



Appeal Decision

Site visit made on 19 September 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/R5510/W/22/3307370

Watercress Beds, Springwell Lane, Hillingdon, Harefield WD3 8UX

- 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 Andrew Travers against the Council of the London Borough of Hillingdon.
 - The application Ref PP-11278431, is dated 26 May 2022.
 - The development proposed is described as reuse of a redundant building for residential use with a small curtilage.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal was submitted against the failure of the Council to determine the application. Since the appeal was lodged, the Council has indicated that had it been in a position to do so, it would have refused the proposal for a number of reasons, which have framed three of the main issues in the appeal.
3. No internal floor plans or elevations were provided with the appeal by either party. However, I was able to view and had permission to enter the appeal building. It has several rooms over two floors including a bathroom and kitchen. It was an empty building, with no furnishings. Although clearly habitable as a dwelling, there was no evidence that the building was being lived in at the time of my site visit and I have determined the appeal on this basis.
4. The land around the appeal site has a lengthy planning history, including several appeal decisions which I have had regard to where necessary. However, I have determined this appeal based on the submitted evidence and my observations.
5. In December 2023, the Government published a revised National Planning Policy Framework (the Framework). The revisions do not relate to anything that is fundamental to the main issues in this appeal. Consequently, the views of the parties have not been sought in this instance. Updated paragraph numbers have been referenced where relevant.

Main Issues

6. Based on the evidence before me, I consider the main issues to be:
 - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the Framework including the effect upon the openness and purposes of the Green Belt;

- The safety of future occupiers with regard to flood risk;
- Whether it has been shown that the building is redundant, with particular regard to continued office use;
- The personal circumstances of the appellant.

Reasons

Whether inappropriate development

7. The site is located within the Green Belt and comprises an existing two-storey brick building and detached brick single storey structure. It is located on an area of land surrounded by Springwell Lake and the River Colne. There are further lakes to the north beyond Springwell Lane from which the site is accessed. It fronts an access drive and backs back onto an open area which leads to the banks of the river. The surrounding area is semi-rural but is interspersed with residential and commercial development.
8. The Framework identifies that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes at paragraph 155 d) the re-use of buildings provided that the buildings are of permanent and substantial construction.
9. Policy DMEI 4 of the London Borough of Hillingdon Local Plan Part Two Development Management Policies 2020 (the LPP2) states, amongst other things, that inappropriate development in the Green Belt will not be permitted unless there are very special circumstances. Policy G2 of The London Plan The Spatial Development Strategy for Greater London 2021 (the London Plan) has similar provisions. In this respect, both are consistent with the Framework.
10. The proposal involves the re-use of existing buildings. Both buildings are of permanent and substantial construction, which the Inspector appointed to determine the previous appeal¹ also concluded. In this respect the main considerations are whether it fulfils the two further tests relating to openness and purposes.
11. The appeal site boundary includes the existing access road and land to the front of the building, and to the side with the detached structure. There is a low brick wall and concrete path at the rear of the building. No external alterations are proposed and the external appearance and volume of the building would remain unaltered. Although a small garden area is proposed at the rear, there are no plans to erect fencing around it. Future extensions, outbuildings, fences and other householder development could be restricted, which could be controlled through a suitably worded planning condition.
12. The site boundary is drawn closely around the appeal building to its sides, and the extent of garden is curtailed to the front and rear. Any freestanding domestic equipment associated with the use would have to be positioned close to the building at the rear or in front alongside the access road rather than extensively around the site. Provided any domestic activity or domestic paraphernalia is indeed limited to the extent of that shown on the plans then the main effect on spatial and visual openness would likely be that of small

¹ Appeal A: APP/R5510/C/21/3267601

- scale domestic equipment and car parking. This would be seen against the existing backdrop of the existing buildings and confined to a small area of the wider site. Given the previous use as an office, I have no evidence that parking or other external equipment could not have been placed in these areas.
13. The small external areas proposed would mean that the spatial and visual effects on openness arising from the proposed re-use of the building would be minimal and would not result in further encroachment within the countryside. Notwithstanding the semi-rural nature, the proposal would not be wholly out of context with the surrounding area which includes nearby residential buildings on Springwell Lane.
14. I appreciate the Council's concerns that it would be unlikely that the land beyond the site would not be used, and the absence of accurate site plans, floor plans and elevations is not particularly helpful in this respect. However, If the use of wider site did exceed what has been applied for, it would be open to the Council to consider the expediency of enforcement action if the appeal were to be allowed. Whilst this different view to that of previous appeal it has not been clearly identified whether that the extent of land considered is exactly the same as this appeal.
15. I conclude that the proposal does not amount to inappropriate development in the Green Belt. The appeal scheme involves the re-use of buildings of permanent and substantial construction which preserves the openness of the Green Belt and does not conflict with the purpose of including land within it.
16. Consequently, there is no conflict with LPP2 Policy DMEI 4 or Policy G2 of the London Plan. The proposal would also be in accordance with the provisions of chapter 13 of the Framework, which are concerned with the protection of Green Belt land. Given that the proposal is not inappropriate development, there is no requirement to consider whether there are 'very special circumstances' to justify the development.

Flood Risk

17. The Environment Agency plan provided by the appellant shows the wider site is surrounded by water bodies, surrounding land falls within Flood Zone 2 and 3. The appeal site at Watercress Beds appears to be a relatively small area in Flood Zone 1 surrounded by a large area of flood risk. Given the surrounding classification flood risk is material to the consideration of the appeal. The Framework assists in defining when a site-specific FRA is needed² this includes where a proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding. Changing to a residential use will increase the vulnerability classification to more vulnerable³. No Flood Risk Assessment (FRA) has been provided.
18. The Framework at paragraph 173 e) also seeks to ensure that development should only be allowed in areas at risk of flooding if it can be demonstrated that safe access and escape routes are included where appropriate. The access into the site and Springwell Lane are at risk of flooding. Even if the site is in Flood Zone 1, during periods of prolonged flooding future occupants may become cut off from the surrounding area by flood waters and may require the assistance of the emergency services if there is no dry route of escape.

² Paragraph 167 and Footnote 55 of the Framework

³ As set out in the National Planning Policy Framework Annex 3.

19. Although the appellant states that the Environment Agency (EA) has confirmed it is not in a Flood Zone and the Council are aware of this, I have no evidence that this is the case now as no details from the EA have been provided with this appeal. Even if the site would not be subject to flooding, it has not been shown that safe access and escape routes could be achieved.
20. Based on the evidence before me, I cannot be certain the development would not result in an unacceptable increased risk of flooding to people and property, or that any effects can be safely and suitably managed. Therefore, it is a matter that cannot be addressed by the Council's suggested planning condition, in any event, the appellant has not agreed to this.
21. The proposed development would not adequately address the safety of occupiers with regard to flood risk. Consequently conflict with Policy EM6 of the Hillingdon Local Plan Part 1 Strategic Policies 2012 (LPP1), Policy DMEI 9 of the LPP2 and SI12 of the London Plan would arise. Furthermore the National Planning Policy Framework seeks to ensure that new development is not put at risk of flooding. For the same reasons, the proposal would conflict with the provisions contained within the flood risk section of the Framework.

Office space

22. Policy DMH 3 of the LPP2 states where offices are found to be redundant, their demolition and redevelopment for office accommodation will be supported. Where this is not feasible or viable, proposals for the conversion of offices to residential which fall outside of current permitted development rights will be supported. The appeal building under application 24597/A/89/1968 was identified as a sales building, office and store to a garden nursery.
23. The appellant contends the buildings are redundant as the garden nursery ceased to operate and they have not been used solely in connection with the garden centre operations, required by a condition of that permission. I have not been provided with that decisions notice, or significant evidence that this is the case. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine compliance with this condition.
24. Nor is it evident that the use has been extinguished by another use. In my view, a planning judgement can be made that the Policies bite on the basis of the nature of the current or last lawful use. As the Inspector set out in the earlier appeal decision⁴ there is no dispute that the original permission was implemented. Nor has it been substantiated why the building is no longer needed, useful or superfluous as an office/store. It has not been demonstrated that the arrangement of the site or its location fundamentally makes the use of the building as an office/store unfeasible with a wider business or as single entity.
25. The Council has not clearly identified how it is to be established on a firm basis that the building is redundant, nor is there any substantive justification within the policy or its supporting text on this matter. However, the Inspector who determined the latter appeal⁵ found that the issue of whether the office/storage space was redundant was backed up with little evidence, with no up-to-date market assessment provided. This appears to be a reasonable approach to

⁴ APP/R5510/C/17/3184266

⁵ Appeal A: APP/R5510/C/21/3267601

consider whether another commercial or officer use could be found. However, I have no such evidence before me.

26. In the absence of such evidence, it has not been shown that the building is redundant, with particular regard to continued office use. The development is contrary to Policy DMH 3 of the LPP2, which seeks to allow other the conversion of offices which are found to be redundant. As the proposal would not amount to inappropriate development, there would be no conflict with Policy DMEI 4 of the LPP2 in this respect.

Personal circumstances

27. The development would secure accommodation for the appellant. It would allow family to live close by enabling support and family members to provide free childcare thus parents would be able to work. It may also mean that children could continue to be schooled locally. The evidence states two of the five children require support for their health issues.
28. I accept that the best interests of the children, would, in principle, be served by a permanent and secure home, having regard to the support provided by family and educational needs are currently being met by a school in the local area. Dismissing the appeal is therefore likely to have an adverse effect and disrupt family life.
29. However, when I visited the site, the building was empty, with no indication it was recently lived in and no Council Tax records have been provided. I appreciate the property provides an affordable home for a larger family, but I have not been provided with evidence of any attempts having been made of a search for a similar sized property within the vicinity of the site. It has therefore not been shown that the property is the only option available to secure accommodation, which would provide the support outlined above.
30. The site is surrounded by land at risk from flooding. Therefore, in the absence of evidence which addressed Flood Risk, I give very significant weight to this consideration, particularly as there would be children on site and the proposal would constitute a more vulnerable development.
31. I have had due regard to the Human Rights Act 1998 (HRA) and the Public Sector Equality Duty (PSED) under the Equality Act 2010. The appellant and extended family, who intend to occupy the site have protected characteristics for the purposes of the PSED of age and disability. However, after having regard to all material considerations, I am satisfied that the aim of avoiding unacceptable risk from flooding, and retention of the office/store can only be adequately addressed by dismissal of the appeal, which is therefore necessary and proportionate.

Other Matters

32. There is a statutory duty to pay to special attention to the desirability of preserving or enhancing the character or appearance of the Springwell Lock Conservation Area (CA). From my observations and insofar as it is relevant to the appeal the significance of the CA is derived from the historic canal development and surrounding natural environment. As no external alterations are proposed, I see no reason to disagree with the Council in their appeal statement that the development would have a neutral effect on the CA.

33. The Council has stated housing in the Green Belt is not needed. It has not advanced significant concerns in respect of matters such as the effect of the development upon the occupiers of neighbouring residential properties, parking and notwithstanding the absence of internal plans, the standard of accommodation, and again I see no reason to disagree.
34. Whilst I note concerns from the main and interested parties regarding the appeal site history, development of the site and handling of the applications these have no bearing upon my decision. There is no costs application before me, and I have dealt with the proposal on its own merits.

Planning Balance

35. The proposal would not amount to inappropriate development. This and the other matters regarding the adequacy of housing and parking and the effect on the CA and neighbours attract neutral weight.
36. Although the Council has identified it can meet its housing targets, the provision of a single additional dwelling would boost the supply of housing. This would be a small social benefit attracting limited weight.
37. Having regard to the HRA and PSED, the personal circumstances of the intended occupiers attract moderate weight, but since the risks associated with the appeal development outweigh its benefits, I find that refusing permission is proportionate and necessary. The benefits of the proposal are outweighed by the harm from conflict with Policies relating to flood risk and office conversions, which both attract significant weight against the scheme.

Conclusion

38. The proposal conflicts with the development plan taken as a whole, and the provisions of the Framework. There are no material considerations, of sufficient weight to indicate the decision should be made other than in accordance with the development plan. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR