



Appeal Decision

Site visit made on 20 January 2020

by Katie Peerless Dip Arch RIBA

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

Decision date: 29 January 2020

Appeal Ref: APP/T0355/C/18/3215426

Kimbers Lane Farm, Oakley Green Road, Windsor SL4 4QF

- 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 Perrin Stevens against an enforcement notice issued by Council of the Royal Borough of Windsor and Maidenhead.
 - The enforcement notice, numbered 16/50242/ENF was issued on 2 October 2018.
 - The breach of planning control is alleged in the notice the material change of use of the land to a change of use from a mixed use comprising a dwelling house, outbuildings and hard standing used for the purposes of maintenance and storage of travelling show persons equipment and ancillary repair, including ancillary parking of lorries, rides and caravans and use of the paddock for equestrian purposes to a mixed use comprising dwelling house, outbuildings and hard standing used for the purposes of maintenance and storage of travelling show persons equipment and ancillary repair, including ancillary parking of lorries, rides and caravans and use of the paddock for equestrian purposes and car repairs and associated car storage.
 - The requirements of the notice are (i) Cease the use of the land, and building identified with a blue X, for the repair of vehicles that are not registered to the landowner of PWS Rides Limited. (ii) Remove all vehicles from the land stored in connection with the vehicle repair business. (iii) Remove all tools, apparatus, structures, containers and other vehicle maintenance paraphernalia from the land and building used in connection with the vehicle repair business.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied: by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to this variation, 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.

Main Issues

2. On ground (a), I consider the main issues in this case are: (i) whether the change of use is inappropriate in the Green Belt and, if so, whether there are any material considerations sufficient to outweigh that harm, and any other harm and amount to the very special circumstances required to justify the grant of planning permission and (ii) the effect of the development on the character and appearance of the area; if ground (a) fails then on ground (g): whether the time for compliance is reasonable.

Site, surroundings and planning history

3. The appeal site is located in the Green Belt and, as well as the building referred to in the enforcement notice, it contains a residential property, a 'park home' type residence, various outbuildings and stored travelling show persons' rides and equipment.
4. The planning history of the site includes an appeal against an enforcement notice that was determined in 2015 which sets out the components that made up the authorised mixed use of the site at that time. This did not include the repair or storage of motor vehicles unconnected with the show-persons' use.
5. The unauthorised business is taking place in a building that has been on the land for a considerable length of time and is run by a separate company that has been granted a lease to operate on site. This building has, however, been extended to provide an office and reception area for the motor repair business enforced against. Cars relating to the business are parked on the area immediately adjacent to the extended building and at the time of my site visit there were a dozen or so cars outside and another 6 in the building.

Reasons

Ground (a)

Green Belt

6. As set out in the National Planning Policy Framework (the Framework), changes of use are not necessarily inappropriate in the Green Belt, but they must preserve openness and not conflict with the purposes of including land within it.
7. Although the appellant considers that the change of use is similar to the existing authorised use of the site as a family run travelling show-persons' site where equipment is stored and maintained, it has introduced a different and unconnected commercial use that has resulted in an enlargement of the building and the presence of a discernible number of vehicles that would not otherwise be on the site.
8. At the site inspection, I saw that, at present, many of the vehicles being worked on are 'classic' cars that are kept on the site, mostly outside the building, sometimes for many weeks at a time. Whilst this means that there might not be so many comings and goings as would normally be associated with a vehicle repair business, any planning permission granted by this appeal would not be able to control the exact type of vehicle that could be brought onto the site. It would be for the use alleged, which is *car repairs and associated car storage* and any condition attempting to limit the car type would, in my view, be unenforceable.
9. The appellant submits that there is no restriction on the vehicles that can presently be parked on the site. However, any such vehicles would have to be associated with the established mixed use and would consequently be subject to certain limitations. The change in the mixed use has to be considered on its own merits and it is clear that the business has resulted in a significant number of additional vehicles being kept at the site.
10. Therefore, in this case, there is a loss of openness due to the storage of the vehicles and the additional built form of the extension. Whilst this might sometimes be acceptable on an already developed site such as this in another location, in the Green Belt this loss of openness means that the change of use is inappropriate development, which causes harm by definition.

