



Appeal Decision

Site visit made on 7 March 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2024

Appeal Ref: APP/B5480/W/23/3326865

Ockendon Boarding Kennels, Ockendon Road, Upminster RM14 3PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Marvin Asset Management against the decision of the Council of the London Borough of Havering.
 - The application Ref is P0817.23.
 - The development proposed is two new entrances to former greyhound racing track and land adjacent Greyhound Grove via Ockendon Road.
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Decision

1. The appeal is allowed and planning permission is granted for two new entrances to former greyhound racing track and land adjacent Greyhound Grove via Ockendon Road at Ockendon Boarding Kennels, Ockendon Road, Upminster RM14 3PP in accordance with the terms of the application, Ref P0817.23, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the appeal was made, the Government revised the National Planning Policy Framework (the Framework). Policies material to this decision have not fundamentally changed. Therefore, I have not sought the main parties' views on this.
3. The appellant submitted a Preliminary Ecological Appraisal (the PEA)¹ with the appeal. It did not form part of the original application. The findings and recommendations of the PEA would not fundamentally alter the proposal and therefore the acceptance of this document would not unfairly prejudice any party. I have therefore taken the PEA into consideration.

Main Issue

4. The main issue is whether the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt.
5. If the development is inappropriate in the Green Belt, 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.

¹ Preliminary Ecological Appraisal – Issue 1 – Date 08/03/2023

Reasons

6. The appeal site is within the Metropolitan Green Belt. Metropolitan Green Belt is one and the same thing as Green Belt and has no other policy protection. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The Framework also states 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 engineering operations. Section 336 of the Act² lists that engineering operations include the formation or laying out of means of access to highways. Regardless of the planning history and previous comments made in pre-application submissions, the development proposed is for the creation of two access points to connect to the road. The proposed development would therefore be an engineering operation. Even if there are other accesses nearby, neither the Framework, nor Policy G2 of the London Plan requires justification to be provided for why the development is needed. Nevertheless, the appellant asserts that the proposal is required to improve access.
8. Openness is an essential characteristic of the Green Belt. Some of the existing hedgerow and trees would be removed to facilitate the access points and the grass and soil would be replaced with hardstanding. As this would be at ground level, this change would not affect openness in a visual or spatial sense.
9. In terms of the purposes of including land in the Green Belt, the proposal would not result in the sprawl of a large built up area, or result in neighbouring towns merging, nor does it relate to the setting and special character of a historic town or discourage the recycling of derelict and other urban land. As the proposal would result in a change to the materials of the ground, there would be a de minimus level of encroachment into the countryside. However, given the extent of this, the proposal would not result in a material encroachment.
10. For the reasons given above, the proposal would be an engineering operation, it would preserve the openness of the Green Belt and it would not conflict with the purposes of including land in the Green Belt. It would therefore not be inappropriate development in the Green Belt as defined by paragraph 155 of the Framework. The proposal would therefore accord with the Framework and Policy G2 of the London Plan 2021 (the London Plan), which is consistent with the objectives of the Framework.

Other Matters

11. The reason for refusal also relates to visual harm to the character of the Green Belt, referencing Policy G2 of the London Plan. This policy does not refer to the character of the Green Belt, nor does the Framework. Nevertheless, the accesses would be similar to those in the surrounding area and would not appear as out of place. A large proportion of the landscaping would be retained, protecting the rural character.
12. This stretch of the road bends at different points. When driving along the road, drivers are alerted to slow down when approaching the bends through the road markings. Whilst the bend of the road does restrict some visibility, this is an

² The Town and Country Planning Act 1990 (as amended)

existing situation. There is limited substantive evidence before me to demonstrate that the road is subject to a high level of road traffic accidents.

