



Appeal Decisions

Site visit made on 10 December 2019

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal A Ref: APP/Y3615/C/18/3217823

Land at the rear of Dormer Cottage, Portsmouth Road, Ripley, Woking GU23 6EY

- 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 Robert Methold against an enforcement notice issued by Guildford Borough Council.
- The enforcement notice was issued on 16 November 2018.
- The breach of planning control as alleged in the notice is without planning permission, operational development on the land comprising of the erection of a building in the approximate position shown hatched black on the plan attached to the notice.
- The requirements of the notice are: (i) Demolish and remove from the land the building shown in the approximate position hatched in black on the plan, also shown in the photograph attached to the notice; (ii) Remove from the land all materials, rubble and waste resulting from step (i).
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

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

Appeal B Ref: APP/Y3615/W/18/3217820

Land at the rear of Dormer Cottage, Portsmouth Road, Ripley, Woking GU23 6EY

- 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 Robert Methold against the decision of Guildford Borough Council.
- The application Ref 18/P/01550, dated 29 July 2018, was refused by notice dated 4 October 2018.
- The development proposed is a single storey workshop.

Summary of Decision: The appeal is dismissed.

Appeal A, Ground (a) and Appeal B

Preliminary Matter

1. In April 2019, the Council adopted the Guildford Borough Local Plan (LP). Therefore, LP Policy P2 has superseded Policy RE2 in the previous version of the Local Plan.

Main Issues

2. The appeal site is in the Metropolitan Green Belt. Therefore, the main issues in this ground of appeal are:
 - Whether the building is inappropriate development in the Green Belt, having regard to the Development Plan and the National Planning Policy Framework (the Framework), including the effect on openness.
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify the building.

Reasons

Whether inappropriate development, effect on openness

3. The site forms part of an enclave of mixed commercial and residential development, outside the more built-up part of the village. In December 2017, the Council issued a Lawful Development Certificate (LDC) under s191 of the Act in respect of the existing use of the site for parking and as a workshop for car repairs and servicing¹. The site contains a few portable buildings and lightweight framed structures of modest size, arranged around the edges of a large, roughly hardsurfaced area on which several cars and vans are parked or stored. A large building constructed in blockwork has been erected in the north-east corner of the site. Although the proposed use of the building is as a workshop in association with the lawful use of the site, it had no roof or internal fittings and was incomplete when I visited.
4. LP Policy P2 provides that the construction of new buildings should be regarded as inappropriate in the Green Belt, apart from the limited range of exceptions identified in the Framework paragraph 145. These exceptions include the partial or complete redevelopment of previously developed land (PDL), provided there is no greater impact on the openness of the Green Belt than the existing development. It is not unreasonable to conclude that the site falls within the definition of PDL set out in Annex 2 of the Framework, given the presence of permanent structures which facilitate the lawful commercial use.
5. The Framework paragraph 133 advises that openness is an essential characteristic of the Green Belt. The building occupies a reasonably secluded position within the site and is open to limited public view. As a result, a reduction in openness due to the presence of additional built form is not obviously apparent beyond the site boundaries. Nevertheless, the Planning Practice Guidance advises that openness can have a spatial as well as a visual aspect². There is no evidence that any part of the building footprint was previously occupied by a permanent structure. Any vehicles previously parked on the site of the building are likely to have had a transient effect on openness. As a result, this part of the site is likely to have largely been open prior to erection of the building. The building is of substantial size and has a significant footprint and volume. A much greater part of the site is therefore now occupied and enclosed by, or adjacent to, a large volume of built form. Accordingly, the building has considerably reduced and caused a significant

¹ Council Ref: 17/P/02246.

² Paragraph: 001 Reference ID: 64-001-20190722.

degree of harm to, openness compared with the pre-existing condition of the site.

6. The appellant offered to remove two existing workshop structures on the site as an alternative to demolishing the building. Whilst this was in the context of the ground (f) appeal, it is relevant to the effect of the building on openness. Planning permission could only be granted for the building under ground (a). Therefore, it is appropriate to deal with this matter as part of the planning merits, as an alternative scheme. Based on the floorspace figures supplied by the Council however, which were not challenged by the appellant, the building has a footprint and volume significantly more than double that of the cumulative footprint and volume of the workshop structures. Moreover, those structures have a significantly lower profile than the building. Therefore, even if both structures were to be removed the building would still have resulted in a considerable reduction in Green Belt openness compared with the pre-existing development.
7. The failure to preserve openness has caused a significant degree of harm to the Green Belt. It follows that the building amounts to inappropriate development in the Green Belt, failing to accord with LP Policy P2 and being inconsistent with the Framework paragraph 145. At paragraph 143, the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I afford substantial weight to the harm to the Green Belt.

