



Appeal Decision

Site visit made on 22 October 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2019

Appeal Ref: APP/M3645/C/18/3219048

Land at "Redeside", 129 Redehall Road, Smallfield, Surrey RH6 9RT

- 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 Kenneth Hancock against an enforcement notice issued by Tandridge District Council.
 - The enforcement notice was issued on 19 November 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission making a material change of use from residential use to a mixed use for residential use and for the parking of commercial vehicles on the Land.
 - The requirements of the notice are: Cease using the Land for the parking of commercial vehicles.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be corrected by deletion of the words "four years" and their substitution with the words "ten years" in the reasons for issuing the notice. Subject to this correction the appeal is dismissed and 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.

Preliminary Matters

2. The reasons for issuing the notice indicate that the breach of planning control has occurred within the last four years. But under section 171B(3) of the above 1990 Act the relevant period within which enforcement action may be taken is ten years for the material change of use alleged. I have corrected the notice accordingly as no injustice is caused to either main party in doing so.

Reasons

The appeal on ground (c)

3. The appellant considers that the change of use which has occurred does not constitute a breach of planning control as the change of use is not material for the purposes of section 55(1) of the 1990 Act noted above. Section 55(2)(d) of the Act states that the use of land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse is not a use which involves the development of land.

4. It is not uncommon for a tradesperson to park a vehicle associated with their work at their residential address and for that vehicle to be used to get to and from their place of work. However, the evidence in this case indicates the appellant requires the use of several alternatively sized vehicles to undertake his job, the largest of which is over 3.5 tons. It is described as a 7.5 tonne lorry with high sides. The evidence indicates at least two other commercial vehicles are parked on the site including a flat-bed commercial vehicle.
5. I appreciate that the appellant's business may not involve any employees or customers visiting the site and that there may be no associated activity other than the parking of vehicles personally owned by the homeowner on the land. However, as a matter of fact and degree, in my judgement, the combination of the size and number of commercial vehicles involved in this case takes the commercial parking element of the use beyond what may be considered to be incidental to the enjoyment of the dwellinghouse. A material change of use has occurred on the land and the appeal on ground (c) thus fails.

The appeal on ground (a)

6. The appeal site is within the Green Belt and so the main issues for the ground (a) appeal are:
 - whether the development is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and any relevant development plan policies,
 - the effect of the development on the character and appearance of the area, and
 - if the development is inappropriate development in the Green Belt, whether any 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.

Whether inappropriate development

7. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014 – 2029 adopted 2014 (the Local Plan) resists inappropriate development in the Green Belt. Whilst broadly consistent with the Framework, Policy DP10 pre-dates it.
8. The Framework states that material changes in the use of land are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The question therefore arises as to whether the development for which permission is sought preserves the openness of the Green Belt and does not conflict with the purposes of including the land within in.
9. 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 permanence. The Framework sets out the purposes of Green Belts and these include safeguarding the countryside from encroachment.
10. It is not the case that effects on openness are confined to permanent physical works and fixtures. The use of the land for the parking of commercial vehicles of the size and number described in the evidence has a harmful visual effect on

the openness of the Green Belt compared with the previous use. From my site visit I could see the effect of the use may be seen over boundaries of the site and from windows of neighbouring properties, particularly those to the side and rear. Whilst screening by fencing limits the adverse visual effect on openness to some extent, there is still harm as a result.

11. Consequently, openness is visually reduced as a result of the development and spatially, encroachment into the countryside occurs. The development is therefore inappropriate development in the Green Belt and does not comply with Policy DP10 of the Local Plan or the Framework.

Character and appearance

12. The appeal site is in a predominantly residential area set in open countryside. Based on the evidence provided, it appears to me the development for which permission is sought introduces into the garden area of the dwelling a use which has commercial, industrial and urban characteristics.
13. In the context of the appeal site this change of use is harmful to the character and appearance of the area. Consequently the change of use does not comply with Policy CSP 18 of the Tandridge District Core Strategy adopted 2008 (the Core Strategy) or Policy DP7 of the Local Plan. Together these seek that development integrates effectively with its surroundings and reflects and respects local character, setting and context.

Other considerations

14. The appellant is not seeking to make a case for very special circumstances. But I must consider points which have been advanced in favour of the development. Having to park commercial vehicles elsewhere as a consequence of enforcement action may mean an increase in the number of road miles travelled by the appellant. However no details have been provided of the likely scale of this effect and so I give this consideration limited weight.
15. The evidence indicates the appellant has obtained a Goods Vehicle Operator's Licence for the keeping of the largest vehicle on the appeal site, and that, as part of this process, the Council were given the opportunity to comment on the application for the licence. However, the acquisition of this licence does not provide relief from the need to comply with planning legislation and so I give this consideration limited weight.
16. The appellant is concerned that parking vehicles away from his home may pose a security risk. But there is no evidence to indicate this is the case and so I give this consideration limited weight. Needing to park his vehicles elsewhere may also affect the appellant's costs. But in light of the harm identified above I give this consideration limited weight.
17. In accordance with the Framework, I must give substantial weight to any harm to the Green Belt. Whilst there may be factors which weigh in favour of the development to some extent, I do not consider the harm to the Green Belt together with the other harm identified above are matters which are clearly outweighed by other considerations, including those noted above. I therefore find the very special circumstances necessary to justify the development do not exist.

Conclusion on the ground (a) appeal

18. Considering each of the main issues for the ground (a) appeal, the appeal on ground (a) fails.

The appeal on ground (f)

19. The enforcement notice requires the change of use to cease and as such the purpose of the notice is to remedy the breach of planning control. The appellant considers the requirement prevents any commercial vehicle being parked on the land, including that of a tradesperson undertaking work at the property, or that of a tradesperson living at the premises who requires a vehicle to get to and from their place of work.
20. Accordingly the appellant seeks a relaxation of the requirement to allow vehicles up to 3.5 tons to be parked on the land as well as vehicles which are in connection with work being carried out at the property. However, the requirement of the notice does not prevent a change of use of the land which is not material.
21. It is open for the appellant to establish with the Council what vehicles may be parked on the land in a manner that is incidental to the enjoyment of the dwellinghouse, such that a material change of use does not occur. Or, the appellant may seek pre-application advice from the Council on what vehicles may be acceptable with an express grant of planning permission from the Council.
22. To relax the requirement of the notice in the manner suggested by the appellant would not achieve the purpose of the notice and as such the appeal on ground (f) fails.

Other Matters

23. The appellant has said that there is little to distinguish this case from other vehicles parked in the area including within other residential curtilages. However, no further details have been provided of these or how they came to exist and so I give them limited weight in my decision and they do not affect my overall conclusion.
24. My attention has also been drawn to an appeal decision in Swanley, Kent, Ref APP/G2245/C/3215848, dated 11 July 2019. However I am not satisfied that the circumstances in that case are the same as the case before me and so I give it limited weight in my decision.

Conclusion

25. For the reasons given above I conclude that the appeal does not succeed. I uphold the enforcement notice with a correction and refuse planning permission on the deemed application.

L Perkins

INSPECTOR