



Appeal Decisions

Site visit made on 24 September 2019

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2019

Appeal A: APP/P1940/C/18/3210469

Appeal B: APP/P1940/C/18/3213119

Appeal C: APP/P1940/C/18/3213120

Land at Mill Place (land on the east side of Watford Road), Watford Road, Hunton Bridge, Abbots Langley WD4 8QS

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Fred Webb, Watford Scaffolding Ltd and Cissy Castle against an enforcement notice issued by Three Rivers District Council.
- The enforcement notice was issued on 16 August 2018.
- The breach of planning control as alleged in the notice is the material change of use of the Land to its use as a scaffolding contractor's yard.
- The requirements of the notice are:
 - 1) Cease the use of the Land as a scaffolding contractor's yard.
 - 2) Permanently remove from the Land all scaffolding poles, boards and fixings, all open storage racks, structures and sheds used for their storage, all shipping containers, porta-cabins, porta-loos, touring caravan, plant/machinery and all vehicles brought onto the Land in connection with its unauthorised uses as a scaffolding contractor's yard.
 - 3) Permanently remove all other structures, materials and objects brought onto the Land in connection with the unauthorised use.
 - 4) Following compliance with steps 1-3 return the Land to its condition prior to the commencement of the unauthorised use.
- The period for compliance with the requirements is 4 months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Appeals B and C are proceeding on the ground set out in section 174(2) (g). However, with respect to Appeals B and C, since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld.

Appeal A on Ground (a)

1. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. Whether or not the development is inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework);
 - ii. The effect of the development on the openness of the Green Belt and on the character and appearance of the area;

- iii. The effect on the living conditions of the occupants of nearby residential properties with particular reference to noise and disturbance; and
- iv. If the proposal is inappropriate development 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.

Site and Surroundings

- 2. The appeal site is a relatively narrow linear area of land situated between Watford Road and the Grand Union Canal. Access to the site is by two gates in the western boundary directly off Watford Road. It is part of a mainly green open corridor of land which extends to the nearby Warner Bros. Studio to the east. The corridor includes Leavesden Country Park and is characterised by open fields, parkland and waterways which form an important open green gap between Abbots Langley and Watford. Although around Old Mill Road and the Grand Union Canal there are various commercial developments, they do not reflect the predominant character of the land around Watford Road which is dominated by fields, woodland and parkland. To the immediate north of the appeal site are residential properties known as Canal Cottage and Lock Cottage which, as their names suggest, are closely associated with the adjacent canal.

Inappropriate development in the Green Belt

- 3. The Framework advises that that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy CP11 of Core Strategy (Adopted 17 October 2011) (the CS) states that there is a general presumption against inappropriate development that would not preserve the openness of the Green Belt or would conflict with the purpose of including land within it. Policy DM2 of the Three Rivers District Council's Development Management Policies Local Development Document (Adopted July 2013) (DMP) states that within the Green Belt, approval will not be granted for new buildings other than those specified in national policy or other relevant guidance.
- 4. When considering planning applications substantial weight should be given to any harm to the Green Belt by reason of its inappropriateness. In this particular case the appellant does not dispute that the development is inappropriate in the Green Belt. Such inappropriate development should not be approved except in very special circumstances. 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 considerations.

Openness of the Green Belt and Character and Appearance of the Area

- 5. The appellant does not dispute that the development includes structures and equipment that reduce the openness of the Green Belt. In addition it is clear to me that the development conflicts with the purpose of the Green Belt designation which is to protect the countryside from encroachment. Furthermore, it is also evident that the development is harmful in terms of its conflict with the Green Belt objective of assisting urban regeneration by

encouraging the recycling and re-use of derelict and other urban land. These matters carry significant weight in this case.

6. The commercial character associated with the business activities taking place on the site are at odds with the characteristic landscape of the surrounding area with open fields, parkland, hedgerows and waterways. The development is commercial in nature and, although there is some landscaping and boundary treatment around the site, from its surroundings the development has a commercial appearance which jars with its rural surroundings. The large expanse of hardstanding, stored materials, structures, unsightly boundaries, vehicles and levels of activity taking place are at odds with the rural setting and are an unacceptable visual intrusion within the Green Belt. As such the proposals conflict with the Framework which, among other objectives seeks to ensure that developments enhance the natural environment.

Living Conditions

7. There are several residential properties in close proximity to the appeal site, including Canal Cottages and Lock Cottage which are particularly close to its northern boundary. The activities taking place on the appeal site at the time of my site visit were relatively quiet. However, given the overall scale of the business and the nature of its operations I can see that there is certainly significant potential for noise to be generated by a range of means. These include noises of scaffolding poles knocking together, drilling, wooden planks knocking together or being stacked, vehicle movements and general noise and disturbance arising from the movement of materials. The noise may take the form of sudden loud bangs and clangs which may be particularly intrusive to nearby neighbouring occupants.
8. I have noted that the residential properties in question are close to a busy main road and passing traffic, including heavy goods vehicles, causes significant levels of background noise. However, the evidence from local residents demonstrates that the noise associated with Watford Scaffolding Ltd's operations causes significant levels of noise and disturbance which has a harmful effect on their living conditions and their ability to enjoy their homes.
9. The appellant states that a Noise Abatement Notice was served on the business and the issues has been resolved. However, the evidence before me indicates strongly that as a consequence of operating hours, levels of commercial activity and the nature of the noise generated, local residents remain subject to unacceptable levels of noise and disturbance.
10. I am aware that most of the northern part of the site has been used as a landscape contractor's yard, but my understanding is that it was a relatively low level activity compared to the scaffolding yard. As such, on this issue I conclude that the development has a harmful effect on the living conditions of the occupants of nearby residential properties with particular reference to noise and disturbance. As such it conflicts with Policies CP1 and CP12 of the CS and Policy DM9 of the DMP which together seek to ensure that development contributes to the sustainability of the District and protect residential amenities.

Other Considerations

11. The harm to the Green Belt can only be approved if very special circumstances exist. This will only be the case where the harm to the Green Belt by reason of inappropriateness and also in this case the harm to openness and character is clearly outweighed by other considerations.
12. One of the appellant's main arguments with respect to the site is that before it was used as a scaffolding yard it was used by an Environment Agency contractor as a compound when maintaining the adjacent locks on the Grand Union Canal. In addition part of the site was used as a landscape contractor's yard and other parts of the site had various other uses, including for the sale of fireworks and Christmas trees. However, my understanding from the evidence presented is that the site remained largely open in character and any buildings had a minimal effect on the openness of the Green Belt, both spatially and visually. As such it seems to me that before the current use the site made a contribution to the openness of the Green Belt.
13. The business employs approximately 50 people and closure would have significant consequences for local employment. I can see that this is an important consideration, but there is insufficient evidence before me to show that the business could not be relocated to an alternative accessible and suitable site without causing the closure of the business and the consequences outlined. As such I give this only limited weight in the overall planning balance.
14. I also understand that the business has a wide client base of developers and builders and the closure of the business may have knock-on effects to the local building industry. However, as stated above, there is insufficient evidence that the business could not be conveniently relocated to an alternative site which would allow it to continue to serve the local building and development industry. As such this consideration has limited weight.
15. The appellant also states that as a result of being forced from their previous site at short notice they needed to move to the appeal site in order to continue operating the scaffolding business. That may be the case, and I have some sympathy with the predicament, but that does not mean I should ignore the Green Belt designation of the site and the harm I have identified above. I give this little weight on the balance of this appeal.
16. The appellant also states that any traffic safety issues could be resolved by conditions being satisfied. However, I am not aware of this issue being of conflict between the main parties.

Planning balance and conclusion – ground (a) appeal

17. In respect of the enforcement notices, the breaches of planning control constitute inappropriate development in the Green Belt. Harm has been caused to the openness of the Green Belt and I have identified some conflict with the purposes of the Green Belt. The harm attracts substantial weight. I have also found there to be harm to the character and appearance of the area and harm to the living conditions of the occupants of nearby residential properties as a consequence of the unauthorised development which has taken place. The weight given to the Green Belt harm, arising from the breaches of

planning control is not clearly outweighed by the identified other considerations sufficient to demonstrate very special circumstances. Therefore, and on balance, the developments do not accord with the Green Belt aims of the Framework, the CS and the DMP. The ground (a) appeals fail.

The Appeals on Ground (g)

18. The ground of appeal is that the time given to comply with the requirements is too short. The appellants argue that it would take a year to investigate available alternative industrial sites, negotiate terms and move the equipment, operation and also inform all contractors, customers and suppliers of any new location. I understand the challenges that the appellants will face with respect to finding accessible and suitable alternative premises to continue their businesses, but against that I must reconcile the harm that continues as a consequence of the unauthorised development. I consider the harm to the Green Belt to be significant in this case and attach great weight to that matter in determining these appeals.
19. Overall, I consider four months to be a suitable timescale in this particular case. As such the appeal on ground (g) fails.

Conclusion

20. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the notice and refuse to grant planning permission on the deemed application with respect to Appeal A.

Formal Decisions

21. The appeals are dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR