



Appeal Decision

Site visit made on 28 January 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/C3620/W/19/3240387

Hunters Moon, Burnt Oak Lane, Newdigate, Dorking RH5 5BJ

- 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 G Hall against the decision of Mole Valley District Council.
 - The application Ref MO/2019/0413/PLA, dated 27 February 2019, was refused by notice dated 4 September 2019.
 - The development proposed is described as 'change of use of ancillary outbuilding approved under MO/2014/1482 to part hobby use for car maintenance for the applicant's classic car collection and part business use for car interior, trimming and upholstery restoration 2-3 days a week'.
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Decision

1. The appeal is allowed and planning permission is granted for a 'change of use of ancillary outbuilding approved under MO/2014/1482 to part hobby use for car maintenance for the applicant's classic car collection and part business use for car interior, trimming and upholstery restoration 2-3 days a week' at Hunters Moon, Burnt Oak Lane, Newdigate, Dorking RH5 5BJ in accordance with the terms of the application, Ref MO/2019/0413/PLA, dated 27 February 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall not be occupied or used at any time other than by those residing at the dwelling on the application site. Specifically, it shall not be used as a separate unit of residential accommodation or as a commercial car operation (except for in accordance with the submitted Planning Management Plan (outbuilding change of use) dated 15 April 2019).

Procedural matters

2. As the proposal was amended during the application process, I have used the description of development provided on the appellant's appeal form. The appeal has been determined on that basis.
3. I note that the application was submitted retrospectively, but I have no information as to whether the use before me was on-going at the time of my visit. Therefore, whilst I have made general observations on my site visit, I have assessed the matter on the written evidence before me.

Main issues

4. The main issues are:

- i) whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
- ii) the effect of the proposal on the character and appearance of the surrounding area; and
- iii) the effect on the living conditions of the occupants of 8 and 10 The Poplars and Hunters Moon with particular regard to privacy, noise and disturbance.

Reasons

Whether the proposal is inappropriate development within the Green Belt

- 5. The proposal relates to an outbuilding to the rear of a two-storey residential dwelling located within the open countryside. It is within a designated Green Belt. Policy CS1 of the Mole Valley Local Development Framework Core Strategy – Adopted October 2009 (CS) sets out that in locations such as this development will be considered in light of the provisions of PPG2 'Green Belts'. However, PPG2 has been superseded by the National Planning Policy Framework (the Framework) and this now forms the main policy consideration.
- 6. Paragraph 143 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 146 of the Framework sets out development that is not inappropriate in the Green Belt provided that it preserves its openness and does not conflict with the purpose of the Green Belt. The exceptions listed at paragraph 146 include, d) the re-use of buildings provided that the buildings are of permanent and substantial construction. This is an exception acknowledged by the Council.
- 7. The proposal seeks to re-use a modest outbuilding. This is a converted stable, whose use is restricted by condition¹ so that it shall only be occupied for purposes ancillary to the residential use of Hunters Moon and specifically not as a separate dwelling or commercial car operation. The reasons for the condition were its rural location and the living conditions of neighbouring properties' occupiers. The Council do not suggest that the building is not of a permanent and substantial construction. Furthermore, I have visited the site and I have no reason to disagree.
- 8. The proposed development differs to that currently benefiting from planning approval in that it seeks part business use for car interior, trimming and upholstery restoration. From the appellant's evidence, including their management plan², the commercial activity is restricted to a smaller room to the southern end of the building and approximately half of the other bigger room. The proposal is clear that it relates to the use of the building and not the surrounding land and no external works are being proposed. Furthermore, the proposal includes a commercial element and therefore commensurate tools and machinery would be reasonable. Lastly, the management plan sets out that the

¹ LPA reference: MO/2014/1482 – Condition 4

² Planning Management Plan (outbuilding change of use) dated 15 April 2019

commercial element is for the benefit of the appellant who lives in the dwelling at the appeal site. Furthermore, the commercial use would generate few visitors to the property which would not be significantly greater than would be generated by the existing residential use. So, the proposal would not generate additional parking. As such, the proposal would have no harmful effect on the openness of the Green Belt or conflict with the purposes of including land within it.

9. Therefore, on the first main issue, I conclude that the proposal would involve the re use of a building in line with paragraph 146 d) of the Framework and would therefore not be inappropriate development within the Green Belt for the purposes of the Framework and development plan policy. The development would accord with Policy CS1 of the CS and section 13 of the Framework which seek to prevent encroachment into the countryside by keeping land permanently open.

