



Appeal Decision

Site visit made on 11 March 2019

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2019

Appeal Ref: APP/P1940/W/18/3218067
8 Seabrook Road, Kings Langley WD4 8NU

- 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 Jamie Lambert against the decision of Three Rivers District Council.
 - The application Ref 18/1659/FUL, dated 10 August 2018, was refused by notice dated 30 October 2018.
 - The development proposed is the change of use of part of paddock to residential use for the installation of 64 No. solar panels to provide energy for the adjoining residential property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development includes the change of use of the land to residential use. **The appellant's appeal statement** indicates that this element of the proposal is not necessary and there are operational reasons to exclude this element of the proposal. It is suggested that, in any approval, the change of use could be excluded from the proposal by a suitably worded planning condition.
3. **The 'Procedural Guide – Planning Appeals – England'** advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which the views of interested parties were sought.
4. The revision suggested by the appellant would materially alter the nature of the proposal to such an extent that the resulting works, if approved with the suggested condition, would not accord with the description of the development. Were I to accept the suggested approach, even though it is a lesser proposal, this could lead to possible prejudice to interested parties, for example, neighbours in the vicinity of the appeal site who have considered the proposal on the basis of the description. I, therefore, conclude that the proposed revision to exclude the change of use of the land by way of a planning condition should not be considered and that the appeal has to be decided on the basis of the proposal as set out in the application which the Council determined.
5. While I acknowledge that the condition is proposed by the appellant, my approach set out above accords with the advice in the Planning Practice Guidance which advises that a condition that modifies the development in such

a way as to make it substantially different from that set out in the application should not be used.

6. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019. The revisions do not materially alter the issues for consideration in this appeal and therefore no party has been prejudiced by its introduction.

Main Issues

7. As the site lies within the Metropolitan Green Belt, the main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies and the effect on the openness of the Green Belt,
 - the effect of the proposal on the character and appearance of the area, and
 - if the appeal development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Whether or not inappropriate development

8. The Framework identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and explains that the essential characteristics of Green Belts are their openness and their permanence.
9. Policy CP11 of the Three Rivers District Council Core Strategy (October 2011) (the Core Strategy) states that there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt or which would conflict with the purpose of including land within it.
10. Policy DM2 of the Three Rivers District Council Development Management Policies Local Development Document (July 2013) (the Local Plan) states that the Council will safeguard the countryside from encroachment, therefore proposals which include the extension of the curtilage of a residential property within the Green Belt which involves an incursion into the countryside will not be supported.
11. The solar panels would be erected alongside the broadly north-west boundary of the paddock which is located next to the residential property of 8 Seabrook Road. The panels would not fall within any of the exceptions for development in the Green Belt identified in the Framework and, therefore, would be inappropriate development. Furthermore, the Framework confirms that when located in the Green Belt, elements of many renewable energy projects will compromise inappropriate development and, in such cases, developers will need to demonstrate very special circumstances if projects are to proceed.
12. In considering the effect of a proposal on the openness of the Green Belt, in **broad terms, 'openness' means an absence of buildings or development,**

regardless of how obtrusive or screened they may be. The openness of the Green Belt has both spatial and visual aspects. In this case, the erection of the solar panels would entail the installation of a reasonable size of structure where there is presently no development. In this way the openness of the Green Belt would be reduced visually within the immediate surroundings as well as spatially by the proposal.

13. The scheme also includes the extension of the residential use into an area beyond the existing garden. This residential use would, in all likelihood, involve some elements of domestic paraphernalia which would have a visual and spatial presence and thereby adversely affect openness. In this way, the change of use would, in all likelihood, reduce the openness of the land and thereby fail the Framework exception for development in the Green Belt relating to the material change of use of land.
14. Overall, given the scale of the proposal and its location, the harm to openness would be moderate.
15. Furthermore, the effect of the proposal would be to extend built development and the residential use into land that is presently open and forms part of a paddock. As a result, this would not assist in safeguarding the countryside from encroachment and, therefore, would conflict with one of the purposes for including land within a Green Belt.
16. In the light of the above analysis, I conclude that the proposal would be inappropriate development, reduce openness and conflict with one of the purposes of including land within the Green Belt.
17. For completeness, Policy CP12 (Design of Development) of the Core Strategy and Policy DM7 (Landscape Character) of the Local Plan have been referred to in the reason for refusal concerning Green Belt land, however, they not directly related to this specific issue.

Character and appearance

18. The paddock is bounded on three sides by close boarded fencing and hedging, including the established evergreen trees on the broadly north-west side, and on the fourth side by 8 Seabrook with its dwelling, range of outbuildings and garden area. The solar panels and extension to the residential area would not be readily visible from public areas, including from the adjoining public footpath, because of the boundary screening, although there would be some limited views from the upper floor windows of some dwellings in the vicinity.
19. The visual effect of the development would be restricted to the immediate area and would be seen in the context of the backdrop of trees. Nevertheless, the introduction of solar panels, with their functional and somewhat industrial appearance, together with the likely clutter of some paraphernalia from the proposed residential use, would extend development beyond the existing boundary of the residential property into countryside and thereby would erode some of its rural character.
20. The site is not located within an area that has a landscape designation and, while the landscape harm would be localised, I am not persuaded that an extensive landscaping scheme, that could be required by condition in any approval, would overcome to a satisfactory extent the harm I have identified above. It therefore follows that the effect of the development, even with

additional landscaping, would be to undermine, albeit to a limited extent, the intrinsic character and beauty of the countryside contrary to the approach in the Framework.

21. The reason for refusal also highlights that there would be detriment to the visual amenity of neighbouring properties. However, given the separation between the development and these properties and the intervening boundary screening that is in place and further landscaping that could be incorporated, I do not consider that neighbouring properties would be unduly affected to a harmful degree. Nevertheless, this does not change the situation in respect of the other harm I have found.
22. Accordingly, I conclude that the proposal would harm the character and appearance of the area contrary to Policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the Local Plan which seek in this respect, amongst other things, to have regard to the local context and conserve or enhance the character, amenities and quality of an area.

Other considerations

23. The Framework acknowledges that even small-scale renewable energy projects provide a valuable contribution to cutting greenhouse gas emissions and that schemes should be approved if the impacts are or can be made acceptable. In this case, the solar panels would generate a meaningful energy contribution which it is explained would make the property independent of the national grid.
24. The resultant reduction in carbon emissions is a clear environmental benefit of the scheme and would assist in the aim of making the property an exemplar of energy self-sufficiency. The evidence indicates that the panels are the minimum size necessary to provide for energy self-sufficiency of the property and they are sited to maximise the amount of sun reaching the panels and therefore the effectiveness and efficiency of the system. I have taken into account the support for the proposal from the Parish Council.
25. While the solar panels would generate a meaningful energy contribution this would be in the context of the needs of a single property. In these circumstances, cumulatively I attribute the benefits of the scheme limited weight.
26. Policy DM5 of the Local Plan concerning renewable energy developments has been brought to my attention. However, as I have found that the scheme would detract from the character and appearance of the area and affect the openness of the Green Belt, the development would not be supported by the policy.
27. The appellant has made the case that the extensive landscaping that could be incorporated into the scheme would overcome any harm to the area and that this is a consideration that weighs in favour of the scheme. While the landscaping would be beneficial, as I have explained above, I do not consider that this would address to a satisfactory extent the harm I have identified to the character and appearance of the area.

If the appeal development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal

28. Paragraph 143 of the Framework indicates that inappropriate development is, by definition harmful, to the Green Belt and should not be approved except in very special circumstances. The proposed development would be inappropriate in the Green Belt and it would lead to a moderate reduction in openness. Paragraph 144 of the Framework makes clear that substantial weight should be given to any harm to the Green Belt.
29. I have also found that the development would cause harm to the character and appearance of the area, albeit to a limited extent. Nevertheless, this also weighs against the proposal.
30. Cumulatively, the other considerations put forward in favour of the proposed development have limited weight. They do not clearly outweigh the harm to the Green Belt, and the other harm, that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposed development would not accord with Policy CP11 of the Core Strategy, DM2 of the Local Plan and the Framework which seek, amongst other things, to protect the Green Belt from inappropriate development.

Conclusion

31. For the above reasons, and having regard to all other matters, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR