



## Appeal Decisions

Site visit made on 18 January 2016

by **David Smith BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 11 February 2016**

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### **Appeal Refs: APP/J1535/W/15/3133577 & APP/J1535/W/15/3133582 Park Farm Nursery, Sewardstone Road, Waltham Abbey, Essex, E4 7RG**

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeals are made by Mr Mandeep Binning against the decisions of Epping Forest District Council.
  - The applications Ref EPF/1058/15 & EPF/1076/15, dated 4 May and 6 May 2015, were refused by notices dated 22 July 2015.
  - The developments proposed are use of land for open storage of building materials (sui generis use) (APP/J1535/W/15/3133577) and change of use from glasshousing to storage of building materials (sui generis use) (APP/J1535/W/15/3133582).
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### **Decisions**

#### **APP/J1535/W/15/3133577**

1. The appeal is dismissed.

#### **APP/J1535/W/15/3133582**

2. The appeal is allowed and planning permission is granted for change of use from glasshousing to storage of building materials (sui generis use) at Park Farm Nursery, Sewardstone Road, Waltham Abbey, Essex, E4 7RG in accordance with the terms of the application, Ref EPF/1076/15, dated 6 May 2015, subject to the following conditions:
  - 1) No deliveries shall be taken at or despatched from the site outside the times of 0800-1800 hours on Mondays to Fridays and 0900-1300 hours on Saturdays.
  - 2) The use hereby permitted shall only take place within the building shown for storage on drawing no 2971/1.

### **Main Issues**

3. The main issues in both appeals are:
    - Whether the proposal would be inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework and the development plan;
    - The effect on the living conditions of the occupiers of nearby residents with particular reference to noise, dust and vehicle movements; and
    - If the proposal would be inappropriate development whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would
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be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

### **Reasons**

4. One of the appeal sites comprises a yard area accessed via a short drive from Sewardstone Road. It is proposed to use this for open storage of building materials. Bricks were stacked on part of it at the time of my visit. The second appeal site includes a portion of the open yard and a brick building used as offices. The main part of it comprises 3 bays of a former glasshouse which has been enclosed by timber. This is also proposed to be used for storage and was in use for keeping a multitude of building materials and equipment. Consequently both proposals are retrospective but this does not mean that they are a 'fait accompli'.

### ***Whether inappropriate development?***

5. Policy GB2A of the Epping Forest Local Plan and Alterations sets criteria for the consideration of proposals for the use of land in the Green Belt. In particular, criterion (iv) refers to uses which preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. However, these provisions reflect Planning Policy Guidance 2: *Green Belts* which has been replaced by the National Planning Policy Framework.
6. Paragraph 90 of the Framework refers to certain other forms of development that are also not inappropriate in the Green Belt. However, it is a closed list which does not include changes of use of land. Consequently Policy GB2A is not consistent with the Framework and should be given little weight for the purposes of determining whether the proposal would be inappropriate. Rather it should be assessed against the Framework. Put simply, because uses of land are absent from paragraph 90 the proposed open storage of building materials would be inappropriate development. This is, by definition, harmful.
7. Openness is one of the essential characteristics of the Green Belt. It is the absence of buildings or development. Hence openness is epitomised by the lack of buildings, structures or other above ground items rather than those that are unobtrusive or screened in some way. As such, there is a clear distinction between openness and visual impact and the containment of the site by other buildings therefore has no bearing on this assessment.
8. The appellant maintains that the open storage would be limited in height and extent but no restrictions to this effect are put forward. Whilst limited by practicalities and safety considerations this could, in theory, cover much of the land. The area of the site is nevertheless fairly small and I agree with the parties that the proposal would not seriously compromise openness. However, the proposal would reduce it to a limited degree and this objection adds to the harm by reason of inappropriateness.
9. The re-use of buildings is included within paragraph 90 subject to certain caveats. These are also included in Local Plan Policy GB8A. The altered glasshouse is of permanent and substantial construction. Provided that storage takes place inside it then the openness of the Green Belt would be preserved and there would be no conflict with the purposes of including land in the Green Belt. Therefore this proposal would not be inappropriate development.

### **Living conditions**

10. The objections received from those nearby refer to the serious disruption caused recently by activities at or near the sites. However, according to the appellant, the concrete business has ceased and re-located and there is no metal processing taking place. In any event I have to assess the likely implications of the proposed storage uses. The existing glasshouse and yard are quite close to domestic gardens. Past events also show that commercial uses at Park Farm Nursery have the potential to cause a nuisance. This is even though Sewardstone Road is busy and not wholly residential in character.
11. The appellant indicates that together the proposed uses would be likely to generate a single delivery per week of bricks, blocks and tiles by an HGV. Smaller vehicles would visit the site up to 8 times a day in total in order to make collections or to load or unload miscellaneous surplus materials. A forklift vehicle is kept on site. Clearly this mode of operation could change over time and conditions suggested by the appellant to limit the number of vehicle movements would be unenforceable. However, permission is specifically sought for the storage of building materials. Whilst there may be fluctuations the level of activity anticipated by the appellant seems largely consistent with a builder's yard and store of the size proposed. Therefore this information provides a reasonable guide to the likely impact of the proposals.
12. On this basis the amount of traffic entering and leaving the sites would be modest and the implications of this would accordingly be insignificant. It is also contended that no more would be generated than an active nursery use. Noise could arise from the proposed open storage use as materials are handled but this would be fairly infrequent throughout the day and a condition could be imposed to restrict working times. The prospects of disturbance arising from the proposed storage use within the building would be low. There is also no evidence that the proposals would be liable to lead to any problems with dust.
13. Therefore neither proposal, either individually or in combination with the other, would harm the living conditions of the occupiers of nearby residents. As such, there would be no conflict with Policies CP2 and RP5A which seek to protect the quality of the environment and to avoid adverse environmental impacts.

### **Other considerations**

14. In support of the proposed open storage use there is reference to economic benefits and that the business is part of a recycling strategy on a brownfield site. These generally reflect the intentions of the core planning principles of the Framework but there is no further detail and this restricts their importance. It is also claimed that a derelict former nursery has been replaced by less conspicuous development but there is little evidence that the proposal has directly led to improvements to the visual amenities of the Green Belt.
15. If the planning permission for the re-development of the appellant's land to provide 2 dwellings is implemented then the open storage use would come to an end but there is no certainty when this might be. Overall these matters are of limited weight in support of the proposal.

### **Final assessment**

16. The proposed storage of building materials within the former glasshouse would not be inappropriate development in the Green Belt and would not harm

residential living conditions. There would be no conflict with the criteria of Policy GB8A or other relevant policies and so it would accord with the development plan. Planning permission should therefore be granted.

17. The open storage use would be inappropriate development and there would also be limited harm to openness. Substantial weight should be given to any harm to the Green Belt according to the Framework. The other considerations do not clearly outweigh the harm that would be caused and so very special circumstances do not exist. As such, the proposal would not comply with the development plan and would be contrary to the Framework.

### **Conditions**

18. In granting permission for the internal storage use a condition should be imposed regarding working hours as previously mentioned. However, to be consistent with the use permitted, this should relate to deliveries rather than machinery or processes. To safeguard the Green Belt the storage should be restricted to within the building. The Council also suggests a condition to limit noise levels but this is imprecise in referring to "the units hereby approved" and does not clarify the measurement index for the increase in dB level specified. BS4142 has also been updated. In any event, because of the likely nature of the use permitted I am satisfied that such a condition is unnecessary.

### **Conclusion**

19. Therefore for the reasons given the open storage use is unacceptable and that appeal should fail. However, the use of the glasshouse for the storage of building materials is acceptable and that appeal should succeed.

*David Smith*

INSPECTOR