

Appeal Decision

Inquiry held on 16, 17, 18, 23 April 2024

Site visit made on 19 April 2024

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 5th July 2024

Appeal Ref: APP/T0355/W/24/3336224

**Maidenhead Office Park, Westacott Way, Littlewick Green,
Maidenhead SL6 3QH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Anglesea Capital LLP against the decision of Royal Borough of Windsor and Maidenhead.
 - The application Ref is 22/03270.
 - The development proposed is described as, 'outline application for access only to be considered at this stage with all other matters to be reserved for demolition of the existing buildings and redevelopment of the site for industrial and logistics use within Use Classes E(G)(iii), B2 and B8, with surface car parking, landscaping, and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved except for access. The drawings sought for approval are the Site Location Plan and the Parameters Plan. I have therefore considered the other submitted drawings on an indicative but informative basis.
3. Amended drawings were submitted by the Appellant during the appeal. These are the Parameters Plan, Illustrative Site Layout Plan and Illustrative Site Section drawings¹.
4. The amendments include a change to the control on the height of the proposed buildings from 'maximum building height' to 'maximum building height above floor level' at a specific Above Ordnance Datum (AOD). This would effectively represent a 2m reduction in proposed maximum building height AOD. The update also includes a fixed zone for the proposed access and internal circulation road.
5. I have had regard to the 'Holborn Studios Ltd'² court judgement. As the change does not alter the description of development including land uses, and as the maximum floorspace is proposed to be secured by condition, I consider the change does not amount to a substantial difference and as re-consultation has

¹ Michael Sparks Associates Drawings Ref: 31439-PL-201 Revision E, 31439-FE-77 and 31439-FE-78 Revision A

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

been carried out by the Council, interested parties have not been prejudiced by my acceptance of the amended plans.

Main Issues

6. A planning obligation and suggested conditions were submitted during the appeal which the parties agree would address the second and third reasons for refusal. From the evidence I see no reason to disagree.
7. The site lies in the Metropolitan Green Belt. There is no dispute between the main parties that the proposed development would constitute inappropriate development as it would not meet any of the exceptions set out in paragraphs 154 and 155 of the National Planning Policy Framework (Framework). From the evidence I have no reason to disagree.
8. Therefore, the main issues are:
 - the effect of the proposal on the openness of the Green Belt; 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

Openness

9. Policy QP5 of the Borough Local Plan 2013 – 2033 Adopted 8th February 2022 (BLP) reflects the Framework and states that the Metropolitan Green Belt, as shown on the Policies Map, will be protected against inappropriate development. Planning permission will not be granted for inappropriate development (as defined by the Framework), unless very special circumstances are demonstrated.
10. Paragraph 142 of the Framework states 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.
11. The Planning Practice Guidance (PPG) explains that matters which may need to be taken into account in assessing the impact of a proposal on the openness of the Green Belt include both spatial and visual aspects.
12. The site currently comprises an office park known as Maidenhead Office Park. It comprises seven buildings with maximum two-storey height along with car parking, landscaping and an amenity area at the western end of the site.
13. I note the historic uses of the site and that Maidenhead Office Park was developed after the area was designated as Green Belt. However, I have necessarily assessed the appeal on the basis of the current development on the site.
14. In spatial terms, currently 11% of the site is occupied by building footprint. The buildings on the site are two-storeys high with moderate spacing between them and areas of landscaping. Therefore, although there are also areas of hardstanding, the site has a moderate degree of spatial and visual openness.

15. The proposal would result in an increase of ground floor building footprint to some 33% of the site. The building floorspace would increase from around 27,700m² to some 55,700m² and the building volume would increase from around 149,000m³ to some 547,800m³.
16. While the site is currently occupied by built development, the proposal would amount to a significant increase in built form on the site. As the proposed buildings would occupy a greater proportion of the site and would have a greater floor area, volume and height, they would result in a significant adverse effect on the spatial openness of the Green Belt. Moreover, the increase in built development would be permanent.
17. Turning to visual openness, the change in built development on the site would be seen from within the site by future occupiers such as employees. Although matters such as appearance, scale and layout are reserved for future consideration, given the significant increase in footprint, volume and height compared with existing, the scheme would appear larger from within the boundary planting, thereby restricting views across the site.
18. In terms of views from outside the site, the site is largely surrounded by trees and vegetation that partly screen views of the existing buildings from the surrounding areas. The greatest change would be seen from near the site entrance on Westacott Way, where there is a substantial gap in the trees.
19. Although Westacott Way is lined with trees, as this part of the road serves only the site, any obtainable views of the site would be channelled towards the site entrance. The existing two storey buildings are clearly visible through the site entrance and the tops of the Leyland Cypress trees at the southern boundary of the site can be seen above the roofs of the existing buildings.
20. The proposal would include internal roads which would route from the access to the south, and routing through the site generally east to west. Therefore, the proposed buildings would be likely to be sited closer to the access than the existing buildings. However, due to the angle of the access road, the proposed building most visible from the access would be likely to be a building on the southern side of the site. Nonetheless, the increased height and volume of the proposed buildings would be seen from the site access. Furthermore, given the proposed maximum height of the buildings, it is likely that the view of the tops of the Leyland Cypress trees along the southern boundary of the site would be obscured by the proposal.
21. As this view of the site would not be readily seen by the public, being close to the site access, it is less sensitive than the views from the Public Right of Ways (PROWs). However, the increased volume of the buildings and the resultant decrease of views through to the southern part of the site would result in harm to the visual openness of the Green Belt.
22. Viewpoint B as per the Appendices of Mr Jackson's Proof of Evidence is from the PROW to the north of the site. Currently, from this view, the existing buildings on the site are largely screened by mixed deciduous and evergreen trees and vegetation. However, the dwellings along Cherry Garden Lane can be seen in this view.
23. While the maximum height parameter of the buildings would be 14m, I have necessarily considered the proposal on the basis of a height of 14m. Therefore,

while I note that the proposed 14m maximum height of the buildings would not necessarily apply to all of the buildings on the site, the increased height would nonetheless be seen in this view in the gaps in vegetation. Moreover, it would introduce a line of built development behind the existing dwellings of Cherry Garden Lane. Therefore, the proposal would result in a greater amount of built development on the site that would be seen above the existing skyline in this view from the PROW.

24. The view would consist of a significant proportion of foreground comprising fields and the proposal would be seen in the distance. However, given the relatively flat topography of the ground, the proposal would be seen at about eye level. The additional built development on the site resulting from the proposal would be seen from this point along the PROW. Accordingly, the proposal would result in harm to the visual openness of the Green Belt in this view.
25. In Viewpoint C from the PROW to the west of the site, the existing buildings can be seen in a gap in the trees. The Leyland Cypress trees to the south of the site can be seen behind the buildings. The proposal would effectively close the gaps and obscure views of the trees along the southern boundary of the site in this view. Therefore, the increased built development on the site would be clearly perceptible, albeit the effect would be seen at a distance. Accordingly, the proposal would harm the visual openness of the Green Belt in this view.
26. From Viewpoints B and C, as representative views of a kinetic experience along the PROWs, the visual receptors would be users of the PROWs such as walkers and cyclists who are likely to be moving slowly or steadily and whose attention would be focussed on the landscape for consistent and prolonged periods. Accordingly, I consider the susceptibility of these receptors to be high.
27. The landscape is not designated but is typical of the verdant countryside views in the area and relatively free from urban form. Accordingly, I consider the value of the views to be moderate. Combining these factors together, the sensitivity of these footpath receptors is moderate to high.
28. In terms of magnitude of change, the proposal would appear to be in the distance or far distance and would be partially screened by trees. However, given its height and volume and as it would project above the existing skyline, where visible the proposal would contrast with the rural landscape context and would be a visible feature in the scene. Accordingly, the magnitude of change would be slight. Overall, the significance of the visual effects in these views would be moderate adverse.
29. Although proposed planting may further screen views of the proposed buildings from the PROW, further planting would reduce the perception of the site's partial openness, thereby causing greater harm to Green Belt openness.
30. Adjacent to the southern boundary of the site lies a line of Leyland Cypress trees which are taller than the buildings on the site and screen the existing buildings on the site in views from While Waltham Airfield (Airfield). The proposed buildings would also be screened by the trees in this view. There would therefore not be a harmful effect on the visual openness of the Green Belt provided that the trees are retained and remain in good condition.

31. The Airfield consists of open areas of hardstanding and grassed areas with a small number of buildings. As such, the lack of harm to the Green Belt in views from the south are heavily reliant on the belt of Leyland Cypress trees. From the evidence, while the trees appear to be in conflict with airspace safeguards due to their height, there is also a dispensation not requiring the height of the trees to be reduced. Annual reviews of the height of the trees have not thus far resulted the trees being reduced in height.
32. However, as the trees are outside the red line boundary and are outside the control of the Appellant, they cannot be relied upon to provide permanent screening. Should the trees be reduced in height, or be removed, the proposed development would become visible from the south. In these scenarios, given the increased height and volume of the proposed buildings compared with existing, the proposal would result in harm to the visual aspect of the Green Belt in views from the south. While a landscaping strip along the southern boundary of the site is included in the Parameters Plan, any planting would be likely to take time to effectively screen the proposed buildings.
33. Therefore, while the trees currently provide substantial screening to both the existing development and the proposal, the possibility of future landscaping alteration could harm the visual openness of the Green Belt from the south.
34. Paragraph 143 of the Framework sets out a number of purposes of the Green Belt. These include to check the unrestricted sprawl of large built-up areas.
35. The existing site was planned as an office park in the 1990s and is fairly self-contained by trees and vegetation. As discussed earlier, as 11% the site is occupied by built development that is generally 2 storeys high, the site is currently moderately open. The Green Belt Purpose Analysis November 2013 (Green Belt Purpose Analysis) classifies the site as providing a lower contribution to the purpose of checking unrestricted sprawl, however, it nonetheless provides a positive contribution.
36. The Green Belt Purpose Analysis defines sprawl to be the irregular and inefficient spread of an urban area. However, there is no such definition either in the development plan or Framework. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Furthermore, I am mindful of the Supreme Court judgement³ which highlighted that openness is the counterpart of urban sprawl.
37. While the site is separated from Maidenhead, it is in close proximity to this large built-up area. The increase in floorspace would result in a greater proportion of the site consisting of built development above ground level. The proposal would not extend beyond the existing site boundary. However, the proposal would significantly harm the spatial openness of the Green Belt and would moderately harm the visual openness of the Green Belt due to the significant increase in floorspace, height and volume that would be partially seen from the PROW. Therefore, while the site is partly contained by trees and vegetation and may not be currently unrestricted, the proposal would adversely affect the openness of the Green Belt, thereby conflicting with the purpose of checking the unrestricted sprawl of large built-up areas.

³ R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

38. Turning to the purpose of assisting in safeguarding the countryside from encroachment, the site lies in the countryside and consists of built development. As such, a degree of encroachment has already occurred on the site. Nonetheless, as the proposal would increase the quantum including floorspace of built development on the site, it would result in a greater degree of encroachment into the countryside than the existing development. It would therefore conflict with this purpose.
39. The proposal would result in significant harm to the spatial openness of the Green Belt, would result in moderate harm to the visual openness of the Green Belt, and would conflict with two of the purposes of the Green Belt.
40. Paragraph 152 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.
41. The Framework goes on to say that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Other considerations

42. The proposal is for Industrial And Logistics (I&L) uses on the site (Use Classes E(G)(iii), B2 and B8). The evidence includes market assessment of future need of I&L uses in the Royal Borough of Windsor and Maidenhead as well as the wider Functional Economic Market Area (FEMA) which includes neighbouring boroughs. The evidence indicates that the need for I&L uses was increasing before the Covid-19 pandemic (pandemic). The need increased considerably during the pandemic, with forecasts estimating that the sector will continue to grow. However, notwithstanding the Appellant's calculation for I&L demand, the parties agree that there is uncertainty regarding the extent of long term need for I&L sites.
43. In quantitative terms, across the FEMA, the Appellant calculates a demand for some 204Ha of I&L floorspace over a 17 year period compared with 60Ha floorspace in the development pipeline. This amounts to a shortfall of around 144Ha. In the Borough, the demand is estimated to be in the region of 29Ha over the same period. With a supply of some 15.2Ha in the Borough, the shortfall is around 14Ha.
44. The proposal is for a total of around 55,700sqm of I&L floorspace which equates to around 5.6Ha. While the contribution that the proposal would make to meeting the demand in the Borough would be significant, the contribution would be modest in terms of meeting the need across the FEMA.
45. The demand/supply balance is most severe for mid-box (30,000 to 100,000 sq. ft) and large units (more than 100,000 sq. ft). However, the internal road layout and maximum building height in the Parameters Plan would likely result in the provision of units no larger than around 97,000 sq. ft or 127,000 sq. ft as identified in the in the two illustrative masterplans. Accordingly, the proposal could contribute to meeting the need for some large units, but would be likely to primarily meet the need for mid-box units.

46. Two sites are allocated in the BLP as strategic employment sites for new general industrial and warehousing floorspace and employment. These sites are known as The Triangle Site and Crossrail West Outer Depot.
47. The Triangle Site is a greenfield site and has a number of issues such as flooding and a lack of electricity connectivity partly due to it being undeveloped. While a logistics company had expressed interest in developing the site, as discussed during the inquiry, this has not materialised. Nonetheless there is at least some prospect that this site may come forward in the future, though it would not fully address the significant shortfall of I&L units in the Borough.
48. While the Crossrail site is allocated, it is not available as it is being used for car parking as part of a railway station. This allocated site therefore would not contribute to meeting the need for I&L floorspace. As such, together the two allocations in the BLP would make a limited contribution to meeting the need for I&L floorspace.
49. In qualitative terms, the evidence also includes an assessment of alternative suitable sites. The majority of alternative sites in the FEMA are smaller than the appeal site, located near residential areas and are less closely sited to major transport links. In addition, the sites have fewer environmental sustainability features than the proposal. It appears therefore, that there are no alternative suitable sites for the proposal within the borough and FEMA.
50. The rectangular shape and size of the appeal site is suited to the requirements for the warehouse type of buildings required in the I&L sector. In addition, it is reasonably separated from residential areas such that there would not be an unacceptable effect on the living conditions of neighbouring occupiers. Moreover, the site benefits from good links to local road networks.
51. The I&L industry includes a number of sectors such as robotics and automation, film making as well as warehousing. These would have varying requirements that could be accommodated by a range of building sizes as set out in the proposed illustrative site plan. I also note the evidence regarding supply chain certainty and occupier requirements.
52. The site is near to PROWs and National Cycle Path with connections to Maidenhead. However, as they are partly unlit, I am doubtful as to whether they would be used regularly to travel to and from the site, particularly in winter months. Therefore, the proposal would not entirely remove the reliance on the private vehicle for access to and from the site. However, the provision of a shuttle bus service to and from Maidenhead Railway Station would be secured by planning obligation. Overall, the site is reasonably well located in terms of access to services and facilities.
53. In summary, the evidence indicates that there is a significant need for I&L sites in the borough and wider FEMA, though the degree of long term need is uncertain. There also appears to be no alternative suitable sites in this area. The BLP is based on evidence that does not take into account the growth of the I&L sector. I also acknowledge that if this scheme is not implemented, the contribution to meeting the need in the short term would not be met.
54. The scheme would make a significant contribution to meeting the need for I&L floorspace in the Borough, but a modest contribution to meeting the need in the FEMA. In addition, the proposal would have limited ability to cater to the large-

units section of the market, for which there is also a need. As such, I attribute significant, rather than substantial, weight to the benefit in both quantitative and qualitative terms of contributing to meeting unmet need.

55. BLP Policy ED2 defines the appeal site as an Established Employment Site in the Green Belt and identifies the site for use class E(g) and industrial uses, though it does not specifically include use class B8 uses such as the proposed logistics use. The need for I&L units has also changed significantly since the adoption of the BLP. However, as the Policy does not prohibit use class B8 uses, the proposal would not conflict with this Policy.
56. Turning to the need for office uses, there is a surplus of vacant office spaces in the Borough with little prospect of short to medium term re-let. This is demonstrated by the extensive marketing of the office units on the site and its current largely vacant state. It is agreed between the parties that any medium-term return to growth in the office sector can be met through town centre redevelopment.
57. Accordingly, the proposal would redevelop the previously developed land which is under-utilised. The Financial Viability Assessment also confirms that the proposed amount of floorspace on the site is the minimum required to make the scheme viable. I attach significant weight to this benefit.
58. Economic benefits of the scheme include the creation of some 900 full time equivalent jobs. In addition, there would be wider economic benefits through local employment opportunities. These are estimated to result in up to 277 jobs and some 3500 weeks of training. There would also be other benefits that stem from the proposal due to knock on effects on the local supply chain. I therefore attach significant weight to the economic benefits of the scheme.
59. Paragraph 85 of the Framework states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. While this does not appear to preclude a greater weight being attributed to the need to support economic growth, for the reasons given above I attribute significant rather than substantial weight to the overall economic benefits of the scheme.
60. I have also had regard to paragraph 87 of the Framework which requires decisions to recognise and address the specific locational requirements of different sectors including making provision for storage and distribution operations at a variety of scales and in suitable accessible locations.
61. In terms of sustainability, the scheme would be designed to achieve a rating of BREEAM Excellent and would go beyond current local and policy requirements in terms of environmental sustainability. I attach moderate weight to this benefit.
62. The scheme also proposes at least a 10% biodiversity net gain. This is not a mandatory requirement and would be secured by condition. I therefore attach moderate weight to this benefit.
63. I also acknowledge that the scheme was recommended for approval. However, I have necessarily assessed the scheme before me based on the evidence provided.

Green Belt Conclusion

64. The proposal would constitute inappropriate development which is harmful by definition, would significantly harm the spatial openness of the Green Belt, would moderately harm the visual openness of the Green Belt, and would conflict with two of the purposes of the Green Belt. I necessarily attach substantial weight to these Green Belt harms.
65. Balancing other considerations against these harms, I have attached significant weight to the need for I&L uses in the borough and wider FEMA and the ability of the site to contribute to meeting the need. I have also attached significant weight to the economic benefits of the scheme, and moderate weight to the sustainability of the scheme and biodiversity net gain that would be achieved by the proposal.
66. The Framework makes it clear that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. It is not sufficient for harm to merely be outweighed, but benefits must clearly outweigh the harm. In this case, when taken together, the overall benefits would not be sufficient to clearly outweigh the harm identified.
67. Consequently, the proposal would conflict with BLP Policy QP5 which states that planning permission will not be granted for inappropriate development (as defined by the Framework), unless very special circumstances are demonstrated. It would also conflict with the Framework in this respect.

Other Matters

68. I note a number of other local concerns including the effect on traffic and highway safety, noise and pollution, the airfield, and on ecology and biodiversity. However, from the evidence and as I am dismissing the appeal in any event, these matters have not altered my overall decision.
69. I note the comments of the Inspectors for the cases at St Helens⁴ and Wigan⁵. As these cases are in different boroughs and for larger schemes than the proposal, they are not directly comparable with this appeal. In particular, I note that other considerations in the St Helens appeal included levels of deprivation in St Helens and the I&L floorspace proposed in the Wigan case was considerably higher than for this appeal. Therefore, these cases have not altered my overall decision.

Conclusion

70. The proposal would conflict with the development plan as a whole and in the absence of material considerations to indicate otherwise, the appeal is dismissed.

R Sabu

INSPECTOR

⁴ Appeal ref: APP/H4315/V/20/3265899

⁵ Appeal ref: APP/V4250/V/20/3253242

APPEARANCES

FOR THE APPELLANT:

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INTERESTED PARTIES:

David Wetherill	Associate Director of ET Planning representing Fiennes Park Residents Management Company Ltd (Fiennes Park and Woolley Hall Residents Groups)
Jim McDonald	Local resident
Simon Barrow	Local resident
Paul Martin	White Waltham Parish Council
Lynne Penfold	White Waltham Parish Council
Anaka Nair	Maidenhead Advertiser – Press
Philip Pyle	Director of Fiennes Park Residents Management Company Limited
Irene Jordan	Chair – Burchetts Green Village Association

INQUIRY DOCUMENTS

- ID1 List of Appearances for the Appellant
- ID2 List of Appearances for the Council
- ID3 Appellant Opening Submission
- ID4 Council Opening Submission
- ID5 Letter from Ribbon Communications
- ID6 Draft s106 agreement
- ID7 Updated Inquiry Programme
- ID8 Appellant notes in response to interested party comments
- ID9 Extract from GLVIA3
- ID10 CIL Compliant Statement
- ID11 s106 summary
- ID12 Site visit map
- ID13 Suggested conditions 16 April 2024
- ID14 Suggested conditions 18 April 2024
- ID15 Council Closing Submission
- ID16 Appellant Closing Submission

Letters in support of proposal
Updated list of Council appearances
Signed planning obligation