
Appeal Decisions

Site visit made on 12 November 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Appeal A Ref: APP/G2245/C/18/3218161

Manor Buildings, Powder Mill Lane, Leigh, Kent TN11 9AS

- 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 Peter Whiffen of Brookside Group against an enforcement notice issued by Sevenoaks District Council.
- The enforcement notice was issued on 19 November 2018.
- The breach of planning control as alleged in the notice is unauthorised operational development being the erection of a porta cabin.
- The requirements of the notice are:
 - Removal or demolition of the porta cabin (shaded blue on the attached plan).
 - Removal of all resultant material from the site.
- The period for compliance with the requirements is 2 (two) 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/G2245/W/18/3218159

Manor Buildings, Powder Mill Lane, Leigh TN11 9AS

- 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 P Whiffen of Brookside Group against the decision of Sevenoaks District Council.
- The application Ref 18/02782/FUL, dated 3 September 2018, was refused by notice dated 29 October 2018.
- The development proposed was described as "retention of portacabin unit."

Decision

1. Appeal A 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.
2. Appeal B is dismissed.

Main issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;

- Whether there are other considerations weighing in favour of the proposal; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The National Planning Policy Framework (the Framework) states that new buildings within the Green Belt should be considered inappropriate with a number of exceptions. This includes the replacement of a building provided it is in the same use and is not materially larger than the one it replaces. It also includes the partial or complete redevelopment of previously developed sites whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. Substantial weight should be given to any harm to the Green Belt.
5. Policy GB7 of the Allocations and Development Management Plan (ADMP) relates to the re-use of buildings within the Green Belt and requires that the use of land surrounding those buildings should not have a materially greater impact than the present use on the openness of the Green Belt. Policy GB9 of the ADMP states that replacement buildings should not be materially larger than the original building and not materially harm the openness of the Green Belt.
6. The appellant started using the yard at Manor Buildings for the storage of motor vehicles in association with his car sales business in late 2014. A lorry body was removed from the site and replaced in the same position with the portacabin subject of this appeal, that is used as secure storage for items relating to the use of the yard. Under reference 15/03305, planning permission was granted for that use. I understand that a portacabin was shown on the drawings in the same position as that subject of the enforcement notice. However, an informative was included on the permission stating that the permission was for the use of the land and did not include the stationing of a portacabin. It has not been suggested that the portacabin benefits from planning permission.
7. I understand that a portable office and containers had also been located within the yard for the previous use. A portable office was subject of a temporary planning permission that expired in 1997 and the Council suggest that this was removed in accordance with that permission. I note that the appellant does not suggest that the portable office or lorry body were lawful. They do suggest that the containers were lawful, but limited evidence has been supplied to demonstrate that lawfulness. Consequently, I do not consider that the portacabin comprises a replacement building and, in any event, it would be in a different use to the portable office, containers and lorry body previously located on the site. As a result, it would not fall within the exception to inappropriate development relating to the replacement of a building as it is not in the same use.

8. Nevertheless, stationing of the portacabin comprises partial redevelopment of a previously developed site. Therefore, it comprises an exception to inappropriate development as defined within the Framework, provided that it does not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the previous development.
9. The portacabin is located adjacent to the much larger neighbouring building and the yard is enclosed on the other sides by a close boarded fence. Consequently, the portacabin is largely obscured by other development and is visible in only limited views. Nevertheless, it is a substantial structure that has a greater effect on the openness of the Green Belt than the stored cars for which planning permission has been granted in this area.
10. For these reasons, I conclude that the portacabin harms the openness of the Green Belt. As a result, it does not fall within the exceptions to inappropriate development, such that it conflicts with Policies GB7 and GB9 of the ADMP and the Framework.

Other considerations

11. The portacabin is located some distance from the nearest residential property such that it does not affect the living conditions of occupiers of that property. Its location adjacent to a considerably larger building and within the yard used for parking, with close boarded fence around, means that it has limited effect on the character and appearance of the area.

Conclusion

12. I have found that the proposed portacabin does not fall within the exceptions to inappropriate development. Consequently, it is inappropriate development that harms the openness of the Green Belt. There is no harm to the living conditions of occupiers of neighbouring dwellings and there is limited effect on the character and appearance of the area. No other considerations weigh in favour of the retention of the portacabin. As such, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. Therefore, the proposed development is contrary to Policies GB7 and GB9 of the ADMP and the Framework that seek to protect the Green Belt from inappropriate development.
13. On the basis of the above considerations, I conclude that appeal A on ground (a) should fail, planning permission under the deemed planning application in appeal A should be refused and the appeal against refusal of planning permission under appeal B should be dismissed.

AJ Steen

INSPECTOR