



Appeal Decision

Site visit made on 7 November 2019

by Timothy C King BA (Hons) MRTPI

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

Decision date: 31 January 2020

Appeal Ref: APP/H1515/C/18/3218277 & APP/H1515/C/18/3218278
Land at Travellers Rest Farm, Chequers Road, South Weald,
Essex CM14 5RG

- 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 Darren Henwood against an enforcement notice issued by Brentwood Borough Council.
- The enforcement notice was issued on 14 November 2018.
- The breach of planning control as alleged in the notice is: Without planning permission, the construction of a detached garage outbuilding, used as a triple garage with storage area shown for the purposes of identification only in the approximate position shaded green on the attached site plan.
- The requirements of the notice are to:
 1. Demolish the unauthorised detached garage outbuilding (shown for the purposes of identification only in the approximate position shaded green on the attached site plan), including its concrete base.
 2. Remove all matter arising from compliance with Step 1 above to a place authorised to receive such waste.
 3. Following compliance with Steps 1 and 2 above, make good the surface of the land to a levelled earthen surface seeded with native grass in order to conserve the openness of the Green Belt.
- The period for compliance with Requirements 1 and 2 is six months from the date this notice takes effect. The period for compliance with Requirement 3 is in the first planting season after this notice takes effect.
- 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 the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Formal Decision

1. It is directed that the enforcement notice be corrected by, under the heading "What you are required to do", the deletion of the wording "including its concrete base" in Requirement 1, and the deletion of Requirement 3 in its entirety.
2. Subject to these corrections 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.

Background

3. The garage outbuilding has already been the subject of an unsuccessful s78 appeal (APP/H1515/W/17/3177436). In November 2017, an Inspector upheld the Council's decision to refuse planning permission for the development. In

finding the outbuilding to be inappropriate development in the Green Belt, harmful also to the Green Belt's openness, the Inspector found that there were no very special circumstances to outweigh the harm he had identified.

4. Following this decision the Council considered it expedient to issue an enforcement notice requiring for the garage's removal.

Preliminary Matters

5. A second, parallel appeal (*APP/H1515/C/18/3218278*) against the enforcement notice was also lodged. Limited only to Ground (a), the prescribed fees were not paid within the specified period. Accordingly, this appeal has effectively lapsed.
6. The previous Inspector concluded that the garage outbuilding in situ represented inappropriate development within the Green Belt. In reaching his decision the planning merits and impacts of the development have already therefore been assessed. However, despite the main parties' arguments having already been rehearsed on this matter, the appellant, in having appealed on Ground (a), has effectively reapplied for planning permission in an attempt to quash the enforcement notice.
7. The notice has not been appealed on any of the other grounds available, and I am therefore unable to assess the development against other factors that might be seen to have been relevant to the development enforced against. I am only required, therefore, to decide whether or not there has been a material change in circumstances since November 2017 or whether compelling evidence has now been adduced so as to bring about a reversal of the previous Inspector's decision.
8. The alleged breach of control refers to the construction of the garage itself, saying that the operations were substantially completed less than four years ago. However, the enforcement notice also requires for the building's concrete base to be removed. The appellant disputes this requirement and says that the slab can be traced back nearly 70 years. Although no Ground (d) appeal has been formerly lodged claiming the slab's immunity from enforcement action, given the circumstances I have, nonetheless, had regard to the extent of the evidence adduced in this respect.
9. From my reading of the aerial photographs submitted from both parties the slab appears as more of an expanse of hardstanding which goes significantly beyond the position shaded green on the plan attached to the enforcement notice. On this basis, the building's 'concrete base' is ill defined and uncertain. Further, given that the hardstanding has clearly existed for a period exceeding 4 years before the date of the issue of the enforcement notice, ie prior to 14 November 2014 (the material date) I am not convinced that a distinction can be drawn between the base of the garage and the wider concrete footprint.
10. In light of the above, and with the notice also requiring that the land be made good and seeded with native grass, it appears to me that its requirements, as a whole, are directed towards betterment, going beyond what can be considered as remedial in the circumstances. I shall, therefore, correct the notice, accordingly.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

11. These are:

- 1) whether the building constitutes inappropriate development in the Green Belt and, if so, the effect on the Green Belt's openness; and
- 2) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Whether inappropriate development, and the Green Belt's openness

12. The appellant indicates that a detached garage block, now demolished, stood on the hardstanding I have referred to. However, as the previous Inspector, commented, the location, extent and detailed use of any former outbuilding remains uncertain. The evidence advanced for the current appeal remains imprecise and unambiguous in this respect and, whilst I have found that the Council's case in terms of the concrete slab is not compelling, neither is the appellant's case that the current garage is a replacement building, not materially larger and in the same use, for that which previously stood on the land.
13. Given the above, I have not been provided with any details which would suggest that there has been a material change in circumstances since the previous appeal decision was issued. The then Inspector found the garage as amounting to a disproportionate addition to the dwelling, and at my site visit, I noted the presence of other outbuildings at the site. Although I have again examined the various factors involved, I must conclude that the development does not satisfy any of the exceptions to inappropriate development set out in paragraph 145 of the National Planning Policy Framework (the Framework).
14. The appellant makes a point that the building cannot be seen from the road and, as such, considers that there is no adverse effect on the Green Belt. I observed that the building is well screened by trees, but development within the Green Belt involves both visual and spatial effects on its openness. In this instance, the development involves a relatively large building with roof planes rising to a central ridge, and I consider that its presence adversely affects the openness of the Green Belt. Accordingly, I see no reason to disagree with the previous Inspector's assessment.
15. I therefore conclude that the garage outbuilding is inappropriate development in the Green Belt for the purposes of the Framework, is harmful to its openness, and is also contrary to policies GB1, GB2 and GB7 of the Brentwood Replacement Local Plan (BRLP).

Planning balance

16. The appellant has requested that the development now be seen in the context of other development schemes close to the appeal site, and also his intention to employ measures within the building for the benefit of bats.
17. Given my findings on the first two main issues I must assess whether the appellant has demonstrated the very special circumstances necessary in order

to outweigh the presumption against inappropriate development in the Green Belt, which is by definition harmful thereto. The appellant has drawn my attention to a redevelopment scheme at the Chequers Tavern, which he indicates was granted planning permission, new residential developments at the Coxtie Green Telephone Exchange site, and another at the site next to the White Horse Public House.

18. However, I have not been provided with the sites' respective addresses, the application references, any specific details of the proposed developments, analysis as to the particular factors involved, nor any considered parallels that might reasonably be drawn with the issues relating to the current appeal. In the circumstances I must afford these limited representations little weight.
19. In terms of the intended measures for the benefit of bats roosting in the building, whilst I acknowledge the ecological benefits of such, they represent insufficient mitigation in the circumstances. Even when taken together I find that the representations put forward in support of the appeal are relatively insubstantial when considering the harm to the Green Belt's openness. The necessary very special circumstances have not therefore been demonstrated.

Overall Conclusion

20. The garage building is inappropriate development in the Green Belt which is also harmful to its openness. In the absence of very special circumstances to outweigh the inappropriateness the proposal is in material conflict with relevant advice in the Framework and also the Green Belt policies cited in the BRLP. Accordingly, for the reasons given, and having had regard to all matters raised, the appeal on Ground (a) fails and planning permission, by way of the deemed planning application, is refused. The corrected enforcement notice, as set out in the Formal Decision, is therefore upheld.

Timothy C King

INSPECTOR