



Appeal Decision

Site visit made on 26 November 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2019

Appeal Ref: APP/C3620/W/19/3234020 Westcoates, Clayhill Road, Leigh RH2 8PB

- 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 K Tork against the decision of Mole Valley District Council.
 - The application Ref MO/2018/2068/PLA, dated 22 November 2018, was refused by notice dated 8 May 2019.
 - The development proposed is the removal of a mobile home, container and demolition of an open shelter together with a linked barn building; the conversion of three buildings comprising of 4 x 3 bedroom and 3 x 2 bedroom dwellings (7 units) with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr K Tork against Mole Valley District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council relies on Policy CS13 of its Mole Valley Core Strategy (2009) ("the CS") in refusing permission on character and appearance grounds. However, this policy seeks to ensure that new development respects and enhances the character and distinctiveness of landscape character areas. Details of any such area which may be relevant to the proposal are not before me. Thus, I consider that the policy has only minimal relevance to the main issues of the appeal.
4. The Council additionally relies on Policy RUD8 of its Mole Valley Local Plan ("the LP") in this reason for refusal. This policy relates to the replacement of dwellings in the countryside. Whilst I acknowledge that the mobile home is in use as a dwelling, albeit it is unauthorised, the requirements of this policy have only minimal relevance to the main issues of the appeal.

Main Issues

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

- The effect on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on highway safety; and
- 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 proposal.

Reasons

Whether the scheme is inappropriate within the Green Belt

6. The appeal site accommodates several buildings. Many of these are constructed of materials such as blockwork, brick, timber and corrugated sheeting. They contain windows, doors and hard flooring. Thus, they form permanent structures.
7. The appellant argues that the site could be considered to be previously developed land ("PDL") and hence that it would fulfil the criteria of the exception to inappropriate development in the Green Belt contained in paragraph 145g) of the National Planning Policy Framework ("the Framework"). This states that the partial or complete redevelopment of PDL is not inappropriate within the Green Belt, subject to certain criteria.
8. The Council contends that a planning permission¹ of 2013 created a separate planning unit, and therefore that it should not be taken into account in the assessment of whether the appeal site forms PDL. However, the Framework does not require me to judge the planning unit in making such an assessment. I am required only to consider whether the land is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. If this is the case, it is then necessary to assess whether the land is excluded from the definition, for any of the reasons set out therein.
9. The remaining areas of the site provide parking space, access or storage in association with the buildings. Whilst a manège and surrounding land do not contain permanent structures, it is likely that they were used in association with a permitted equestrian centre at the site. Other areas would provide a level of separation between the nearby highway and the equestrian centre, which is likely to be desirable given this former use. Thus, they form areas of land related to the buildings, and hence they comprise curtilage. I therefore conclude that the appeal site is occupied by permanent structures, including the curtilage of the developed land.
10. However, where a site contains such structures the whole site should not necessarily be considered as PDL. Some structures, such as agricultural buildings, are excluded from the definition and hence it is necessary to consider the different parts of the site accordingly. Thus, I now turn to a consideration of whether any of the land is occupied by agricultural buildings. The appellant states that the site is not currently used for agriculture. Whilst this generally

¹ Local Planning Authority Ref: MO/2013/0063

appeared to be the case at the time of my inspection, it is also necessary to consider the lawful uses of the land in question.

