrangement, with the appeal site being divided on a north/south basis such that the proposed car park would occupy the entirety of the southern part of the site, with the northern part being a grassed area. Accordingly, I have considered the proposal on the basis of the plans before me.

Main Issues

4. The main issues are:
 - whether the development would be 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 proposal upon the living conditions of the occupiers of nearby properties with regard to noise and disturbance, 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.

Reasons

Whether inappropriate development

5. The area around the appeal site is characterised by sporadic and informal development to the south, east and north-east interspersed with woodland and vegetation, located on the fringe of several large waterbodies. The appellant's business is currently operated from a site also located on Old Uxbridge Road, to the south. To the west of the appeal site, beyond Old Uxbridge Road, agricultural land and the A412, is a large construction site associated with High Speed 2 ('HS2').
6. Both Three Rivers District Council Local Development Framework Core Strategy ('CS') Policy CP11 and Three Rivers District Council Local Plan Development Management Policies Local Development Document ('DMP') Policy DM2 relate to the management of development in the Green Belt. CS Policy CP11 pre-dates the Framework, but should not be deemed out-of-date for this reason alone. Rather, its wording is broadly consistent with the Framework, and its supporting text also refers to the need for very special circumstances to exist for inappropriate development to be granted planning permission.
7. The appellant considers that DMP Policy DM2 is not relevant to this proposal, as the policy does not refer to changes of use. However, the policy does refer to new buildings in the Green Belt. The term building is defined in Section 336 of the Town and Country Planning Act 1990 so as to include any structure or erection. The proposed fences and gates fall within this definition. CS Policy CP11 and DMP Policy DM2 have therefore together carried full weight in consideration of this appeal.
8. The Framework identifies that the fundamental aim of the Green Belt 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.
9. Paragraph 149 of the Framework establishes that certain buildings are not inappropriate and at Paragraph 150, that certain forms of other development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Such forms of development include engineering operations (Paragraph 150(b)) and material changes of use (Paragraph 150(g)).
10. The proposal would amount to the construction of a bund on the western boundary of the site, the provision of a grasscrete surface upon which it is stated up to 40 vehicles would be parked, and the erection of fences and gates.
11. The fences and gates, would, by definition be buildings and should therefore be considered under the provisions of Paragraph 149 of the Framework. As there is no evidence before me that would indicate that these elements would fall within any of the exceptions set out within this paragraph of the Framework, the proposed development would amount to inappropriate development.
12. In terms of the use of the appeal site and other engineering operations, I accept that the site is well screened from external views due to existing woodland and vegetation, which would be further strengthened as part of the scheme. Accordingly, the car park would be visually well-contained.

13. However, openness has a spatial as well as a visual aspect. The parking of vehicles, even on a temporary basis associated with the operating hours of the appellant's business, along with the bund, would have an adverse effect on the spatial openness of the site in comparison to its use as an agricultural field. There is disagreement between the parties in relation to the number of vehicles that could be parked within the appeal site, however even taking the lower figure of 40 provided by the appellant, this would still amount to a considerable number.
14. Grasscrete would seek to mimic the appearance of the grass but would not mitigate the presence of rows of vehicles parked within the field. Whilst I accept that the level of vehicle use would vary at different times, even low-level use of the car park would likely have a greater effect on openness than any agricultural use of the site. The proposal would therefore fail to preserve the openness of the Green Belt.
15. I am aware that in the case of *R (on the application of Samuel Smith Old Brewery (Tadcaster) & others) v North Yorkshire County Council* [2020] UKSC 3, it was highlighted that openness is the counterpoint of urban sprawl and does not imply freedom from development. Whilst this establishes that there are forms of development which could take place within the Green Belt without affecting openness, it has not been shown that the proposal before me would amount to such a development.
16. With regard to the purposes of the Green Belt, my attention has been drawn to the Three Rivers District Council and Watford Borough Council Green Belt Review Strategic Analysis (Stage 1) ('GBR'). This document includes the appeal site within a wider area of land designated as 'SW2'. It concludes that overall, SW2 is of positive value to the Green Belt, particularly with regard to assisting in safeguarding the countryside from encroachment. Whilst there is disagreement between the parties with regard to the level of weight to be afforded to this document, I have no reason to disagree with its findings.
17. The GBR does not provide specific assessment of the appeal site and it has been put to me that the appeal site itself makes only a limited contribution towards the aims of the Green Belt.
18. Although I have accepted that the appeal site is well-contained in visual terms, I consider that it nevertheless has a role in preventing localised sprawl along the A412 in spatial terms. The alignment of the proposal with development to the east would not mitigate it with regard to this effect.
19. Furthermore, although there is development to the south of the appeal site, it does, along with existing woodland, form part of an undeveloped area of the countryside, and therefore the location of the proposal within it would lead to encroachment. The presence of a large construction site related to HS2 several hundred metres to the west of the appeal site does not diminish this fact, given the separation between the sites and the intervening areas of agricultural land.
20. Overall, whilst acknowledging the size of the appeal site and its visually contained nature, the proposal would nevertheless conflict with the purposes of including land within the Green Belt.
21. Consequently, I conclude that the proposal would constitute inappropriate development in the Green Belt that would harm the openness of the Green Belt.

