

Appeal Decision

Site visit made on 29 November 2016

by Chris Preston BA(Hons) BPI MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/P0240/C/16/3156364

Land known as the A6 Cafe at Four Winds Garage, West End, Haynes, Bedford MK45 3QT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr P Pojawa against an enforcement notice issued by Central Bedfordshire Council.
 - The enforcement notice, numbered CB/ENC/16/0239, was issued on 05 August 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a timber structure on the land located around the A6 Café units shown hatched in black on the plan.
 - The requirements of the notice are: (i) Demolish and remove the timber structure.
 - The period for compliance with the requirements is one month from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the erection of a timber structure on land at the A6 Cafe at Four Winds Garage, West End, Haynes, Bedford MK45 3QT, as shown on the plan attached to the notice, subject to the following condition:
 - 1) No external lighting shall be installed on any part of the timber structure.

The Appeal on Ground (a)

2. At paragraph 5.2 of its statement the Council has set out what it believes to be the main issues in the determination of the appeal. Those issues are expressed as whether the proposal represents *inappropriate development* (my emphasis) within the open countryside and, if so, whether any harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances needed to justify the retention of the development.
 3. It appears to me that those issues have been framed in a way which derives from planning policy relating to Green Belts. In particular, paragraph 89 of the National Planning Policy Framework (the Framework) states that local planning authorities should consider new buildings within the Green Belt as inappropriate unless they fall into one of a limited number of exceptions.
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Paragraph 87 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4. However, the Council confirmed that the site is not within the Green Belt within its questionnaire. In terms of local planning policy, the site is situated outside of any defined settlement boundary, within the countryside, but not within Green Belt. I have not been referred to any local planning policy that seeks to define certain types of buildings as 'inappropriate development' within the countryside and no such restriction exists within the Framework outside of the statutory Green Belt. Equally, no local policy has been referred to that would require 'very special circumstances' to justify the erection or retention of buildings within the countryside. Rather, section 3 of the Framework seeks to support a prosperous rural economy and support sustainable growth in rural areas. That is a policy that must be considered against the need for good design, as required by section 7 of the Framework and policy DM3 of the Central Bedfordshire Core Strategy and Development Management Plan (2009), and the need to take account of the intrinsic character and beauty of the countryside, as required by paragraph 17 of the Framework.
5. In that context, having regard to the information before me, I consider that the main issue in the determination of the ground (a) appeal is the effect of the development on the character and appearance of the area.
6. As noted above, the site is located outside of any defined settlement boundary within an area designated as countryside in local planning policy terms. That said, the location is not free from development and the café, which sits close to the side of the A6, is on land that has a commercial and industrial character. A number of substantial pre-fabricated warehouses are situated to the rear of the café and the Four Winds Garage, with the associated petrol pumps, covered by a permanent canopy, is immediately to the south. Large areas of hardstanding connect the various uses and buildings within the immediate locality. Thus, the site forms part of a developed commercial area within an otherwise predominantly rural landscape.
7. The café itself is made up of a number of pre-fabricated portakabin style units, connected together to form an elongated structure. It has a utilitarian appearance and, if the timber structure that is the subject of the notice was removed, the café would not present a particularly attractive frontage to Bedford Road. The timber framework effectively straddles the top of the southern end of the café, with supporting pillars on each side and the decking area on top of the unit, surrounded by timber fencing. Steps leading up to the decking are located within the site, away from the Bedford Road frontage.
8. Whilst not of great beauty, the timber structure does not cause any significant harm to the character and appearance of the area, given the industrial nature of the site, as described above. Its size and design have been dictated by the size and form of the café and I find that the stained finish of the timber provides a soft and not unattractive finish, when set against the grey exterior of the café, the industrial nature of buildings to the rear, and the industrial style security fencing that surrounds the site. The structure is not unduly large and its impact is localised to the immediate confines of the site. The prevailing rural character of the area outwith the industrial and commercial complex is unaffected.

9. When viewed in context I am satisfied that the structure has not caused any harm to the character and appearance of the area and that its design is acceptable. For those reasons, the development complies with policy DM3 of the Central Bedfordshire Core Strategy and Development Management Policies (2009) which, amongst other things, requires development to be appropriate in scale and design to its setting and to respect local distinctiveness through design and the use of materials. It would also conform to the thrust of section 7 of the National Planning Policy Framework with regard to design and particularly, the fourth bullet of paragraph 58 which states that development should respond to local character and history and reflect the identity of local surroundings.
10. I have had regard to the conditions suggested by the Council. For the reasons given above, I find that the brown coloured finish of the timber to be acceptable and am not satisfied that a condition is necessary to ensure that the structure is stained green. Similarly, any tables, chairs and parasols would be largely hidden behind the perimeter fencing and, in any event, would not appear out of character with an outdoor seating area. I find a condition to restrict such items being kept outdoors to be unnecessary.
11. I am satisfied that a condition to prevent outdoor lighting is necessary, given the proximity to the A6 and potential for any lighting to distract oncoming vehicles. The display of advertisements is controlled through the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended). No evidence is before me that would lead me to conclude that the control offered by those regulations would be inadequate in controlling the display of advertisements at the site from the perspective of amenity or public safety. Accordingly, I find that the suggested condition seeking to prevent advertisements being displayed is unnecessary.
12. The use of the decking is likely to be dictated by the opening times of the café, the weather and daylight hours and I see no particular reason why a condition is necessary to restrict the use to daylight hours. There is no reason to suppose outside dining is a noisy activity or that it would cause harm to neighbouring amenity. Similarly, there is no evidence that outdoor cooking is likely or that the platform would be used for outdoor entertainment. Even if such activities did take place the decking is some distance from the closest dwelling and the small size would limit the level of activity. Consequently, I find that conditions seeking to prevent such activities are unnecessary.
13. Therefore, subject to a condition to restrict outdoor lighting, I consider that the appeal on ground (a) should be allowed and I shall grant planning permission for the structure and quash the enforcement notice.

Chris Preston

INSPECTOR