11. Planning permission² was granted at the site for a change of use from farm to equestrian centre in 1988. The Council contends that not all of the buildings were subsequently used for the permitted purpose, and hence that the permission was not fully implemented. It refers, in support of this contention, to a 2004 refusal of permission³ for the change of use of a farm building (building M3) to a workshop and storage.
12. The 2013 permission for the change of use of building M2 and the southern part of M3 from barn to use for the repair/manufacture and storage and distribution of display stands was granted in 2013. The permission included the section of access track which lies within the current appeal site. The Council accepts that the retrospective nature of the application provides evidence that the change of use was implemented.
13. Thus, the 2013 permission confirms that the area that it concerned is not occupied by agricultural buildings. It therefore forms PDL.
14. However, the question of the lawful use of the northern part of building M3 remains. The Council found that section of the building to be in use for personal storage in approximately 2004, and it was used for storage at the time of my site visit.
15. Planning applications over the period 1988-1992 refer to an equestrian centre at the site, but minimal information is available as to its extent.
16. An application for a certificate of lawfulness in respect of the use of a hardstanding area for the sale of cars and the use of the northern section of building M3 for vehicle repairs was refused in 2011. An enforcement notice seeking the cessation of these activities was served and was subsequently upheld at appeal.
17. The 2004 change of use application described building M3 as a farm building and the 2011 application shows use for vehicle repairs. The 2013 permission describes the building as "barn", and does not overtly suggest equestrian use. There is no significant contradictory evidence to suggest that the permitted 1988 change of use to equestrian centre was ever implemented in respect of building M3. Furthermore, the evidence does not convince me that the current storage use of the northern part of building M3 is lawful.
18. Thus, I consider that the appeal does not demonstrate that a change of use of the northern section of building M3 has been implemented since it was part of a farm, and its lawful use consequently remains agricultural for the purpose of this appeal. Therefore this section does not form PDL.
19. Given the intended equestrian use of the manège and the absence of substantive contradictory evidence, I consider that it is likely to have been used in association with the permitted equestrian centre and hence that it forms PDL.
20. Thus, I have determined that the manège and the area which was subject to the 2013 permission form PDL, but that the northern section of building M3

² LPA Ref: MO/88/0904

³ LPA Ref: MO/2004/0885

does not. I now turn to the question of the status of the remainder of the site, including the hardstanding, buildings M1 and M4, the yard and the land surrounding the manège.

21. Minimal information on the extent of the equestrian centre is before me, and the site's planning history since the 1988 permission indicates that schemes for a number of additional or alternative uses including vehicle storage, repair and sales, workshops, storage and residential use have existed over the years. Furthermore, a number of enforcement actions by the Council suggest that some of these schemes have been carried out despite a lack of permission. Information on the time periods over which these uses took place is limited.
22. The cessation of references to an equestrian centre fairly early on in the planning history before me, and the prevalence of references to other uses, together suggest that the equestrian centre has formed a relatively minor part of the overall use of the site since 1988.
23. Thus, I am not convinced that the area of land over which the equestrian centre use was implemented was sufficiently extensive for me to conclude with confidence that any significant proportion of the remainder of the site forms PDL. The land to which this uncertainty applies comprises a substantial area of the site. I therefore consider that the evidence before me is insufficient for me to reach a conclusion that the lawful use of the majority of the site has changed from an agricultural use.
24. The appellant additionally submits that the proposal is not inappropriate development in the Green Belt because it fulfils the requirements of the exception within paragraph 146d) of the Framework. This sets out that the re-use of buildings that are of permanent and substantial construction is not inappropriate, as long as the proposal preserves its openness and does not conflict with the purposes of including land within the Green Belt. The appellant relies principally on a report on the structural condition of the outbuildings in making this submission.
25. The structural report recommends the replacement of the slab floor to building M4, the use of new strip foundations and the complete replacement of timber framed walls. Furthermore, I consider that it is unlikely that the building's roof could be retained for the proposed use, as it consists of corrugated sheeting which is likely to be unsuited to residential occupation. Thus, as the proposal would require the replacement of the walls, roof and floor of building M4, I conclude that it would form a replacement of the building, rather than a re-use.
26. As the proposal fails to fulfil the requirements of paragraph 146d) of the Framework in respect of one of the three buildings to which it relates, it is consequently not necessary to proceed to consider whether buildings M1 or M3 comply with the paragraph. Even if compliance were found to exist in respect of these 2 buildings, this would not overcome the non-compliance in respect of building M4. Therefore I conclude that the proposal does not form the re-use of buildings for the purposes of the Green Belt provisions within the Framework.
27. For these reasons, therefore, as the proposal would not meet any of the exceptions in paragraphs 145 or 146 of the Framework, it would be inappropriate development in the Green Belt. The Framework makes clear that

inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The effect on openness

28. Paragraph 133 of the Framework states that one of the essential characteristics of Green Belts is their openness. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
29. In terms of visual aspects, the application states that 8 parking spaces would be provided, although the plans show 13. Eight spaces would be unlikely to fully meet the parking needs of occupiers, particularly given that the proposal relates to 7 dwellings of a reasonable size in a rural location. If visitors to the development are additionally taken into account, there is likely to be regular use of the land opposite the allocated spaces for parking. The appellant confirms that it is envisaged that this land would accommodate any additional need.
30. The site has several areas of hardstanding which offer 12 parking spaces according to the application. A number of cars were parked at various locations throughout the site on the day of my visit. Several of these were visible in glimpses from the highway. Thus, whilst the proposal would consolidate parking at the site into one area, it is likely to result in a similar number of parked vehicles at the site, such that these arrangements would have a neutral effect on openness in visual terms.
31. The massing of the appeal buildings within views from the highway is considerable due to their height, width and their conjoined character. These form the most visible elements of the site as the remainder of it is generally well screened by boundary fencing and hedgerow.
32. The proposal includes the removal of building M2, which would be replaced by a paved walkway between dwellings. This element of the proposal would consequently allow for longer distance views through the development to open countryside than those which are currently available, and thus it would increase openness at the site.
33. The removal of a container and open shelter would have a beneficial effect on openness. This effect would be limited due to their relatively small scale.
34. With regard to the spatial aspects of openness, the footprint of the buildings would be reduced by the removal of building M2. The dwellings would have a similar height and width to the original buildings. There would be a likely reduction in the overall level of fencing at the site. I have found above that the number of parked vehicles at the site are likely to be similar to those currently present, which would have a neutral spatial effect.
35. A level of domestic paraphernalia and outbuildings within the remainder of the site is likely to accompany its proposed use for dwellings. However, the area already accommodates the storage of a number of items, which reduces openness. Thus, the effect on openness of the introduction of such domestic elements is likely to be neutral. This particular element of the proposal therefore complies with Policy ENV23 of the LP, which requires decision makers to have regard to the impact of proposed development on the rural amenities of the Green Belt by reason of its siting, materials or design.

36. In light of the above factors, I consider that in both spatial and visual terms the proposal would have less impact on the openness of the Green Belt than the existing development. The impact on openness would be reduced by a limited degree due to the modest scale of the buildings which would be removed. In doing so the scheme assists in safeguarding the countryside from encroachment, one of the five purposes of the Green Belt. It therefore complies with the fundamental aim of Green Belt policy, which is to prevent urban sprawl by keeping land permanently open.
37. However, the proposal conflicts with Policy RUD19 of the LP, which allows for the re-use and adaptation of rural buildings where these are capable of conversion without major or complete reconstruction. Although based on previous national policy guidance, Policy CS1 of the CS seeks to ensure that such guidance is applied. The policy supports my conclusion that the proposal would be inappropriate development. I attach substantial weight to the harm arising due to the inappropriate nature of the development.

Character and appearance

38. Clayhill Road is a relatively quiet rural lane which passes between open fields. Some scattered residential development lies along it and the village of Leigh lies a short distance away. However, the landscape at this point is generally woodland or open fields. Thus, the area has a highly rural appearance.
39. Glimpses over the entrance gates to the yard offer the main views of the appeal site. These include the upper sections of some of the appeal buildings. These have a significant massing in views from the highway which limits views of the landscape beyond. The application site is otherwise generally well screened from Clayhill Road by hedgerow and fencing, as a result of the relatively low height of other structures and boundary treatments within it. Thus, the current effect of the site on the character and appearance of the area is neutral.
40. Domestic equipment and outbuildings are likely to have a limited scale and their appearance would have a similar relatively neutral effect to the items which are currently stored around the site. Furthermore, views into the site are limited by boundary screening. Thus, the introduction of such items would not have a harmful effect on the appearance of the area. The consolidation of vehicle parking at the site would have a similarly neutral effect because the number of vehicles would be similar to the current situation and because the proposed parking area is reasonably well screened from the highway.
41. The demolition of building M2 would allow for a limited increase in views through the site to open countryside. The proposal would also allow for a reduction in hard surfacing at the site and its replacement with grassed areas. These elements would make a modest positive contribution to the rural appearance of the area.
42. Thus, the proposal would have a modest positive effect on the character and appearance of the area. It would therefore comply with Policy ENV4 of the LP, which seeks to ensure that proposals in the countryside will not detract from the character of the local landscape.

