
Appeal Decision

Site visit made on 8 October 2019

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 07 November 2019

Appeal Ref: APP/J1915/C/18/3208957

Edwards Green Farm, Brickendon Lane, Brickendon SG13 8NT.

- 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 Ray Peters against an enforcement notice issued by East Hertfordshire District Council.
 - The enforcement notice, ref. E/16/0277/ENF, was issued on 2 August 2018.
 - The breach of planning control alleged in the notice is the extension of the ground floor office building.
 - The requirements of the notice are to remove the unauthorised single-storey front extension.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (e) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, and 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 fall to be considered.
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Decision

1. The appeal is 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.

Application for costs

2. An application for costs has been made by the appellant against the Council. This application is the subject of a separate Decision.

The enforcement notice

3. The appellant argues under ground (e) that the plan attached to the notice does not properly identify the land to which the enforcement notice relates in that it outlines the entire building in red, whereas it should only outline the extension.
4. This is not an argument that is germane to a ground (e) appeal, which is concerned with whether a notice has been served in accordance with the requirements of s.172 of the Act. I deal with this below under ground (e). However, it may be considered as an argument as to the validity or otherwise of the notice.
5. Regulation 4 of part 2 of The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002 specifies additional matters to be specified in enforcement notices. These include at 4(c) the precise boundaries

of the land to which the notice relates, whether by reference to a plan or otherwise. Furthermore, it is long standing law that an enforcement notice should tell the appellant fairly what he has done wrong and what must be done to remedy it.

6. In this case the plan attached to the notice clearly identifies the building that has been extended, and to which the notice relates. The alleged breach clearly identifies that enforcement action is being taken against the ground floor extension to that building, and the requirement specifies the removal of the extension.
7. Reading the enforcement notice as a whole, taking account of the allegation, the requirement and the plan there does not appear to be any element of confusion about the location of the extended building or the part which is to be removed. I consider the appellant can fairly know from this what he is alleged to have done wrong and what the remedy is.
8. I do not consider the enforcement notice to be invalid in the terms claimed by the appellant.

Background matters

9. Edwards Green Farm is an extensive range of farm and other buildings on the north-eastern side of Brickendon Lane, roughly 1.5 kilometres to the north of Brickendon. The site lies within the Green Belt.
10. The building subject of the enforcement notice is a two-storey brick structure within a range of other buildings, including a single storey building immediately to its north-west recently converted to a dwelling, and a single storey stables building to the south-east. Other buildings on the site include the Farmhouse, a detached farm office building, and another dwelling, as well as numerous utilitarian agricultural sheds. The ground floor extension to the appeal building is a lean-to structure of brick with a tiled roof, built onto the front gable end.
11. In 2009 planning permission was granted for retention of the existing building, use as a farm office and store, and reduction in height by 1.5 metres. The reduction in height was never carried out. An application for a Lawful Development Certificate was approved in 2016¹. This confirmed that on the day of the application – 20 June 2017 - the 1.5 metre extension to the height of the existing two-storey office building was immune from enforcement action.
12. A retrospective application for planning permission for a single storey extension to the ground floor office was refused in March 2017². A further planning application in 2017 was refused on essentially the same grounds as the previous application³.
13. I saw that on the ground floor of the building the front extension was being used for office purposes. The remainder of the ground floor was set out with a well-equipped kitchen, a dining area, and a sitting area with a large television. A staircase leads to the upper floor where there are two main rooms and a bathroom off the landing. The rear room has fitted wardrobes and a dressing table, the front room is similar but also has a double bed.

¹ Decision notice ref. 3/17/1446/CLE, dated 14 August 2017.

² Decision notice ref. 3/17/0246/FUL, dated 30 March 2017.

³ Decision notice ref. 3/17/2003/FUL, dated 27 October 2017.

The appeal on ground (e)

14. This ground is that that copies of the enforcement notice were not served as required by s.172 of the Act.
15. S.172 essentially sets out the circumstances in which a local planning authority may issue a notice; those on whom a notice must be served, and the dates within which service must take place. Under s.172(2) the notice should be served on the owner and on the occupier of the land to which it relates; and on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
16. Soon after the notice was issued it was claimed that of all those with an interest in the land – six in number - only four notices had been delivered. One of these was attached to the appeal building, and three handed to the office on the site. The Council say that following a Land Registry search the notice was served on the registered owner of the land, as well as on the owner/occupier of the building.
17. It appears to me that the Council served the notice on the owner and on the occupier, and that they considered these to be those persons with a material interest. Furthermore, the owner has been able to submit this appeal and was clearly well aware of the notice.
18. I do not consider the Council failed to serve the notice in accordance with s.172 of the Act. Furthermore, no party has suffered significant prejudice in this regard. The appeal on ground (e) therefore fails.

The appeal on ground (a) and the deemed planning application

19. This ground is that planning permission should be granted for the matters stated in the notice.
20. From my inspection of the appeal site and surroundings, and all that I have read I consider the main issues to be:
 - Whether the development is appropriate within the Green Belt, and its effect on Green Belt interests in the light of prevailing national and local policy.
 - The effect of the development on the character and appearance of the area in the vicinity of the appeal building.
 - Whether any harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations amounting to the very special circumstances necessary to justify the development.
21. Paragraph 145 of the NPPF sets out the circumstances where the construction of new buildings may not be inappropriate within the Green Belt. These include at 145(a) the construction of buildings for agriculture or forestry, and at 145(c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
22. There is nothing before me to show that the building is for agricultural use, and indeed the appellant says it provides an administrative office for a business run by Mr Peters' grandson. I understand that an earlier residential use of the building has ceased following investigation by the Council.

23. It is clear from various documents, including a previous Inspector's decision⁴, that in 2004/2005 the building was of two storeys. However, construction appears to have started in about 2000, and was still in progress at the time of that appeal. The Council officer's report on the first 2017 planning application says that the original building was a single storey to which a first floor was added. However, the appellant states in his LDC application that the two-storey building replaced a previously existing single storey building. No planning permission has been put forward for the original building, and the evidence available is by no means conclusive either way. However, on the balance of probabilities I consider it must be taken that the original building was of two storeys.
24. The front extension is the full width of the building, and I understand it is 2 metres deep. The original building was 9 metres deep. The extension is therefore a 22% increase in the footprint area. As to the increase in volume, I understand the Council calculate a 13% increase – as compared with a building 1.5 metres lower than existing – whereas the appellant calculates a 10% increase for the building as it exists. On the basis that the original building was of two-storeys, the appellant's calculation of area increase should prevail.
25. In my opinion, the increase in footprint and volume, and prominence of the extension to what was already a bulky building result in a disproportionate addition over and above the size of that original building. It follows that this is inappropriate development in the Green Belt, which NPPF paragraph 143 advises is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
26. Furthermore, the extension results in an intrusion into the space around the building and has a small but noticeable effect upon the openness of the Green Belt – one of its essential characteristics, as advised by NPPF paragraph 133.
27. As regards the effect of the extension upon the original building and its surroundings, I concur with the appellant's view that the materials used are in keeping with those of the original building, and other nearby farm buildings. However, the original building is itself of considerable bulk, and in my opinion the addition results in a building of undue prominence in relation to the small-scale buildings to either side. Although the appellant lays much stress on there being a LDC for the original building, this does not amount to a planning permission that would have been subject to consultation – it says no more than that the building was lawful at the date of the LDC application.
28. While there are very much larger utilitarian farm buildings to the east, these are to my mind seen in the context of the principal agricultural use of the site rather than the buildings of mostly domestic scale and traditional construction towards the road. I consider that the extension causes significant harm to the character and appearance of the area in the vicinity of the appeal building. The development does not accord with the development plan, notably with respect to Policies GBR1 and DES4 of the East Herts District Plan of 2018. These policies seek to protect Green Belt interests and ensure that development within the Green Belt accords with the provisions of the NPPF, and to ensure that development, including extensions to existing buildings should be to a high standard of design and layout.

⁴ Appeal ref. APP/J1915/C/05/2001053, dated 4 August 2005.

29. I have found that the development is inappropriate in the Green Belt and causes significant harm to openness. Furthermore, there is significant harm to the character and appearance of the area in the vicinity of the appeal building. I must therefore go on to consider whether any harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations amounting to the very special circumstances necessary to justify the development.
30. The appellant argues that the extended building is similar in terms of materials and form to nearby dwellings on the site, including two recently approved conversions of farm buildings. That may be so, but does not justify the increase in size of the appeal building.
31. I accept that there is virtually no impact upon residential amenity, or on highway interests, but again that does not justify the extension to the building.
32. While the extension might assist in development of Mr Peters' grandson's business, no justification has been provided as to the need for extension of an already a substantial office/storage building.
33. As regards the claim that the 10% increase in volume might be allowable under provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), there are no provisions that allow extensions to an office/storage building.
34. Taken together, I conclude that these considerations do not amount to the very special circumstances necessary to justify the development that clearly outweigh the harm to the Green Belt by reason of inappropriateness, and the harm to the character and appearance of the area I have identified. The appeal on ground (a) therefore fails, and I intend to refuse planning permission on the deemed planning application.

Conclusions

35. For the reasons given above and having regard to all other matters raised I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Stephen Brown

INSPECTOR