

Appeal Decision

Site visit made on 3 May 2017

by CD Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 22 May 2017

Appeal Ref: APP/T0355/W/17/3168222

Barn Office, Sheephouse Farm, Sheephouse Road, Maidenhead SL6 8HJ

- 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 Peter Prior against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/02663, dated 24 June 2016, was refused by notice dated 11 October 2016.
 - The development proposed is installation of air conditioning unit for adjacent office conversion.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and any other relevant development plan policies.
 - the effect on the openness of the Green Belt.
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

3. Sheephouse Farm is situated in the Green Belt on the outskirts of Maidenhead. The appeal concerns the erection of two air conditioning units associated with the conversion of a former barn into offices. The units, which were already installed at the time of my visit, are located outside of this building and are physically separated from it.
 4. The Framework makes it clear that the Government attaches great importance to the protection of Green Belts and substantial weight must be given to any development which harms them. Consequently, paragraph 89 advises that the
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construction of new buildings in the Green Belt should be regarded as inappropriate, with a limited number of exceptions.

5. Policy GB1 of the Royal Borough of Windsor and Maidenhead Local Plan 2003 (the Local Plan) is now somewhat dated. However, it takes a broadly similar approach to the Framework insofar as new buildings are not permitted within the Green Belt unless they fall within certain categories of development or very special circumstances have been demonstrated. I therefore give the policy a moderate degree of weight.
6. It is argued by the appellant that the air conditioning units are not 'buildings' and therefore neither paragraph 89 of the Framework nor Policy GB1 are directly applicable in this case. The planning definition of building is set out in Section 336 of the Act¹ which states that; "*building*" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building. The Council has drawn my attention to case law² which indicates that relevant matters in determining whether something is a building or not include its size, degree of permanence and physical attachment to the land.
7. There is no dispute between the parties that each of the air conditioning units is approximately 2048mm in height, 1350mm in width and 720mm in depth. Hence, although the appellant suggests that the units should be treated as being *de-minimus* by virtue of their small size, they nonetheless have a physical presence within the site. Furthermore, I understand that they are physically connected to the neighbouring offices by air ducts and are used to service that building on a continuous basis. As such, they are likely to remain permanent fixtures on the site even though it would be possible to unbolt them from the concrete plinth on which they are mounted. Given the above, it seems to me that the air conditioning units are physical 'structures' in the context of the Act. Hence, they should be treated as buildings for the purposes of the Framework and the Local Plan.
8. Although the Act advises that a building 'does not include plant or machinery comprised in a building' the units are physically separated from the offices which they serve. They are free standing structures which house machinery and therefore constitute buildings in their own right.
9. The air conditioning units do not correspond with any of the exceptions to inappropriate development listed in paragraph 89 of the Framework. While both paragraph 90 of the Framework and Policy GB1 of the Local Plan permit engineering operations which maintain openness and do not conflict with the purposes of including land within the Green Belt, I have determined above that the air conditioning units are structures which constitute buildings. As such, they are not engineering operations as the appellant contends.
10. This leads me to conclude that the proposal is inappropriate development which, by definition, is harmful to the Green Belt. The Framework advises that substantial weight must be given to this harm.

¹ Town and Country Planning Act 1990.

² *Skerrits of Nottingham Limited v Secretary of State for Environment Transport and Regions* [2000] 2 PLR 102

Effect on openness

11. The Council has drawn my attention to an Appeal Decision³ relating to a proposed development at Wyevale Garden Centre. Whilst the circumstances of that particular case are not directly comparable to the case before me in the current appeal, I nonetheless agree with the Inspector's comment that openness has a spatial as well as a visual impact.
12. In this particular case, the air conditioning units introduce solid, man-made features into a space that was previously vacant. As such, there is inevitably some loss of openness. However, due to the small size of the units, there is only a very minimal level of harm in this respect.

Whether very special circumstances exist

13. The Framework indicates that development that is harmful to the Green Belt should not be approved except in very special circumstances. For such circumstances to exist, the harm to the Green Belt and any other harm must be outweighed by other considerations.
14. I have found that the proposal would be inappropriate development and the Framework establishes that 'substantial weight' should be given to this harm. There would also be a very minimal loss of openness. Both parties agree that the air conditioning units would have an acceptable effect on the character and appearance of the area and I concur. However, the lack of harm in this respect does not outweigh the other harm that I have identified above.
15. I have been provided little information to indicate that there are other considerations which should be taken into account in support of the proposal. Therefore, based on the evidence before me in this appeal, the substantial weight given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.

Conclusion

16. The proposal would conflict with Policy GB1 of the Local Plan and the provisions of the Framework which seek to protect the Green Belt. I therefore conclude that the appeal should be dismissed.

CD Cresswell

INSPECTOR

³ Appeal Decision: APP/T0355/W/16/3160308