13. At my site visit, although a snapshot in time, I observed that some vehicles travelled at speed along the road. Notwithstanding this, vehicles exceeding the speed limit would be a matter for enforcement by the relevant authorities. Although the Council has stated that the speed limit of the road would need to be reduced to 30mph and the submitted plans indicate that this would be the case, neither main party has provided sufficient details to explain why this reduction in speed limit would be required and the mechanism for exactly how the planning permission would secure this change. Based on the evidence before me, I have no reason to conclude that this is necessary.
14. As the accesses are proposed on the side of the road where there is no footpath, conflict with pedestrians is unlikely. The submitted plans demonstrate that it is possible to provide visibility splays in principle. Measures to ensure that drivers can see traffic approaching from both directions when exiting the accesses can therefore be secured by planning condition. Subject to the relevant conditions, the proposal would not cause detrimental harm to pedestrian and highway safety.
15. As the road is part of a bus route, there are some bus stops along the road. However, these are not close enough to the appeal sites to be substantially affected by the proposal. Vehicles visiting would be in association with the existing use as the application does not seek a change of use. Furthermore, there has been no suggestion from the Council that vehicle trips are likely to increase significantly as a result of the proposal. Any future development would be determined on its own merits.
16. There is limited compelling evidence to demonstrate that the proposal would give rise to increased fly-tipping and anti-social behaviour. In any event, should these issues arise, this would be a matter for the landowner.
17. The appeal sites are nearby to a residential development. The Council concluded that the proposal would not adversely affect the living conditions of the occupiers of the neighbouring properties on account of the intervening distance. I have no reason to disagree.
18. The Council has raised concerns regarding the proposal's conflict with an approved biodiversity management plan in connection with a previously discharged condition and a potential breach of this condition. The condition to which this development relates to is outside of the application boundaries of this appeal. The appeal sites form only a small part of the survey fields included in the biodiversity management plan. In any event, a breach of planning conditions would be a matter for the Council to enforce. This issue therefore carries limited weight in my consideration of this appeal.

Conditions

19. I have considered the Council's suggested conditions in light of the tests within the Framework and Planning Practice Guidance and have made amendments where necessary in the interests of clarity.
20. In addition to the statutory implementation condition, it is necessary to define the approved plans for certainty. In the interests of character and appearance,

it is necessary to impose a condition to require details of the proposed materials to be submitted and agreed prior to their installation.

21. In order to enhance the landscape features and protect the borough's natural environment in accordance with the Framework, Policies 27 and 30 of the Havering Local Plan 2021 and Policy G6 of the London Plan, it is necessary to require the development to be carried out in accordance with the PEA and its recommendations.
22. The Council has requested that the visibility splay distance be increased from that shown on the submitted plans. Based on what I saw at my site visit, this can be achieved because of the depth of the appeal site and the length of the road. The appellant has not commented on this. On this basis, I have no reason to consider that such an increase would not be feasible. In the interests of highway safety, it is therefore necessary to impose a condition to require the visibility splay details as suggested by the Council, to be approved and installed prior to the accesses being brought into use.
23. The Council also suggested that hard and soft landscaping details, including protection and works to trees be secured by condition. I have not been advised that these trees are protected as part of a preservation order. Given the small scale extent of the proposal and the limited nature of the works, I do not consider that it is necessary to require landscaping details to be secured by condition. Some of the recommendations in the PEA relate to landscaping. Aspects of this would therefore be covered by other conditions.
24. The Council has requested a condition to require details of the vehicular access improvements to the highway to be submitted and approved. I have not imposed this condition, as it does not clearly list the improvements which would be required and is therefore not precise and enforceable.

Conclusion

25. For the reasons given above the appeal should be allowed.

L Reid

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 23 – LOCATION PLAN, 30 – PROPOSED SITE PLAN, 03/001 Rev C – POTENTIAL ACCESS STRATEGY.
- 3) Before their installation onsite, details of the materials to be used in the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before the accesses hereby permitted are first brought into use.
- 4) The development hereby permitted shall be implemented in accordance with the recommendations in the Preliminary Ecological Appraisal for Land at Ockendon Road/Clay Tye Road, North Ockendon, Upminster, Essex, RM14 3PT dated 08/03/2023, Issue 1.
- 5) Notwithstanding the approved plans, before the accesses hereby permitted are brought into use, scaled plans and details of a 4.5m by 81m traffic visibility splay on either side of the proposed accesses, set back to the boundary of the highway shall be submitted to and approved by the local planning authority. The visibility splays shall be provided in accordance with the approved details before the accesses are first brought into use.

END OF SCHEDULE