

Appeal Decision

Accompanied site visit made on 18 October 2016

by Felix Bourne BA(Hons) LARTPI Solicitor

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

Decision date: 3 November 2016

Appeal ref: APP/C3620/C/16/3142322

Oak Tree Farm, Partridge Lane, Newdigate, RH5 5BW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Mole Valley District Council.
- The appeal is made by Mrs A Kearl.
- The notice was issued on 16 December 2015.
- The breach of planning control as alleged in the notice is, without planning permission, the change of use of part of the site to a use comprising car/vehicle valeting.
- The requirements of the notice are to cease the use of the site for car/vehicle valeting and remove all the associated vehicles, equipment, materials and other paraphernalia completely from the site and return the site to its former condition.
- The period for compliance with the requirements is twenty eight days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is dismissed and the Notice upheld.

The appeal on ground (a) and the deemed application

1. The appeal site lies within the Green Belt and therefore the first main issue is whether the development constitutes inappropriate development in the Green Belt. If so, I shall consider whether the harm caused by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances that would justify the development.
2. The Council indicate that policies of restraint are practised in accordance with central Government Guidance set out in the National Planning Policy Framework (NPPF). Paragraph 79 of the NPPF makes it clear that the Government attaches great importance to Green Belts. It goes on to say that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
3. At paragraph 87 the NPPF confirms that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 indicates that, when considering any application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt

and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other circumstances.

4. Looking at the development subject of appeal, the scheme does not fit any of the categories set out in paragraph 89 of the NPPF. Paragraph 90 of the NPPF indicates that certain forms of development are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. However, the change of use involved in this case does not fall within any of the categories set out in that paragraph. Accordingly, the development constitutes inappropriate development in the Green Belt.
5. Looking at the question of further harm, the appeal site clearly has an extensive history, with a previous Inspector, in his decision letter of January 2013 relating to the refusal ref: MO/12/0492, describing his general impression of the site and its immediate surroundings as being of a neglected and seemingly almost abandoned rural junkyard, partly surrounded by improvised fencing, which is extremely unsightly and which clearly detracts from the appearance of the countryside hereabouts. At the time of my site inspection the site remained untidy with, for example, various buildings and caravans remaining on site in poor condition. However, it appeared that a start had been made to implement the planning permission for a dwelling with office subject of planning permission MO/13/0126.
6. Whilst the Council raise concerns over access, the appellant indicates that a second access could be provided and in any event the Highway Authority have stated that their concerns could be overcome through the provision of adequate splays. However, this would inevitably have some impact upon the appearance of the land from which the site gains access. Additionally, whilst the valeting would be carried out towards the rear of the site, and would therefore be largely sheltered from public view, it would represent an additional use which, with the parking of vehicles awaiting valeting, or having been valeted, as well as those being valeted, would adversely affect the openness of the Green Belt. Moreover, whilst the NPPF seeks to support the rural economy, this is a relatively remote site some distance from even a small settlement. In such circumstances an enterprise which depends on vehicles being brought to the site does not seem to constitute sustainable development in the comprehensive way meant by the NPPF, notwithstanding that use may be made of a pre-existing area of hardstanding. The further harm arising on these bases must therefore be added to the harm caused by reason of inappropriateness.
7. It is next necessary to consider whether there are other circumstances which amount to 'very special circumstances' which clearly outweigh the harm caused to the Green Belt by reason of inappropriateness, and the further harm to which I have referred.
8. I have already noted that use would be made of a pre-existing area of hardstanding. Additionally, it is fair to say that, situated in proximity to other development on the site, the further impact of the use in visual terms would be limited. It also appears likely that the existing highway objection could be resolved, though possibly at some cost to visual amenity. However, none of

these considerations, individually or collectively, amount to very special circumstances which clearly outweigh the harm caused to the Green Belt by reason of inappropriateness and the further harm which I have previously identified. In the circumstances planning permission must be refused, including in relation to the deemed application, and I therefore turn to consider the appeal on ground (g).

The appeal on ground (g)

9. The period for compliance stated in the Notice is 28 days. This would in itself be more than sufficient to undertake the works required: however, the grounds of appeal indicate that the appellant has a 6 month rolling contract with an operator, and therefore argues that the stated period for compliance is inadequate.
10. The appeal was lodged in January and, whilst an appellant who lodges an appeal on ground (a) and pays the required fee, is entitled to hope that a planning permission may be forthcoming, there is always the possibility that it will be refused. Bearing that possibility in mind it is likely that the appellant, acting prudently, has informed her contracted operator of her position. Accordingly, whilst the Council will no doubt bear in mind their own powers to extend the period for compliance, should circumstances warrant it, the period for compliance appears reasonable and the appeal on ground (g) will also be dismissed.

Formal decision

11. The appeal on ground (a) and that on ground (g) are each dismissed and planning permission is refused, including in relation to the application deemed to have been made under section 177(5) of the Act as amended. The enforcement notice is upheld.

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INSPECTOR