It would therefore be contrary to CS Policy CP11 and DMP Policy DM2. Together and amongst other factors these policies set out a presumption against inappropriate development within the Green Belt and seek to prevent new buildings in the Green Belt other than where they fall within exceptions.

Noise

22. Vehicles accessing the proposal would make use of an existing access road that serves the existing service yard to the south of the appeal site, along with several other properties in the vicinity. The existing access to the southern yard is currently taken from a point on the access road between Old Uxbridge Road and other properties, and there is no indication that this method of access would change. Accordingly, traffic moving to and from the appeal site would not have need to directly pass other properties.
23. The use of the car park would lead to an increase in traffic using the access road, and this would likely be noticeable to local residents. It is also possible that the use of the car park could generate noise through its general use, such as the closing of vehicle doors, radios, engines starting and normal conversation. Whilst the stated hours of use of the car park indicate that it would be mainly used during daytime hours on weekdays, it would have the potential to be used as early as 0600, and therefore there is the possibility that excessive noise at this time could disturb sleep.
24. However, the existing yard area to the south of the appeal site would provide some degree of separation of the car park from residential properties. I am also mindful that there is no evidence to indicate that either the use of the existing, authorised yard, or the currently unauthorised car park have led to complaints from local residents in relation to noise.
25. Consequently, the proposal would not lead to levels of noise or disturbance, such that it would have an unacceptable effect upon the living conditions of the occupiers of nearby properties. Therefore, the proposal would be in accordance with DMP Policy DM9, which amongst other criteria, seeks to ensure that development does not have an adverse effect with regard to noise.

Other considerations

26. I have found that the proposal would be inappropriate development that would harm openness. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It advises that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
27. It is stated that the appellant's business has recently doubled in size, with further expansion expected in the future. It has also been put to me that without the ability to accommodate expansion, that the medium to long-term viability of the business would be affected. Paragraph 81 of the Framework advises that significant weight should be placed on the need to support economic growth and productivity.
28. However, the evidence provides no clear indication as to the current number of employees, or the level of envisaged further expansion. Nor has substantive evidence been provided which would demonstrate that the future viability of the

business would be adversely affected should the appeal fail. Rather, it is suggested that parking would alternatively take place informally within the public highway around the appellant's business.

29. The appellant has sought alternative locations for the business which would be better able to accommodate its expansion. However, I have only been referred to a single alternative site, also within the Green Belt, for which pre-application advice has been sought. Whilst the full details of the Council's advice in this respect have not been provided, I understand that the response was not positive.
30. Whilst a large proportion of the local area is located within the Green Belt, which I accept would be likely to restrict the number of alternative preferable sites, I have been provided with no other evidence that other sites have been considered, and that no other less harmful sites exist.
31. Accordingly, whilst I have given consideration to the general support afforded to economic growth and productivity, I afford these factors moderate weight in my considerations.
32. Notwithstanding this, I accept that it would not be feasible to provide parking within the main site of the business for a further 40 vehicles, even following a proposed reconfiguration of this site.
33. It is also not disputed between the parties that the business is not well served by public transport. However, it has not been shown that other sustainable travel initiatives that would reduce reliance on the use of private cars to access the site have been fully explored, such as through a workplace travel plan. Accordingly, I afford these factors only limited weight.
34. The proposal would include the installation of bird boxes, along with additional tree planting and wood piles. However, as I have not been provided with any assessment of the existing ecological baseline of the appeal site, I am unsure as to whether such measures would represent an improvement in biodiversity in comparison to the existing situation, and if so, the extent of such improvement. I therefore afford this factor very modest weight.
35. The appellant has directed me to several appeal decisions relating to developments elsewhere. I have not been provided with full details of these cases, or the sites to which they related. Furthermore, based on the evidence that is before me it appears that none were directly comparable in either nature, scale or both. Accordingly, they are considerations of limited weight.

Green Belt Balance

36. Bringing these considerations together, the substantial weight I have given to the Green Belt harm and loss of openness is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.

Planning Balance

37. The proposal would conflict with the development plan when taken as a whole, and the other considerations before me do not indicate that I should make a decision other than in accordance with the development plan.

Conclusion

38. For the reasons set out above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR