



Appeal Decisions

Hearing Held on 9 May 2018

Site visit made on 9 May 2018

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2018

Appeal A Ref: APP/R5510/W/17/3186942

Cherry Yard (south), Holloway Farm, Harmondsworth Road, West Drayton UB7 9JS

- 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 Brogden of Transdev plc against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 2688/APP/2016/4029, dated 3 November 2016, was refused by notice dated 13 April 2017.
 - The development proposed is the change of use of land comprising a commercial plant growing area into a temporary staff car park for CCH Ltd. The use of the land will be limited to a temporary 5 year time period.
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Appeal B Ref: APP/R5510/W/17/3186946

Cherry Yard (former garden centre/nursery), Holloway Farm, Harmondsworth Road, West Drayton UB7 9JS

- 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 Brogden of Transdev plc against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 2688/APP/2016/3948, dated 26 October 2016, was refused by notice dated 13 April 2017.
 - The development proposed is the change of use of land comprising a garden centre/nursery and associated hardstanding into a vehicle maintenance area. Demolition of glasshouse and polytunnels. Erection of building to house the enclosed vehicle maintenance workshop and retention of storage building for sui generis use.
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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. I note that a draft Uxbridge Local Plan has been prepared but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the

National Planning Policy Framework (the Framework). Consequently I am only able to give it very limited weight in my decision.

4. I note that the development proposed in these appeals has already occurred and I was able to view the car park, vehicle maintenance workshop, surrounding hardstanding, storage building and container on my site visit.
5. As set out above there are two appeals on adjoining sites that relate to development in support of the aviation logistics use by CCH Ltd. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

6. The main issues in both appeals are:
 - Whether the proposals would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposals on the openness of the Green Belt;
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

7. The developments comprise the redevelopment of part of a former garden centre/nursery to support the use of adjacent land by CCH Ltd, who provide aviation logistics for airlines operating from Heathrow Airport. This includes providing coaches and mini-buses to transport airline staff around the airport and to and from hotels in the vicinity and central London. Both developments would support that use in providing staff car parking through the development in appeal A and maintenance area for CCH Ltd's vehicles through the development in appeal B.
8. The Framework states that new buildings within the Green Belt should be considered inappropriate with a number of exceptions. This includes the partial or complete redevelopment of previously developed sites whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. The Framework confirms that previously developed land includes land which is occupied by a permanent structure, including the curtilage of the developed land, but excludes land that is or has been occupied by agricultural or forestry buildings.
9. Policy EM2 of the Hillingdon Local Plan: Part One – Strategic Policies (LP1) and Policy 7.16 of the London Plan state that development proposed within the Green Belt should be assessed against policies contained within the Framework. Policies OL1 and OL4 of the Hillingdon Local Plan: Part Two – saved UDP Policies (LP2) would allow development in support of certain predominantly open land uses and seek to protect the visual amenity of the Green Belt.

10. The former garden centre/nursery comprised the appeal site and land to the south, which includes what appears to have been the primary sales area. The appellant has described the use of the site at appeal A as a commercial plant growing area. The site of appeal B was occupied by a large glasshouse and polytunnel, as well as the storage building and container that have been retained. The site as a whole, including the land to the south, would have been in a mixed use when in use as a garden centre (under use class A1 retail) and horticultural nursery (an agricultural use). The storage building and container located within the site of appeal B are likely to have been in use for both parts of that mixed use. I note that the Statement of Common Ground concluded that the site is previously developed land. Therefore, on the balance of probability, I conclude that this mixed use means that the land as a whole was previously developed.
11. The appellant suggested that the development in appeal A could be considered as an engineering operation. Engineering operations would fall within the exception at paragraph 90, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Reference is also made to the building being considered as a replacement building, but the relevant exception to inappropriate development requires the new building to be in the same use as that it replaces. The proposals would constitute a change of use, which do not fall within any of the exceptions to inappropriate development at paragraphs 89 and 90 of the Framework. If considered on this basis, the developments would be defined as inappropriate development.
12. Taking account of all the above, I conclude that the proposed development should be taken as a whole and would comprise the partial redevelopment of a previously developed site. It would, therefore, comprise an exception to inappropriate development as defined within the Framework, provided that it does not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the previous development.

Openness

13. The pre-existing site plan shows the former polytunnel, glasshouse and retained storage shed accessed from Holloway Close to the rear of the site and via a substantial area of hardstanding to the rear. The area between these buildings and entrance to the site is shown as a nursery planting area. This area is now covered in hardstanding that serves as the staff car park in appeal A, and access including forecourt to the vehicle maintenance area in appeal B.
14. This has resulted in the covering of the previous nursery planting and growing area with a substantial amount of hardstanding. It is visible in oblique views through the access to CCH Ltd's operations on the site and in brief glimpsed views through the trees on the site frontage to Harmondsworth Road. This adds further hardstanding to the already substantial areas around the buildings, adjacent areas used for coach parking and routes through the former garden centre. This adds to the visual effect of built development on the site and reduces the amount of planting that would otherwise relieve the harsh appearance of hardstanding.
15. The use for parking and stationing of vehicles on this hardstanding further adds to the harm to the openness of the Green Belt over and above the visual effect of the hardstanding.

16. Provision of additional landscaping around the hardstanding or an alternative surface treatment would reduce the visual effect of the hardstanding. However, given the limited space available for planting, it would not wholly overcome the visual harm arising from the hardstanding and its use for parking and stationing of vehicles.
17. The maintenance building replaces the previous glass house and polytunnel. It has a larger footprint, but is of similar height and of a different shape, such that it extends further along the Harmondsworth Road frontage, but not so far into the site. It is green painted metal clad and has a similar appearance to a modern agricultural building. The previous glasshouse would have been reflective and as it extended further into the site it would have been more prominent than the replacement building in views through the access from Harmondsworth Road.
18. Although the footprint of the building is larger than the previous buildings, this is not substantial. Taking all of the above into account, I do not consider that this increase in size is material and, as a result, I do not consider that the building itself has resulted in material additional harm to the openness of the Green Belt over and above that of the previous buildings.
19. For these reasons, I conclude that the additional hardstanding along with its use as a staff car parking area, access to the replacement building and stationing of vehicles for maintenance harms the openness of the Green Belt. As such, it is contrary to Policy EM2 of the LP1, Policies OL1 and OL4 of the LP2, Policy 7.16 of the London Plan and the Framework that seek to protect the openness of the Green Belt.

Other considerations

20. If the appeal were allowed, it would be possible to include conditions that seek to control the use of the site and restrict intensification of the use. Any conditions would need to meet the tests set out in paragraph 206 of the Framework that they would be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Council has suggested that few conditions would meet those tests given that development on the site is away from residential neighbours so would not be necessary to protect their living conditions and there is no evidence that intensification would lead to harm to highway safety in the vicinity of the site. They suggest that if the development were inappropriate within the Green Belt such conditions would not overcome that harm.
21. The conditions suggested to manage the site include limiting the number of vehicle movements, but that would not affect the number of vehicles that could be stored or parked on the site that affect the openness of the Green Belt. The number of parking spaces, staff numbers and the registration of vehicles could be controlled by condition and may mitigate the effect of the development on the openness of the Green Belt to some extent. The car park could be removed after a five year period that would be limited by condition, but it would remain inappropriate development during that time. None of these conditions would wholly overcome the effect of the development on the openness of the Green Belt, although I will consider whether any could be applied in assessing the other considerations and in coming to my decision.

22. Should the appeal be dismissed, it would be possible for the site to revert to its previous use, which I have concluded would be a mixed A1 retail and horticultural use. The appellant suggests that this could result in higher numbers of vehicle movements as customers, staff and delivery vehicles would come and go from the site, and a more intensive use, particularly during the busier seasons for garden centres. Nevertheless, it would reduce the number of larger vehicles such as coaches being stationed on the site. Consequently, the resumption of the previous use would provide a limited benefit to the openness of the Green Belt.
23. The proposal has provided a use to the site that replaces a poorly maintained and partially derelict site. However, as set out above, it has resulted in significant additional hardstanding and parking on areas that were previously used for planting. The building replaces the previous polytunnel and glasshouse. Given its condition and ease of maintenance in comparison to those styles of buildings, there are minor benefits to that replacement building.
24. CCH Ltd is a local business that provides significant numbers of jobs and supports the local economy. The proposals mean that staff parking and vehicle maintenance facilities are provided on site rather than having to provide alternative parking facilities or using contractors that are located a substantial distance away. The maintenance facilities provide additional employment and enable the company to operate more efficiently. The reduced need to move vehicles for maintenance purposes provides benefits in terms of reduced emissions and on the capacity of the road network, potentially affecting road safety. I understand that CCH Ltd is actively looking for an alternative site to relocate their operations, but have not been able to find an appropriate location to date. This adds some weight to the potential for a condition limiting the period to retain the car park, albeit there is no certainty that an alternative location could be found and the hardsurfacing removed within that temporary period. Consequently, the development has some moderate positive social, economic and environmental benefits.

Conclusion

25. I have found that the proposed temporary car park and vehicle maintenance area would harm the openness of the Green Belt. As such, it does not fall within the exception to inappropriate development relating to the partial or complete redevelopment of previously developed sites, as defined within the Framework. Neither would the developments fall within the exceptions relating to engineering operations or replacement buildings. I have not identified any other harm caused by these developments.
26. I have considered the potential to include conditions, including restricting the use of the car park for a limited period, and the fall-back position of returning to the previous mixed use of the site, but consider these should only carry modest weight. The social, economic and environmental benefits of supporting business growth, including an existing business and the reduced impact on the road network arising from the development can attract moderate weight. The improvement to the condition and appearance of the site would be a minor benefit that would attract limited weight.
27. Those benefits need to be balanced with the substantial harm to the Green Belt by reason of inappropriateness. The Framework confirms that the fundamental aim of Green Belt policy includes keeping land permanently open and the

purposes of the Green Belt include safeguarding the countryside from encroachment.

28. Taking all these factors into account, I conclude that the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed, either individually or cumulatively, by other considerations sufficient to demonstrate very special circumstances. As such, the proposed development is contrary to Policy EM2 of the LP1, Policies OL1 and OL4 of the LP2, Policy 7.16 of the London Plan and the Framework that seek to protect the Green Belt from inappropriate development.
29. For the above reasons and taking into account all other matters raised, I conclude that the appeals should be dismissed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

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Emmanuel Amponsah Trainee Solicitor

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1: Annotated aerial photograph including fuel station Holloway Lane

Document 2: Annotated aerial photograph at closer scale

Document 3: Drawing no. 1618/TP/03 overlain site plan of pre-existing development compared to maintenance depot

- Document 4: *Samuel Smith Old Brewery (Tadcaster), Oxton Farm v North Yorkshire County Council, Darrington Quarries Ltd [2018] EWCA Civ 489*
- Document 5: *Bromley London Borough Council v Secretary of State for Communities and Local Government and another [2016] EWHC 595 (Admin)*
- Document 6: Drawing no. 1618/P/01 Pre-Existing Site Plan – Cherry Yard (2 copies)
- Document 7: List of appearances on behalf of the appellant
- Document 8: Letters of notification of the appeals from the London Borough of Hillingdon dated 9 April 2018