
Appeal Decision

Site visit made on 3 April 2018

by Nigel Burrows BA MRTPI

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

Decision date: 14 May 2018

Appeal Ref: APP/M1595/C/17/3181532

Land known as Ongar Hall Farm, Brentwood Road, Orsett, Essex, RM16 3HU

- 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 S Klein against an enforcement notice issued by Thurrock Borough Council.
- The enforcement notice ref: Enf 16/01416/FUL was issued on 4 July 2017.
- The breach of planning control as alleged in the notice is the unauthorised material change of use of the Land from agriculture to vehicle parking and hardstanding, on that part of the Land shown edged red and hatched on the attached plan, including:
 - i) Hardstanding
 - ii) bund
 - iii) stationing of storage containers
- The requirements of the notice are:-
 - (i) Cease using the Land for parking of vehicles.
 - (ii) Remove all hard standing from the Land.
 - (iii) Remove bund from the Land.
 - (iv) Remove all stored containers from the Land.
 - (v) Reinstate the Land so it is suitable for agricultural purposes.
 - (vi) Remove from the Land the materials and equipment arising from requirements (i) – (v).
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld

Procedural Matters

1. The Council's representative was not present at the site visit. I therefore carried out an unaccompanied visit with the agreement of the appellant's representative. The Council subsequently confirmed that it has no objection to the appeal proceeding on this basis.
2. Following the site visit, the Planning Inspectorate wrote to the main parties, who were asked to confirm whether the row of vehicles, containers and other items I observed on the eastern margin of the land at Ongar Hall Farm were within or outside the area hatched in red upon the plan attached to the notice. It is evidently common ground between the parties that the hatching upon the plan correctly identifies the area where the breach of planning control has occurred. I have dealt with the appeal on this basis.

Background

3. The appeal site is located on the east side of Brentwood Road (A128) within the rural area to the northeast of Orsett in Thurrock. The site conveys the character and appearance of a

former farm complex now re-used for non-agricultural purposes. The submissions for the appellant describe the site as 'a conglomeration of different enterprises in Use Classes B1, B2 and B8.' The submissions have pointed out that there are a variety of buildings upon the site and it is entirely hard-surfaced in order to provide parking and storage areas associated with the businesses, plus vehicle circulation. The site lies within the Green Belt.

4. The enforcement notice was issued following the refusal of a retrospective application for 'Retention of extension to parking facilities with associated landscaping' (ref: 16/01416/FUL). The Council appears to rely on the Planning Officer's report concerning this application in support of the appeal against the enforcement notice. However, the report does not address the expediency of enforcement action and the reasons for refusing the application do not coincide exactly with the reasons for issuing the enforcement notice.
5. Moreover, the deemed application arising from the ground (a) appeal concerns the matters alleged in the notice, not the refusal of the retrospective application. Having said that, there does not appear to be any dispute about the main controversial issues in this appeal.

The ground (a) appeal

6. Taking into account all that I have seen and read, I consider there are three main issues in this case. The first is whether the use of the land attacked by the enforcement notice constitutes inappropriate development in the Green Belt. The second is its effect on the openness of the Green Belt. The third is whether any harm to the Green Belt by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Planning Policy

7. The development plan for the area includes the Thurrock Local Development Framework adopted in 2011, which includes the Core Strategy and Policies for Management of Development, and also the Focused Review of the Core Strategy which was adopted in 2015. The most relevant policy appears to be PMD6, which seeks to maintain, protect and enhance the open character of the Green Belt in accordance with the provisions of the National Planning Policy Framework (the NPPF, published in March 2012).
8. The main parties have referred extensively to the NPPF in support of their respective cases. Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development. Paragraph 28 seeks to promote a strong rural economy, including the development and diversification of agricultural and other land-based rural businesses.
9. Paragraph 79 of the NPPF indicates the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 89 indicates that planning authorities should regard the construction of new buildings as inappropriate in the Green Belt; exceptions to this include buildings for agriculture and forestry. Paragraph 90 identifies certain forms of development that are not inappropriate in the Green Belt, provided they preserve openness and do not conflict with the purposes of including land in the Green Belt.

Issue 1: The Green Belt

10. The submissions for the appellant acknowledge that the development attacked by the notice constitutes inappropriate development within the Green Belt. I see no reason to conclude otherwise. It does not fall within any category of development which might be considered appropriate in the Green Belt for the purposes of paragraph 89 of the NPPF. In overall terms, it does not appear to fall within a category of development that could be considered as 'not inappropriate' in the Green Belt for the purposes of paragraph 90.
11. The introduction of the unauthorised parking area and hardstanding onto agricultural land also conflicts with one of the purposes of the Green Belt, which is to assist in

safeguarding the countryside from encroachment. Overall, I conclude the breach of control alleged in the notice constitutes inappropriate development in the Green Belt

12. Paragraph 87 of the NPPF indicates that inappropriate development is by definition harmful to the Green Belt. The development also conflicts with the provisions of policy PMD6.

Issue 2: Openness

13. The encroachment of the unauthorised parking area and hardstanding onto agricultural land has contributed to a further erosion of the openness of the Green Belt, irrespective of whether or not the parking of HGV's and trailers on the land will be transient as suggested by the appellant. The bund has evidently been constructed from the material dug out to provide the extended parking facilities. I saw that it also contributes to a loss of openness.
14. The development conflicts with the fundamental aim of Green Belt policy which is to maintain openness in perpetuity. The appellant says there would be no public views of the development. However, the aim of Green Belt policy is to maintain openness, whether publicly visible or not.
15. In this respect, I conclude the development conflicts with the objectives of the NPPF. It also conflicts with policy PMD6, insofar as it seeks to protect the openness of the Green Belt.

Issue 3: Other Considerations.

16. The appellant's stance is there are other considerations that outweigh any harm to the Green Belt arising from the development. In summary, these concern the contribution of the development to sustainable economic growth, its contribution to HGV parking in Thurrock, and the provision of a landscaped buffer between the site and the countryside beyond.
17. In the context of sustainable economic growth, the appellant argues the increased parking area is essential for the safe and sustainable operation of a thriving group of local businesses. According to his Transport Consultants, the current levels of parking at Ongar Hall Farm are unacceptable based upon trip generation and parking needs. The area which may be lawfully used for parking is considered inadequate. However, such considerations are not unusual or peculiar to the appeal site; these are not weighty factors in circumstances where the development in question harms the Green Belt. Moreover, as the economic benefits of the development have not been quantified, they cannot be given significant weight in this appeal.
18. The appellant indicates there is a shortage of HGV parking in the Borough, as confirmed in the Thurrock Lorry Parking Study (2012). It is suggested the development would help to address this shortfall. However, according to the Council, the Study 'relates to overnight parking in the Borough, the type of lorry parking comprising lorry park type uses and ad hoc parking' and, in any event, it identified strategic locations in the Borough on a planned basis.
19. On the evidence before me, it appears the unauthorised parking area and hardstanding is intended to serve the businesses on the appeal site. It is by no means clear these facilities would make any 'tangible contribution' to HGV parking in the Borough as claimed by the appellant. The appellant infers that if the appeal is unsuccessful, drivers and businesses might have to search for alternative parking locations, thereby exacerbating the shortage of HGV parking in the Borough. However, there is no firm evidence to demonstrate this would be the case. I also note the Study advocates a 'very robust scheme' of enforcement in relation to on-street lorry parking in the Borough. As matters stand, there is no compelling evidence to show this development would help to address the shortfall in lorry parking infrastructure cited in the Study. Therefore, little weight can be given to this consideration.
20. The submissions for the appellant appear to suggest the benefits of finishing the bund and providing further landscaping is also one of the considerations which outweigh any harm to the Green Belt. It suggested these matters could be addressed by planning conditions. However, in effect, this is a routine development management consideration. It is not unusual or unique to this particular development. In any event, I consider the harm to the Green Belt arising from this development could not be overcome by landscaping conditions.

21. The appellant has also drawn my attention to a recent appeal decision concerning an extension to a motorway service area on the M25 at Cobham, which included additional HGV parking spaces.¹ The Inspector indicated the parking would be wholly contained within the boundary of the motorway service area. She concluded that it was not inappropriate in Green Belt policy terms, it did not harm openness and, in the wider public interest, there were sound reasons for the provision of additional parking on that section of the M25. As a matter of fact and degree, it is evident that the planning considerations in that particular case are readily distinguishable from the current appeal.

Overall Conclusions

22. In summary, I find that none of the considerations put forward by the appellant, individually or collectively, clearly outweigh the harm caused by the inappropriateness of the development in the Green Belt and the loss of openness. I conclude there are no very special circumstances that would justify permitting the development. Furthermore, it is not obvious to me that the objections to the development could be overcome by any reasonable or appropriate planning conditions. I conclude the ground (a) appeal should not succeed.
23. I have taken into account all the other matters raised in the written representations, but I find they do not alter or outweigh the main considerations that have led to my decision.

Formal Decision

24. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Nigel Burrows

INSPECTOR

¹ Appeal decision APP/K3605/W/17/3187505 dated 14 February 2018