Character and appearance

10. As set out above the site is located within a countryside location and the lawful use of the building involves private car storage and workshop. The diversification of this to allow an internal use of the building for commercial car interior, trimming and upholstery restoration would not cause harm to the rural character and appearance of the area given that the proposal relates to the internal use and would not affect the outside of the building. The Council consider that another unauthorised building to the west and an area of hard standing between the two is used as part of the development. However, this is not part of the appeal submission. Any unauthorised commercial activity within other buildings or external areas of the site would be a matter for the Council to address through their enforcement powers.
11. Therefore, on the second main issue, I conclude that the proposal would not harm the character and appearance of the surrounding area. In this regard, the development would accord with Policy CS14 of the CS and Policy ENV22 of the Mole Valley Local Plan – Adopted 12 October 2000 (LP). Amongst other aims these policies seek to ensure development respects the character and appearance of the area.

Living conditions

12. The building is located within close proximity to a number of residential mobile homes. I have viewed the proposals from 8, 10 and 12 The Poplars. The mobile homes are sited in close proximity to the blank east elevation of the outbuilding and have modest private rear gardens backing onto the appeal site.
13. During the course of the application third party objections were received in relation to the potential effect on the living conditions of occupiers of nearby property on Cudworth Park. However, the Council acknowledge within the representations section of their planning officer report that they have no control over the applicant working on his own vehicles. This generates a fall-back position that may cause some disturbance. However, this is not a matter that the Council have demonstrably considered within its assessment on the impact to neighbours. Furthermore, Policy ENV22 of the LP requires proposals to avoid 'significant' harm to the living conditions of neighbouring occupiers.

14. The management plan sets out the majority of the work occurs within the workshop which the appellant states is insulated. There are no openings in the east elevation of the building, where the nearest neighbours are located. This would limit noise and odours in that direction. The nature of the work, such as using sewing machines, would not be likely to generate significant levels of noise, especially in the context of the lawful fall-back position. The Council's Environmental Protection Officer (EPO) was not satisfied with the detail of the management plan, however, given the specialist nature of the work, they raised no objection subject to conditions.
15. The nature of this modest operation has been clearly set out in the management plan. This excludes the work which the EPO was concerned over (e.g. metal cutting and paint spraying). Furthermore, the evidence indicates that the use relates to the inside of the building, avoiding outside commercial work. The appellant's suggested hours of operation are comparable to those requested by the EPO and allow respite for the neighbours. Finally, the appellant's management plan, consistent with the planning history of the site, links the commercial use with Hunters Moon. As such the proposal avoids disturbance to occupiers of this dwelling.
16. Therefore, on the final main issue I conclude that the proposal would not significantly harm the living conditions of the occupiers of 8 and 10 The Poplars, or Hunters Moon, with particular regard to privacy, noise and disturbance. In this regard, the development would accord with Policy ENV22 of the LP. Amongst other aims this seeks to avoid significant harm to the living conditions of occupiers of neighbouring properties by reason of noise, traffic or other adverse environmental impact.

Conditions

17. Paragraphs 54 and 55 of the Framework set out the tests of a condition and that they should be kept to a minimum in order to make unacceptable development acceptable. Additionally, I have had regard to the guidance on planning conditions, including that relating to the appropriate use of conditions limiting the benefits of a planning permission to a particular person or people³. I note that the Council considers that their concerns cannot be overcome by conditions and that they have sought legal opinion on the matter. However, I have not been provided with a copy for my consideration. The Council state that there have been no changes in policy since the use of the building was restricted by condition⁴. However, the condition did not seek to prevent development, it sought to retain control by requiring specific proposals to be assessed.
18. To ensure consistency with this historic condition restricting the use of the building, and to secure the measures outlined within the appellant's planning management plan, I have re-worded the previous condition to allow the proposed use. This is to ensure a modest development respecting the Green Belt, character and appearance of the area and the living conditions of occupiers of neighbouring residential properties. Finally, as set out in my procedural matters, I have no evidence that the use is currently ongoing. Therefore, I have imposed the standard implementation condition in order to define the terms of this permission.

³ Planning Practice Guidance – Use of Planning Conditions - Paragraph: 015 Reference ID:21a-015-20140306

⁴ LPA reference: MO/2014/1482

Conclusion

19. I have found that the appeal proposal would not form an inappropriate development in the Green Belt, that it would cause no harm to the character and appearance of the area or to the living conditions of the occupiers of the host dwelling or nearby properties.

20. For the reasons given above, I conclude that the appeal should be allowed.

James Taylor

INSPECTOR