Highway Safety

43. Access to the development would be provided by a track off Clayhill Road. The road at this point carries a speed restriction of 40 miles per hour.
44. The appellant's Transport Statement includes a speed survey which found that the 85th percentile speeds of traffic outside the site were 32 and 33 miles per hour. Clayhill Road meanders at this point, reducing forward visibility for drivers, with a resulting limiting effect on vehicle speed. Furthermore, motorists passing the access in the direction of the village of Leigh are likely to be reducing speed due to the lower speed restriction of 30 miles per hour which is indicated by signage there. Thus, the findings of the speed survey appear to adequately represent actual vehicle speeds on Clayhill Road at this point.
45. As the 85th percentile speed of traffic is lower than 37 miles per hour the Manual for Streets⁴ ("the MFS") provides guidance on the recommended stopping sight distances ("SSDs") at the site access. The appellant provides a plan showing SSDs of 49 metres or greater in each direction within land controlled by the appellant or the highway, and I concur that these comply with the recommended SSDs within the MFS. The available visibility on the day of my site visit appeared acceptable in view of the relatively slow speed of traffic and the low vehicle numbers which I observed, in accordance with the findings of the Transport Statement. These factors reduce the level of risk to users of the highway and access.
46. In light of the above factors, I conclude that the SSDs available to each side of the appeal site access are of the recommended distance, and so cannot be considered to be restricted. Thus, any intensification of use of the access which would result from the development would have no unacceptable impact on highway safety.
47. Accordingly, the proposal complies with Policy ENV22 of the LP, which requires development proposals to provide safe access to the site, and with the highway safety provisions of the Framework.

Other considerations and the Green Belt balance

48. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
49. I have found that the impact of development at the site on openness would be reduced by a limited degree. Furthermore, the proposal would have a modest positive effect on the character and appearance of the area. Having regard to the scale of the impacts, these are benefits to which I attach limited weight.
50. The removal of a mobile home is advanced in support of the proposal. The structure is the subject of an enforcement notice requiring its removal, which has been upheld at appeal. Furthermore, it appears to lie outside the site boundary. The harm which I have identified would not be reduced by the use of a "Grampian" condition to secure the mobile home's removal because the

⁴ Department for Transport, 2007

harm is not related to its presence. Moreover, it is present in breach of the upheld enforcement notice. Thus, the proposed removal of the mobile home is a consideration to which I attach only limited weight.

51. The site has access to a limited public transport service and a modest range of services and facilities in the nearby village of Leigh. Occupiers of the development are likely to use these services, and hence the development would provide a degree of support for the vitality of a rural community. This would be of a limited level, given the relatively small size of the scheme.
52. The appellant submits that the development would provide acceptable living conditions for its occupiers. If I were to accept that this were the case, it would be a neutral matter in the overall planning balance.
53. It is additionally submitted by the appellant that the removal of commercial activity at the site and improvements to its appearance would benefit adjacent occupiers. As there is minimal substantive evidence to suggest that these matters currently cause any harm to the living conditions of adjacent occupiers, this is not a benefit to which I can attach weight.
54. The communal spaces of the development may allow for a level of social interaction between residents, which would promote community cohesion. However, there is no indication that this would occur to any significantly greater extent than at a development with solely private outdoor spaces. Thus, this is a matter to which I attach only limited weight.
55. Evidence on the extent of the development's ability to rely on the production of energy from renewable sources is minimal. As such this, likewise, is a matter to which I attach only minimal weight.
56. Bringing all the above points together, I find that, cumulatively, the other considerations in this case do not clearly outweigh the Green Belt harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
57. The Council accepts that it cannot demonstrate a 5 year housing land supply, citing a 2.63 year supply. Footnote 6 to paragraph 11d) of the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. This includes Framework policies that protect the Green Belt. As the proposal would be inappropriate development and no very special circumstances exist, there is a clear reason for refusing the development. Accordingly, the "tilted balance" of paragraph 11 is not engaged in this case.
58. For the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR