
From: Aude Pantel
Sent: 09 November 2016 11:56
To: 'Steve Carnaby'
Subject: RE: Examiner question 3
Attachments: BcSNP -Examiner's question re Molins existing development - appeal extract.docx; BcSNP -Examiner's question re Molins existing development - Plan showing existing area.docx

Dear Steve,

You have asked if we can let you know what the Local Planning Authority considers the 'existing development' at the Molins site to be (i.e. what parcels of land A, B etc.).

As you will be aware the planning authority has recently provided evidence to a public inquiry regarding our non-determination of a planning application to construct 212 (or possibly as amended 192) dwellings at the Molins site. Our evidence to that inquiry clearly sets out our considered view on what constitutes existing development at the site.

In short, the following paragraph from our planning consultants evidence is our view of what constitutes the existing development at the Molins site:

9.3 In terms of what comprises the 'existing development' as a matter of fact the site is substantially cleared with only two existing buildings fronting Haw Lane, the old ballroom and office building, with extensive hardstanding areas to the south.

In order to be precise, I would add that there is also a very small building located between the two buildings so the reference to two buildings should actually state three buildings.

For completeness I have appended an extract from our planning consultant's evidence and an extract from our barristers closing submissions to the inquiry.

In terms of where the existing development is located on this site it is a matter of fact where the two/three buildings are located and where the hard surfaces are located and I have included a plan that the appellant presented to the inquiry which identifies the various existing site components.

The Secretary of State has now recovered the Molins appeal and we do not anticipate receiving a formal decision until Spring 2017.

I hope this helps.

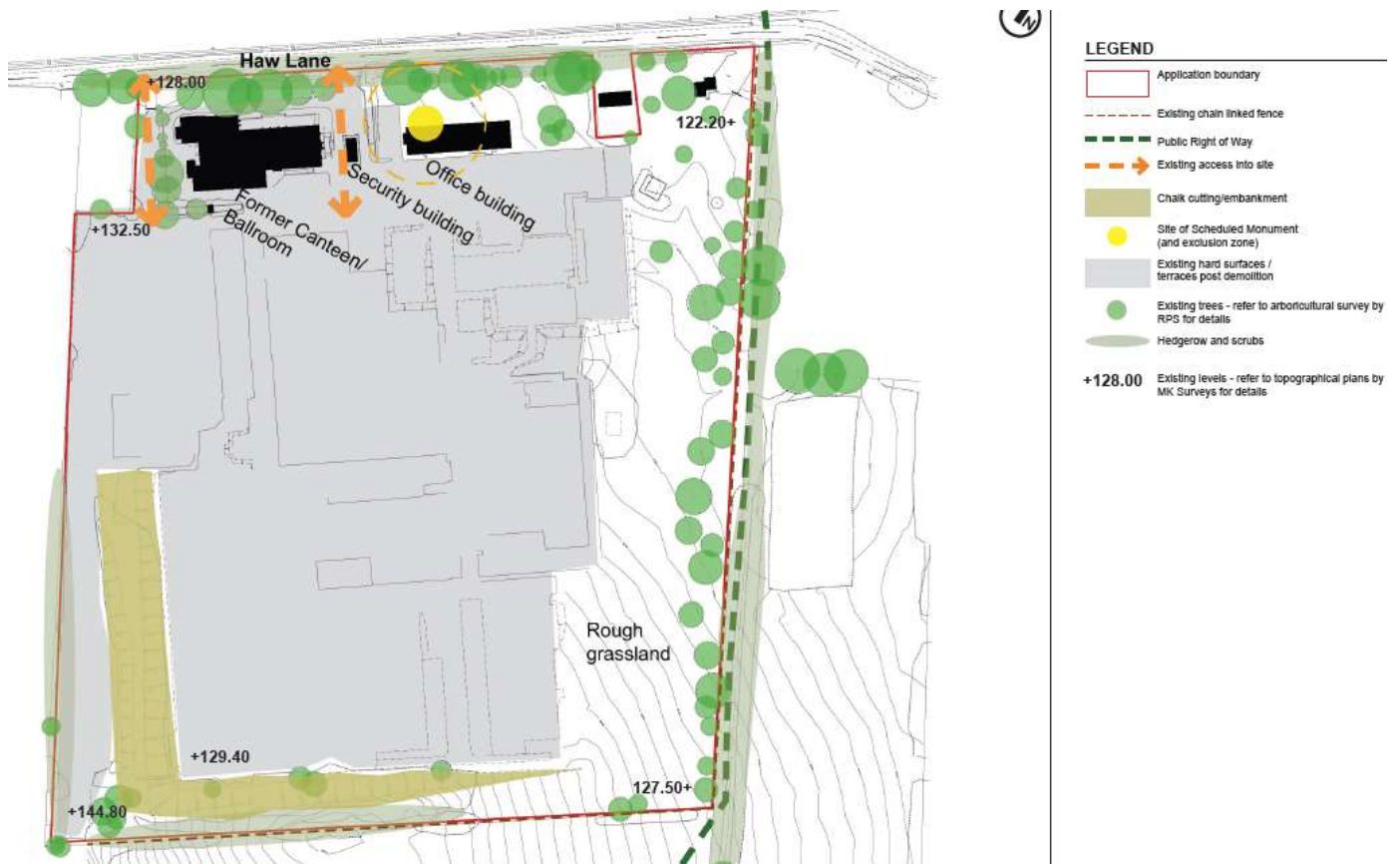
Kind regards

Aude Pantel
Planning Policy Officer

Wycombe District Council, Queen Victoria Road, High Wycombe HP11 1BB
01494421538 aude_pantel@wycombe.gov.uk

Get involved in the New Local Plan: www.wycombe.gov.uk/newlocalplan

Drawing showing current site (from the appellants Combined appendices Molins Appeal).



Extract from Evidence of Philippa Jarvis to the Molins inquiry

9.0 GREEN BELT HARM

Inappropriate development

9.1 This matter is dealt with in some detail in the committee report at paras. 5.34 – 5.67. The relevant DP policies, CS9, GB2 and GB9 seek to prevent inappropriate development and GB9 sets out the circumstances in which the major developed sites may be redeveloped, indicating that such proposals should have no greater impact on the openness and rural amenity than the existing development.

9.2 The NPPF contains similar policy and para. 89 sets out the test for inappropriate development in respect of previously developed sites – the construction of new buildings should not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

9.3 In terms of what comprises the ‘existing development’ as a matter of fact the site is substantially cleared with only two existing buildings fronting Haw Lane, the old ballroom and office building, with extensive hardstanding areas to the south.

9.4 This matter has been clarified by a recent High Court case, *Athlone House Limited v SSLCG and London Borough of Camden* [2015] EWHC 3524 (Admin). Paras. 41 and 42 of that case state:

41. Framework 89 expressly says that a replacement building should not be materially larger than the one it replaces and that the redevelopment of previously developed sites should not have a greater impact on the openness of the Green Belt than the existing development. I do not consider that the assessment of 'the one it replaces' or 'the existing development' can relate to something that does not currently exist. On a common sense approach, taking this policy objective on its face, it seems to me that the plain meaning of 'the one it replaces' and 'the existing development' must be the building as it exists on site now, at the time of the proposal.

42. In my judgment these words cannot be interpreted to mean the house as it may have existed before redevelopment of the MDS (the pre-2003 position), nor some discredited scheme of alteration and extension which is unlikely to be built (the 2005 permission), nor some future scheme of undefined extension. I take the firm view that the building to be replaced is the building as it stands now and that this is the proper baseline for comparison with the proposed replacement building in line with the terms of the exceptions in Framework 89."

9.5 Therefore, it is clear that the baseline ‘existing development’ against which the para. 89 test of impact on openness and purposes is to be considered are the existing buildings on the site now and not those that may have been built pursuant to the permission for the data centre.

9.6 The appellant’s original stance on this matter, as set out in the original planning statement para. 4.1, was that the proposal did not comprise inappropriate development. However, it is now agreed, following the appellants submission of the amended scheme and as agreed in the SoCG, that the proposed development does comprise inappropriate development. This is a major change of stance in the case of the appellant and ‘raises the bar’ considerably in terms of the planning balance. On

Planning and Sustainability - Penelope Tollitt, Head of Service

Wycombe District Council, Queen Victoria Road, High Wycombe, Bucks HP11 1BB

Tel: 01494 461000 DX 4411 High Wycombe -1 www.wycombe.gov.uk Twitter: @wycombedc

the basis of the appellant's original stance, there was not need to demonstrate very special circumstances. The consequences of the appellant now acknowledging the correct position completely changes the balance and the case they need to make. NPPF paras. 87 and 88 apply and set a much higher 'bar' where the starting point is that substantial weight is to be given to the harm by reason of inappropriateness. It must also follow from this that the appellant accepts that the proposed scheme(s) will have a greater impact on Green Belt openness and purposes than the existing development.

Extract from Closing Submission Richard Ground QC for Wycombe District Council

3 GREEN BELT EFFECT ON OPENNESS AND PURPOSES.

- 3.1 The Green Belts have been an essential element of planning policy for 6 decades and longer in London. The Government is entirely committed to protecting and strengthening Green Belt protection.
- 3.2 The NPPF says that "the Government attaches great importance to Green Belts". That is a significant statement and not made about many areas of policy underlining and underpinning how important Green Belt Policy is.
- 3.3 The Court of Appeal has recognised in *Suffolk Coastal v Hopkins homes*[2016] EWCA 168 that the purpose of footnote 9 which includes Green Belt and AONB policies is to underscore the continuing relevance and importance of these NPPF policies.
- 3.4 Here this development, be it the 192 or 212 scheme, is inappropriate development under the tests set out in paragraph 89. This is because by comparison with the existing two buildings on the site there would clearly be a much greater impact on openness of the Green Belt and the purposes of including land within it. This is now recognised by the appellant. They are legally correct to do so as the position that was adopted in their application to the LPA and the statement of case was untenable. The fact is that the Government has made it clear that it is not appropriate to develop on PDL where it has a greater impact on openness and purposes. Thus the fact that some of the site is PDL is clearly not sufficient for the developer to succeed.
- 3.5 The recognition that the proposal is inappropriate development means that there is a duty to show very special circumstances which is clearly a very stringent test and not something that the appellant discharged at all in any of the application documents. The stringency of

the test is set out in the NPPF and will be well known to the Inspector. The decision maker must give substantial weight to any harm to the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

- 3.6 Here there is not just definitional harm. The harm to the openness is substantial by comparison with the existing development. The new houses be it the 192 or 212 are vastly greater in volumetric terms than the 3 buildings that remain on site. They are also considerably more noticeable from views around both close and far as the evidence of Kennet explained.
- 3.7 In both spatial and visual terms there is a considerable harm to openness by comparison with the existing situation. This must be the primary comparator for several reasons.
- 3.8 It is the one that the government want looked at for the purposes of working out what is appropriate.
- 3.9 The data centre is either not material at all because it is only a theoretical possibility or if it is material should be given little weight because it is not likely to be built.
- 3.10 Even if the data centre is looked at Mr Kennett is correct that in the medium and longer views it would have a less visual effect on openness.
- 3.11 Mr Kennett explained this in examination in chief for vp 2, 4 and 5. It fits in better with the landscape with its green roof and is less harmful to the GB openness. In the closer views the position was similar.
- 3.12 It is also worthy of note that it would be used with little activity and light. The committee report for the data centre said
.. it would blend considerably well into the surroundings
...very little lighting which make the proposal a very advantageous use for
- 3.13 There is harm to the first and third purposes of including land in the Green Belt. This was set out and explained by Mrs Jarvis in her proof and examination in chief. PP accepted in cross examination that there was harm to the first and third purposes and that checking unrestricted sprawl did not apply just to one part of the green belt and not others.

3.14 There are also notable other harms dealt with below to the AONB, by putting development in an unsustainable site and the visual and design harm. There is harm from being contrary to the development plan. That is a very substantial level of harm that the other circumstances need clearly to outweigh if there are to be VSC.