
Appeal Decision

Site visit made on 16 June 2020

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2020

Appeal Ref: APP/V1505/C/19/3239495

Land at East of Allotment Gardens, London Road, Bowers Gifford, Essex SS13 2HD

- 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 Harbour against an enforcement notice issued by Basildon District Council.
- The enforcement notice was issued on 10 September 2019.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised material change in the use of the Land from the keeping of horses to a mixed use for the keeping of horses, storage of waste and other inert materials, and the parking/storage of horseboxes and motor vehicles on the Land, along with the deposit of hardcore and formation of a hardstanding in the approximate location shown in blue cross hatching on the notice plan.
- The requirements of the notice are:
 - i. Cease using the Land for storage of waste and other inert materials, and for the parking/storage of horseboxes and motor vehicles.
 - ii. Break up the hardstanding (as shown in the approximate area hatched in blue on the Notice plan) and remove it from the Land, including all resultant debris therefrom
 - iii. Remove all deposited hardcore and other inert materials from the Land.
 - iv. Return the Land to its former condition by levelling and cultivating with grass seed.
- The period for compliance with the requirements is four 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Preliminary Matters

1. A draft Basildon Borough Local Plan (emerging LP) was issued in 2018. The plan is yet to be adopted, and in the absence of any further information about its progress, I have given it limited weight.

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

Main issue

2. The main issues are:

- Whether the development comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- Whether there are other considerations weighing in favour of the development; and
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, does this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

3. The land adjacent to the allotment gardens at Bowers Gifford is located within the Green Belt, whose boundaries are defined by Policy GB1 of the Basildon Local Plan. The National Planning Policy Framework (the Framework) states that new buildings within the Green Belt should be considered inappropriate with a number of exceptions. This includes the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport or outdoor recreation; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It also states that other forms of development, including engineering operations, are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it.
4. Policy GB7 of the emerging LP reflects the Framework. It resists the change of use of land where it would have a materially greater impact on the openness of the Green Belt or conflict with the purposes of including the land within it, or that it would result in an intensification of the site compared to the existing use such as through the open storage of materials or vehicles.
5. The land adjacent to the allotment gardens at Bowers Gifford comprises a modest area that, I understand, is used for keeping horses. An area of hardstanding has been formed over a large part of the area with surplus hardcore in small piles adjacent to the hardstanding. The hardstanding has been covered with manure and there were a lorry and trailer that appear to be used for transporting horses parked on the site at the time of my site visit. Neither appeared to have been used for some time as the manure had been spread up to them. The appellant parks vehicles used for transporting horses around the country on the site when not in use, as part of his business trading horses.
6. I understand that hard surfacing is common on land used for keeping horses and there had previously been some hard surfacing on the land, some of which may have been retained following the construction of the A13 junction. The reclaimed building materials are kept on the land such that they can be used in gateways and around outdoor feeding and watering stations.
7. Use of land for the keeping of horses comprises a use for outdoor sport or recreation, so development required in support of that use may not be inappropriate. In addition, hard surfacing and storage of building materials comprise engineering operations that also may not be inappropriate. However, in both cases development is required to preserve openness and not conflict with the purposes of including land within the Green Belt.

8. The hardstanding has been laid on the ground, so has limited visual effect on the openness of the Green Belt. Nevertheless, it provides a surface on which activity can take place, such as the parking of horseboxes and motor vehicles. The storage in small piles of hardcore are visible, albeit not prominent in views into the site. These developments and uses result in harm to the openness of the Green Belt, both in terms of visual and spatial effects.
9. For these reasons, I conclude that the development harms openness, so is inappropriate development within the Green Belt. As such, it is contrary to Policy GB7 of the emerging LP and the Framework.

Other considerations

10. I understand that natural drainage on this site has been affected by the construction of the A13 junction adjacent and associated changes to land levels. This has resulted in waterlogging on the site that affects the welfare of horses on the site. Provision of some hardstanding would protect the welfare of horses on the site, although a substantial amount of hardstanding has been provided that appears to be more than is necessary for this purpose.
11. I understand that vehicles may have been parked on the site for a considerable period, but there is no ground (d) appeal that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. The hardstanding facilitates this use, so even if vehicles have been parked here for a substantial period, that would not overcome the harm I have identified to the openness of the Green Belt.

Conclusion

12. I have found that the material change in the use of the Land from the keeping of horses to a mixed use for the keeping of horses, storage of waste and other inert materials, and the parking/storage of horseboxes and motor vehicles on the Land, along with the deposit of hardcore and formation of a hardstanding harms the openness of the Green Belt. As a result, it does not fall within an exception to inappropriate development within the Green Belt. I have not identified any other harm. However, I accept that provision of some hardstanding may assist in protecting the welfare of horses.
13. Taking account of all the above, the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations, either individually or cumulatively, sufficient to demonstrate very special circumstances. Therefore, the proposed development is contrary to Policy GB7 of the emerging LP and the Framework that seek to protect the Green Belt from inappropriate development.
14. On the basis of the above considerations, I conclude that the appeal on ground (a) therefore fails.

The Appeal on Ground (g)

15. An appeal on this ground is that the period specified in the notice for compliance falls short of what should reasonably be allowed.
16. The appellant has suggested the period of compliance should be extended to six months due to ground conditions at certain times of year with potential effects to the soil structure and drainage. However, I consider that a period of

four months is reasonable for the works required by the notice to take place, taking account of the issues raised and the time of year of this decision.

17. For these reasons, I conclude that the appeal under ground (g) should fail.

Formal Decision

18. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

AJ Steen

INSPECTOR