



Appeal Decision

Site visit made on 18 September 2013

by **C J Leigh BSC(HONS) MPHIL MRTPI**

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

Decision date: 2 January 2014

Appeal Ref: APP/C1950/A/13/2196624

Land at Great North Road, Stanborough, Welwyn Garden City, Hertfordshire, AL8 7TE

- 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 John Thornton against the decision of Welwyn Hatfield Borough Council.
 - The application Ref N6/2012/650/MA, dated 21 March 2013, was refused by notice dated 2 January 2013.
 - The development proposed is the change of use of land to a worm farm, including erection of a single storey timber building, two polytunnels, car parking, hard standings, green waste storage pits, water and rainwater harvesting and recycling tanks, and height restrictor over existing entrance/access.
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Decision

1. The appeal is allowed and planning permission granted for the change of use of land to a worm farm, including erection of a single storey timber building, two polytunnels, car parking, hard standings, green waste storage pits, water and rainwater harvesting and recycling tanks, and height restrictor over existing entrance/access at land at Great North Road, Stanborough, Welwyn Garden City, Hertfordshire, AL8 7TE, in accordance with the terms of the application, Ref N6/2012/650/MA, dated 21 March 2013, subject to the conditions as set out in the attached schedule.

Main issues

2. The main issues in this appeal are:
 - first, whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework;
 - second, the effect of the proposal on the openness of the Green Belt and on the character and appearance of the surrounding area.

Reasons

Whether the proposal is inappropriate development

3. It has been explained to me that the proposed worm farm would involve the propagation of worms within the timber building, following which worms would be taken to the proposed polytunnel structures. The worms would then be grown on using green compost brought into the site. This is a production that can be considered as vermiculture. Once grown, the worms would be distributed to angling outlets; the worms are for bait.

4. My attention has been drawn to a number of appeal decisions which have addressed whether the production of worms in these circumstances can be considered agricultural. I have had regard to these in the context of Section 336(1) of the Town and Country Planning Act 1990, which states that *"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land).*' The appellant states that the proposal should be seen as the breeding and keeping of livestock. Like the Council, I find it difficult to accept worms as livestock, since they do not fall within the normal everyday meaning of the word, which is in relation to domestic animals such as cattle, sheep and pigs.
5. Failing this definition, the appellant also draws my attention to the provision in s336(1) that the proposed worms may be considered as a creature kept for the production of food. This definition does not specify a requirement for that food to be part of the human food chain, and it is evident in the case before me that the worms are to be used as bait for fish. I consider that bait can clearly be considered a type of food: the worms will be eaten by fish. I note the Oxford English Dictionary supports such an opinion, since it defines bait as *'food used to entice a prey'*.
6. The definition in s336(1) also does not set out any end-use for food production that might arise from a creature kept for food: the definition merely states that the animal is *'kept for the production of food'*. Thus, in my judgement, the intention that the worms are to be produced as bait, and so the worms would form only part of fishes' diet, is not material to the question of whether the creature in question is *'food'* or not. The mere fact that the worms are to be used as *'food'* is sufficient to satisfy the definition in s336(1).
7. On the basis of the information submitted in this appeal, I am therefore satisfied that the proposed use would represent an agricultural activity. The use of the land would therefore be for agricultural purposes. The Council's references to previous appeals include instances where I am informed it was not accepted that the production of worms for bait would represent an agricultural use. I am not aware of the full details of those cases that led to such conclusions. I have determined this appeal on the evidence before me and my findings remain unaltered.
8. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt are not inappropriate development if they are for agriculture and forestry. I have determined that the proposed worm farm would be agricultural use. The buildings proposed in this appeal would be associated with this activity. Thus, they would not be inappropriate development.
9. On the first issue it is therefore concluded that the proposed development would not be inappropriate development for the purposes of the Framework

Openness of Green Belt and character and appearance

10. The appeal site is an elongated area of land, directly adjoining the A1(M) motorway to the east, with residential properties to the west and north. The proposed two polytunnels would be located in the northern parcel of land. This area of land slopes down to the north, with the motorway rising above on an embankment which results in dominance over the land and wider area. There

would be some slight re-grading of the land to permit the erection of the polytunnels and the necessary vehicular access.

11. This work and the new structures would be well-contained within the parcel of land, with good screening being retained on boundaries and due to the dominant motorway embankment. The location of the polytunnels at the bottom of the slope to the site would mean little visual impression in the wider landscape, and no harmful impact in the outlook from nearby properties. There would be no material effect on the openness of the Green Belt due to the siting and scale of these polytunnels and access road.
12. The southern portion of the appeal site would accommodate the proposed single storey building, compost storage facility and vehicular access/parking. The building is shown as a low-profile building, whilst the compost storage facility is similarly of low visual impact, being partly screened by slight remodelling of the land form. This part of the appeal site is also heavily-dominated by the motorway, which in this locality is no longer raised but is clearly visible from the site.
13. The location of the proposed building is located adjoining existing mature screening on the edge of the site closest to existing built form in the area. This would minimise the spread of development. The unassuming design, limited scale and sensitive siting of the proposed building and works in this part of the appeal site would be suitable for character of the site, and not materially reduce the openness of the Green Belt.
14. On the second issue it is therefore concluded that the proposed development would not be materially harmful to the openness of the Green Belt, and would cause no harm to the character and appearance of the area. Thus, the proposals would accord with the fundamental aim of the Framework that seeks to keep Green Belt land permanently open, and with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005, which requires all new development to be of a high quality of design that respects and relates to the character and context of the area.

Other considerations

15. Neighbouring residents have expressed concern relating to the effect of the proposed use on living conditions, and I have been referred to general research that suggests worm farms can cause disturbance. However, the proposed worm propagation and growing in this instance appear to be on a considerably smaller scale than cited in that research. It would take place within enclosed buildings and structures, with no on-site composting. Of particular significance is that the Council's Environmental Health Officer has raised no objection to the proposed development on the basis of there being any objectionable odour from the site, and there is no objection from the Environment Agency (EA). The EA state that the proposed development will give rise to the need for an Environmental Permit or Waste Exemption. On the basis of the evidence before me I conclude the proposed use and buildings would not be harmful to living conditions.
16. Access to the proposed development would be from a road that currently serves the residential properties and commercial uses on Stanborough Berry Farm. The appellant states there would not be a need for regular large vehicles visiting the site, and a height restrictor bar is shown to be provided at the

access. The increase in traffic arising from the proposal would not lead to an appreciable reduction in living conditions for existing residents. Sufficient parking and turning would be provided on the site, with no objection raised by the Highway Authority. The level of activity on the appeal site would similarly not give rise to a level of disturbance harmful to living conditions, given that the appeal site directly adjoins the busy and noisy A1(M).

Conclusions and conditions

17. For the reasons given, and having regard to all other matters raised, the appeal succeeds and planning permission is granted. I have attached the Council's suggested conditions relating to the protection of trees and the provision of details for hard and soft landscaping, in the interests of a satisfactory appearance to the development. I have imposed conditions requiring the construction of the access and retention of the vehicular access visibility splays, in the interests of highway safety. I also consider a condition specifying the approved drawings is necessary in order that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

C J Leigh

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until full details on a suitably scaled plan of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. The landscaping details to be submitted shall include:-
 - a) Proposed finished levels and earthworks to be carried out
 - b) Means of enclosure and boundary treatments
 - c) Car parking layout
 - d) Vehicle and pedestrian access and circulation areas
 - e) Hard surfacing, other hard landscape features and materials
 - f) Existing trees, hedges or other soft features to be retained and a method statement showing tree protection measures to be implemented for the duration of the construction
 - g) Planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing
 - h) Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
 - i) Details of siting and timing of all construction activities to avoid harm to all nature conservation features
 - j) Location of service runs
 - k) Management and maintenance details
- 3) All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner: and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the Local Planning Authority.
- 4) No retained tree or shrub shall be cut down, uprooted or destroyed, nor shall any retained tree or shrub be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - (a) If any retained tree or shrub is removed, uprooted or destroyed or dies, another tree or shrub shall be planted at the same place and that tree or shrub shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - (b) The erection of fencing for the protection of any retained tree shrub or hedge shall be undertaken in accordance with details approved in writing by

the local planning authority to comply with the recommendation of British Standard 5837 (2005) before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority. No fires shall be lit within 20 metres of the retained trees and shrubs.

In this condition, retained tree or shrub, means an existing tree or shrub, as the case may be, which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) above shall have effect until the expiration of ten years from the date of the occupation of the land and building for their permitted use.

- 5) No removal of trees, scrub or hedges shall be carried out on site between the 1 March and 21 August inclusive in any year, unless searched beforehand by a suitably qualified ornithologist and agreed in writing with the Local Planning Authority.
- 6) Before first occupation/use of the approved development, the proposed new access onto Great North Road as shown in principle on plan 903/01A shall be constructed in accordance with details, which have been submitted to and agreed in writing by the Local Planning Authority, to the current specification of the Highway Authority.
- 7) Before the first occupation/use of the approved development the associated car parking shown on plan 903/01A shall be laid out and made available for use. Subsequently the car parking shall be retained in the approved form.
- 8) Concurrent with the construction of the access, visibility splays of 2.4m x 43m shall be provided and permanently maintained in each direction within which there shall be no obstruction to visibility between 600mm and 2m above the carriageway level.
- 9) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan, TS08-206G\1 & 2, 903/01A, 02. 03 & 05, and unnumbered drawings showing site restrictor.