
Appeal Decision

Site visit made on 18 February 2020

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2020

Appeal Ref : APP/R5510/C/19/3234578

The Watertower Field, Ducks Hill Farm, Ducks Hill Road, Northwood, HA6 2SP

- 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 Progressive Farmers Ltd against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The notice was issued on 5 July 2019.
- The breach of planning control as alleged in the notice is without planning permission the use of the land for the storage of shipping containers (Use Class B8).
- The requirements of the notice are i. cease the use of the land for the storage of shipping containers, ii. remove from the land all shipping containers, iii. remove from the land all vehicles which are associated with the use of the land for the storage of shipping containers, iv. remove from the land all hard standing facilitating the use of the land for the storage of shipping containers, v. remove from the land all materials, debris, plant and equipment associated with requirements i. to iv above.
- The period for compliance with the requirements is one month.
- 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.

Summary of Decision: the appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Ground (a) appeal and deemed application

Main Issues

1. The main issues in the determination of this appeal are:
 - Whether the development amounts to inappropriate development in the Green Belt for the purpose of the National Planning Policy Framework (the Framework) and development plan policy;
 - Its effect on the openness of the Green Belt; and
 - If the scheme is inappropriate development whether the harm caused 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 it.

Inappropriateness

2. Great importance is attached to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework sets out the purposes of Green Belt and measures for their protection. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
3. The development plan (including the London Plan, Hillingdon Local Plan Part One – Strategic Policies and the recently adopted Hillingdon Local Plan Part Two) reflects the Framework. Policy EM2 of the Local Plan Part One emphasises that any proposal for development in the Green Belt will be assessed against national and London Plan policies including the very special circumstances test.
4. The appeal site is situated adjacent to Ducks Hill Road and to the south of a large residential dwelling. The 17 unauthorised shipping containers the subject of the notice are located in an open field near a telecommunication mast with grassed banks to the north and east and an agricultural building to the south. An area of hardstanding facilitates access to the containers.
5. The Framework provides at paragraph 146 that certain forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. The use for the storage of shipping containers is not covered by paragraph 146. It is therefore inappropriate development and by definition harmful.

Openness

6. The unauthorised use affects the character and appearance of the open field and its setting. The containers reduce the openness of the Green Belt.

Character and appearance

7. The containers are positioned in rows. They are large green containers and highly visible from the neighbouring residential property. They have an industrial, commercial appearance at odds with the open character of the surrounding fields. I agree with a neighbour who describes the shipping containers as totally out of character with the surrounding area.
8. The containers cause undue harm to the character and appearance of the area contrary to relevant policies in the development plan including policy EM2 of the Local Plan Part One.

Planning balance and conclusions

9. The Appellant says that the site has not been used for agricultural purposes for many years and is derelict and unused land. That does not alter the fact that there has been a change of use to use for the storage of shipping containers. He also suggests that the containers support the agricultural function of the land. But the evidence before me is that the containers are used for commercial storage and I cannot conclude on the evidence before

me that they are buildings for agriculture for the purposes of the Framework.

10. My attention is drawn to other sites including farms in the area. I do not know the circumstances of these site and have determined this appeal on its particular facts.
11. The development amounts to inappropriate development in the Green Belt. It creates a reduction in openness and causes undue harm to the character and appearance of the surrounding area. I have considered the arguments in favour of farm diversification. Whilst I recognise the potential modest economic benefits I conclude that matters in support of the development do not clearly outweigh the harm that I have identified in relation to the Green Belt and the character and appearance of the surrounding area. Consequently, the very special circumstances necessary to justify the development do not exist and the development is contrary to the Framework and relevant policies in the development plan.
12. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. I have considered the conditions proposed by the parties in the event that the appeal is allowed but I do not consider that conditions, including landscaping conditions, could overcome the identified harm.
13. For the reasons given above, I conclude that the appeal should not succeed. I shall refuse to grant planning permission in whole or part for the development already carried out.

Ground (f) appeal

14. This ground of appeal is whether having regard to the purpose for which the notice was issued, the steps exceed what is necessary to meet that purpose.
15. There are two purposes which the requirement of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control that has occurred. The second is to remedy any injury to amenity which has been caused by the breach.
16. The notice requires cessation of the unauthorised use, removal of the shipping containers and removal of the hardstanding that facilitates the unauthorised use. Its purpose is therefore to remedy the breach of planning control. No lesser steps would achieve that purpose.
17. The Appellant argues that the removal of the hardstanding is an unnecessary step. He says that the hardstanding existed on site before the containers. There is no ground of appeal before me arguing that the hardstanding is immune from enforcement action or that it is not a breach of planning control. In any event it is established law that a notice can require the removal of works that are part and parcel of an unauthorised use even if those works in themselves do not require consent. In this case the hardstanding facilitates the unauthorised use and therefore I conclude that its removal is an appropriate requirement.
18. I conclude that the steps required by the notice are reasonable and the appeal under ground (f) does not succeed.

Ground (g) appeal

19. This ground of appeal is that the compliance period is unreasonably short. The notices provides for a one month compliance period. The Appellant says that a period of a few months would be more appropriate to enable the goods stored in the containers to be relocated.
20. I have balanced competing interests – the private interest of the Appellant in development his land and the public interest in bringing to an end the identified harm without unnecessary delay. Removal of the containers is not complex or specialist but I recognise that some time is needed to enable the owners of the goods being stored to find alternative provision. I think that two months would be a reasonable period for compliance.
21. For the reasons given above, I conclude that a reasonable period for compliance would be two months and I am varying the enforcement notice accordingly prior to upholding it. The appeal under ground (g) succeeds to that extent.

Formal Decision

22. The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied by substitution of two 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.

S. Prail

Inspector