Other considerations

8. Once completed, the building would provide enhanced workshop facilities including improved working conditions, thereby supporting the growth of the appellant's business and in turn contributing to the local economy. This is consistent with the approach to supporting a prosperous rural economy, set out in the Framework at paragraphs 83 and 84. Although the scale of the contribution, i.e. the level of local employment generated by the appellant's business, is unclear, the above factors nevertheless weigh moderately in favour of granting permission. I also acknowledge that there is a measure of support for the development from Ripley Parish Council.
9. The building once completed is likely to provide a significantly higher standard of insulation from noise generating activities associated with car repairs, compared with the existing more lightweight workshop structures. Additionally, it is further away from the nearest dwellings than those structures. Although few details were provided in this respect, this is a benefit to which I also attach some weight.
10. As noted above, the building is in a reasonably secluded position. Due to its design and scale, the building has a utilitarian character. This is consistent with the use of the site and adjacent commercial buildings and uses, which include another vehicle repairs business and a large garden centre. However, the character of the building pays little regard to the more rural qualities of its wider surroundings, which include maturing woodland with open land beyond to the north and west. As the building has not positively enhanced its surroundings, it does not contribute to a well-designed place as required by the Framework chapter 12. Consequently, whilst there has been no unacceptable harm to the character and appearance of the area, this does not weigh in favour of granting permission.

11. Having regard to the distance to the nearest dwellings, the building has not had an unacceptable effect on the living conditions of adjoining residential occupiers in terms of the outlook, aspect or privacy they enjoy. However, an absence of harm in the above respect does not weigh in favour of granting permission.

Green Belt Balance

12. Erecting the building has harmed openness and amounts to inappropriate development in the Green Belt. The other considerations, including the contribution to supporting the rural economy and a reduction in the potential for noise emissions from the site, do not clearly outweigh the totality of the harm to the Green Belt. Accordingly, the very special circumstances necessary to justify granting permission for the building do not exist.

Conclusion on Appeal A, Ground (a) and Appeal B

13. The building does not accord with the Development Plan and it is inconsistent with the Framework. Therefore, the appeals fail.

Appeal A

Ground (f) appeal

14. This ground of appeal is that the requirements of the notice are excessive for their purpose. According to s173 of the Act, there are two purposes which the notice can seek to achieve. The first (s173 (4) (a)) is to remedy the breach of planning control that has occurred, including by restoring the land to its condition before the breach took place. The second (s173 (4) (b)) is to remedy any injury to amenity caused by the breach.
15. The Council did not specify which of the above purposes that it had sought to achieve by issuing the notice. However, the notice requires the building to be demolished, as opposed to its modification in some way. Therefore, the purpose of the notice must be to remedy the breach of planning control by restoring the site to its condition before the breach took place.
16. The appellant's offer to remove the two existing workshop structures was dealt with on ground (a). As the building would remain in situ, removing those structures would not fulfil the purpose of restoring the site to its condition before the breach took place. The appellant identified no other steps short of demolishing the building that would remedy the breach and, in my view, there are none.
17. Consequently, the requirements of the notice do not exceed what is necessary for the purpose of remedying the breach and the appeal on ground (f) also fails.

Ground (g) appeal

18. The ground of appeal is that the time for compliance is unreasonably short.
19. The appellant argued that six months would be required to raise the necessary funds and to arrange for and have the remedial works carried out. However, demolition of the building would be a reasonably straightforward matter for any experienced small-scale building contractor. It is unlikely to take them more than a few weeks to undertake and complete such works. In the context of the

three month compliance period specified in the notice, this leaves the appellant with ample time to arrange for the works to be undertaken and have any necessary funding in place.

20. Therefore, to my mind the compliance period is not unreasonable, as it strikes an appropriate balance between remedying the planning harm in a timely fashion whilst minimising the burden placed on the appellant as far as possible, including the extent of any disruption to his business.

21. Accordingly, the ground (g) appeal also fails.

Conclusion-Appeals A and B

22. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. Also, for the reasons given above I conclude that Appeal B should be dismissed.

Formal Decisions

23. Appeal A-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.

24. Appeal B-The appeal is dismissed.

Stephen Hawkins

INSPECTOR