



Appeal Decisions

Hearing held and site visit made on 14 January 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 15 January 2020

Appeal A Ref: APP/W4705/C/18/3215589

Land at Bingley Road, Crossroads, Keighley

- 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 James Mason against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 27 September 2018.
 - The breach of planning control as alleged in the notice is the construction of a portal frame building on the land.
 - The requirements of the notice are demolish the unauthorised portal frame building and all associated footings and floor and remove the resulting materials from the land.
 - 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.
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Appeal B Ref: APP/W4705/C/18/3215590

Land at Bingley Road, Crossroads, Keighley

- 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 James Mason against an enforcement notice issued by City of Bradford Metropolitan District Council.
 - The enforcement notice was issued on 27 September 2018.
 - The breach of planning control as alleged in the notice is the material change of use of the land to a mixed use comprising agriculture and use as a depot in connection with a construction and metal fabrication contractor.
 - The requirements of the notice are i. Cease the use of the land as a depot in connection with a construction and metal fabrication contractor; and ii. Remove from the land all vehicles, plant, equipment, materials and waste brought onto the land in connection with the components of the unauthorised mixed use required to cease in step i. above.
 - The period for compliance with the requirements is three calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeal A Ref: APP/W4705/C/18/3215589

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the construction of a portal frame building on land at Bingley Road, Crossroads, Keighley as referred to in the notice.

Appeal B Ref: APP/W4705/C/18/3215590

2. The appeal is allowed and the enforcement notice is quashed.

Reasons

Appeal A Ref: APP/W4705/C/18/3215589

The ground (a) appeal

3. The portal frame building that is the subject of the enforcement notice is located on an agricultural holding that is part of the Green Belt as designated in the Replacement Unitary Development Plan (RUDP) for the Bradford District, which is part of the development plan. Saved RUDP policy GB1 states that planning permission will not be given within the Green Belt for purposes other than, amongst other things, agriculture. This is consistent with national policy in the National Planning Policy Framework (NPPF) which, at paragraph 145, states that the construction of new buildings in the Green Belt is inappropriate unless the buildings are for, amongst other things, agriculture. The Council does not allege, in their reasons for issue of the enforcement notice, that the building causes any harm other than by reason of inappropriateness.

4. The main issue in the ground (a) appeal is whether the portal frame building is for the purposes of agriculture and is therefore not inappropriate development.

5. The Council maintains, in their appeal statement, that the portal frame building is "...not for an agricultural use". However, the building is on an agricultural holding, is designed to be for the purposes of agriculture, and evidence provided by the Appellant indicates that it has been used for the purposes of agriculture since it was erected in 2017. The portal frame building is not inappropriate development in the Green Belt and does not conflict with saved RUDP policy GB1 or with the NPPF.

Conclusion

6. The portal frame building has been erected for the purposes of agriculture and is not inappropriate development in the Green Belt. The ground (a) appeal thus succeeds and planning permission has been granted for the construction of a portal frame building on land at Bingley Road, Crossroads, Keighley. The ground (f) and (g) appeals do not therefore need to be considered.

Appeal B Ref: APP/W4705/C/18/3215590

The ground (b) appeal

7. On the land that is the subject of the enforcement notice is the portal frame building that is the subject of Appeal A and a workshop building that is used by the Appellant as the base for his metal fabrication business. There is a sole access onto the land which is in a single ownership. There are several pieces of equipment associated with the fabrication business outside the workshop and there is no clearly defined area for the business.

8. For these reasons the land, as a matter of planning judgement, is a single planning unit that is in a mixed use, as alleged in the enforcement notice, comprising agriculture and use as a depot in connection with a construction and metal fabrication contractor. The use alleged in the notice has occurred, as a matter of fact, and the ground (b) appeal thus fails.

The ground (d) appeal

9. To be immune from enforcement action the mixed use alleged in the enforcement notice must have commenced more than ten years before the date of issue of the notice, and must have subsisted uninterrupted for the ten year period. The critical date, in this case, is therefore 27 September 2008.

10. From 1983 to 2014 the land was owned by Mr Broster who used the land for agriculture and the workshop, and the land immediately around it, as a base for his joinery business. From 2004 the workshop was also used by the Appellant as the base for his metal fabrication business. The shared use of the workshop and associated land continued until 2008 when Mr Broster fell ill. From 2008 the Appellant took over using the land for agriculture, whilst accommodating Mr Broster's daughter's horse, and the workshop for his business. Mr Broster sold the land to the Appellant in 2014. The history of use and ownership of the land is set out, and mutually corroborated, in signed and dated statutory declarations made by Mr Broster and the Appellant.

11. The date in 2008 when the Appellant took up sole use of the workshop is not known. This, however, is not relevant because the previous combined use of the building and the land immediately around it for business purposes is not likely to have been materially different. In this regard there is no material difference between a joinery business and a metal fabrication business, they are both light industrial uses, and the combined use of the workshop is not likely to have been materially different in intensity from the original and later sole uses of the building.

12. The use of the land for agriculture, as a registered holding, has subsisted for well in excess of the relevant ten year period. Also, the use of the workshop and the land immediately around it for light industrial purposes has also subsisted since before 27 September 2008. The mixed use of the land, as alleged in the enforcement notice and as a matter of planning judgement, has subsisted uninterrupted for the ten year period prior to the date of issue of the notice.

Conclusion

13. The mixed use of the land has subsisted for more than ten years before the date of issue of the notice and the ground (d) appeal thus succeeds. The ground (a), (f) and (g) appeals do not therefore need to be considered.

John Braithwaite

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr J Mason	Appellant
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Ms J Mitchell	Appellant's Partner
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FOR THE LOCAL PLANNING AUTHORITY:

Mrs K Thompson	Planning Officer
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Mr B Robinson	Enforcement Officer
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