11. The Framework makes clear that such harm must be accorded substantial weight in planning decisions. The change of use consequently conflicts with national policy as set out in the Framework and local policy as set out in policies GB1 and GB2A of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted June 2003). These policies limit development in the Green Belt and seek to prevent a loss of openness and are in accordance with the policies set out in the Framework.
12. In order to justify such development, the appellant would need to demonstrate that there are very special circumstances that outweigh the harm identified above. He notes that the business is making use of a redundant building for which the established site operations have no use and that it is providing local employment. I note these benefits but I have not been given any other reasons why the business needs to be on this Green Belt site or any other compelling evidence on the benefits of siting the business in this location. I consider that the benefits set out above are limited do not outweigh the Green Belt harm and therefore conclude that there are no very special circumstances that indicate planning permission should be granted.

Character and appearance

13. The development has increased activity on the site and, in Green Belt terms, has reduced openness. However, the original building is well screened from public viewpoints and will remain even if the use to which it is being put has to cease. The parked cars have some impact on the surroundings but are seen in the context of the fairground rides that are stored on the site and the other activities taking place in the locality.
14. For these reasons, I consider there is little impact on the character and appearance of the wider site, but this finding does not outweigh my conclusions on the Green Belt harm, nor does it mean that planning permission should be granted for the development.

Other matters

15. Should permanent permission not be forthcoming for the development, the appellant has asked that a temporary permission be granted to last until the expiration of the current lease, in March 2021. However, even a temporary permission would require the demonstration of very special circumstances. In my judgement, the terms of a lease do not amount to such circumstances even if combined with the other considerations noted above and a temporary permission will not be granted.
16. The appellant also asks for the notice to be amended to allow for the repair of *'any vehicles used in association with the existing lawful showman's use of the site'*, in addition to not restricting the repair of *'any vehicles registered to either the landowner, members of his family, or to those of his employees and their respective families, in addition to those vehicles either registered to PWS Rides Limited or used in connection with the showperson's industry'*.
17. The Council submits that the notice does not seek to prevent ancillary repair works to the rides and vehicles legitimately stored on the site but notes that vehicle repairs are not a primary use of the land at present. It is concerned that varying the wording as requested could lead to the establishment of such a primary use and that it would then not be possible to effectively enforce against it.

18. I agree with this conclusion and find that there is no good reason to vary the enforcement notice as suggested. All the notice seeks to do is to prevent the unauthorised vehicle repair business that is currently operating from the site and the wording of the notice as drafted has no impact on the established lawful use of the site, as confirmed in the previous appeal decision.

Ground (g)

19. The enforcement notice requires the use to cease within 3 months, however, the appellant asks for more time to conclude the lease and allow the business to re-locate. As noted above, the lease runs until March 2021 and I am assuming the appellant is requesting an extension until this date, as no other time frame has been suggested.
20. The Council notes that the appellant has had ample time to advise his tenants of the situation and that they should have been making inquiries about moving premises during the appeal process. However, the appellant is entitled to consider that the appeal may succeed and to be given sufficient time to make alternative arrangements if it then does not.
21. I note that there are provisions for terminating a lease, but also feel that 3 months is too short a time to facilitate this and for the business to find alternative premises and relocate. I will therefore extend the time for compliance to 6 months which I consider to be a reasonable time to undertake the above actions.

Conclusions

22. For the reasons given above I conclude that a reasonable period for compliance would be 6 months, and I am varying the enforcement notice accordingly, prior to upholding it. The appeal under ground (g) succeeds to that extent planning permission on the deemed application is refused.

Katie Peerless

Inspector