



Appeal Decisions

Site visit made on 8 September 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Appeal A - Ref: APP/M3645/W/20/3248986 Tower Farm, War Coppice Road, Caterham CR3 6AS

- 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 W Murrell against the decision of Tandridge District Council.
 - The application Ref TA/2019/1639, dated 5 September 2019, was refused by notice dated 7 February 2020.
 - The development proposed is the part change of use of tack room, stables and equestrian offices to a residential dwelling.
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Appeal B - Ref: APP/M3645/W/20/3248988 The Bungalow, Tower Farm, War Coppice Road, Caterham CR3 6AS

- 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 William Murrell against the decision of Tandridge District Council.
 - The application Ref TA/2019/1641, dated 5 September 2019, was refused by notice dated 7 February 2020.
 - The development proposed is the change of use of cow shed to a residential dwelling.
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Decisions

1. Appeal A is allowed and planning permission is granted for the part change of use of tack room, stables and equestrian offices to a residential dwelling at Tower Farm, War Coppice Road, Caterham CR3 6AS in accordance with the terms of the application, Ref TA/2019/1639, dated 5 September 2019, and the plans numbered 1908-11-PL02, PL03, PL05a and PL07a subject to the conditions in the attached schedule.
2. Appeal B is allowed and planning permission is granted for the change of use of cow shed to a residential dwelling at The Bungalow, Tower Farm, War Coppice Road, Caterham CR3 6AS in accordance with the terms of the application, Ref TA/2019/1641, dated 5 September 2019, and the plans numbered 1908-11-PL01, PL04 and PL06 subject to the conditions in the attached schedule.

Procedural Matters

3. The two appeals are on the same holding. They differ by relating to different buildings, although they are both for a change of use to a residential dwelling, and the Council's reason for refusal is the same in both cases. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. Both applications are retrospective and are described as such on the application forms. I have deleted the term 'retrospective' from each of the descriptions in the banner headings above because that is not a description of development.
5. The appellant considers that the use of the buildings as dwellings has become lawful because of the length of time they have been in residential use. Within the context of appeals under section 78 of the Act it is not within my remit to determine whether the proposed developments require planning permission. The appeals have therefore been determined on their planning merits. If the appellants wish to ascertain whether the developments are lawful, it is open to them to make applications under sections 191 or 192 of the Act.

Main Issue

6. The main issue for both appeals is whether the proposal would be inappropriate development in the Green Belt, and if so whether the harm by reason of inappropriateness, and any other harm including that to openness, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

7. In the Green Belt, Policy DP13 of the Tandridge Local Plan Part 2 regards the re-use of buildings as not inappropriate provided that the proposals preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, the buildings are of permanent and substantial construction, the proposed uses can be wholly or substantially contained within the building, and the proposals are not likely to result in the need to construct additional agricultural buildings. These criteria expand upon and are consistent with the National Planning Policy Framework (the 'Framework') which sets out national planning policy for development in the Green Belt.
8. In both cases, the buildings which have been converted to dwellings are permanent and of substantial construction. In the case of The Bungalow, it appears that the building was largely built as it is now, although the Council has not sought to argue that its construction was unlawful. In the case of the other dwelling the tack room and former stables and hay store have been converted to residential accommodation without the need for rebuilding other than for the insertion of windows and doors and some internal remodelling. There is no need for structural surveys or conversion method statements as required by Policy DP13 in these cases as the work has already been carried out.
9. The residential uses are substantially contained within their respective buildings. Both propose to allocate land to form domestic garden areas. The land in question is currently used as rough grassland. While this would to some extent domesticate the surroundings of each building, the visual impact would be limited in that the proposed garden areas are proportional in size to the dwellings and are screened in views from outside the holding by the buildings on the site and existing trees and hedgerows. Conditions can be imposed to require the garden areas to be further defined and control the means of enclosure and ancillary structures that might otherwise impact on the openness of the Green Belt.

10. Both residential uses have been in place for some time but have not generated the need for replacement agricultural or equestrian buildings on the site. Other buildings remain that provide stabling, hay and equipment storage in support of the holding's operations. Having regard to these circumstances I conclude that the conversions are unlikely to result in the need to construct replacement agricultural buildings.
11. Both residential conversions would preserve the openness of the Green Belt in that they have re-used existing buildings without the need for further built development; and the change of use of grazing land to incidental garden land would be relatively modest and confined to the curtilages of each building.
12. The former stable/haystore conversion includes within its curtilage a mobile home positioned on the opposite side of the drive to the tack room. A Certificate of Lawfulness has previously been granted for the stationing of this mobile home for residential purposes¹, although the appellant says that it is now used as ancillary accommodation to the dwelling. The application proposes to continue the use of the mobile home as ancillary accommodation to the dwelling rather than as a separate residential use. I consider that inclusion of the mobile home as ancillary residential accommodation would meet the criteria of Policy DP13 in that it would not introduce a new structure, it would continue a lawful residential use albeit now ancillary to the dwelling, and would not result in the need to construct additional agricultural buildings.
13. Having regard to all these considerations, I conclude that both residential conversions would meet the criteria set out in Policies DP10 and DP13 of the Tandridge Local Plan Part 2 and national Green Belt policy as set out in the Framework for the re-use of existing buildings in the Green Belt, and would therefore not be inappropriate development in the Green Belt. Since no harm would be caused by inappropriate development, or harm to the openness of the Green Belt, there is no need for me to consider whether very special circumstances exist to justify the developments. They are acceptable on their own planning merits.

Other Matters

14. Representations to the original applications raised disquiet at the unauthorised development that has taken place on the site. While I understand the concerns expressed, control of unauthorised development is a matter for the Council to control through its enforcement powers. In the case of these two appeals, I am required to consider the planning merits of the proposed residential uses rather than their lawfulness.
15. Concern has also been raised in representations on the effect of the developments on the character and appearance of the countryside, which lies within an Area of Great Landscape Value, and additional activities associated with the uses including traffic generation, drainage, and setting a precedent for future development. The Council has not raised objection to the developments on these grounds, and I see no reason to do so either.

Conditions

16. I have considered the conditions suggested by the Council in the light of paragraph 55 of the Framework. It advises that planning conditions should be

¹ TA/2012/41

kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

17. I have imposed those suggested conditions which I consider meet the guidance. I have made minor changes to wording in the interests of consistency and clarity. As both developments have been carried out there is no reason for conditions listing the approved plans, although those which have been implemented are listed in the descriptions for clarity. I consider conditions requiring energy efficiency and electric vehicle charging are necessary in the interests of sustainability and to reflect policy requirements in the Tandridge Local Plan Part 2. I have imposed a condition requiring approval of landscaping details to ensure the better definition of the residential curtilages to protect the openness of the Green Belt.
18. I have considered what sanction is appropriate were there to be non-compliance with these conditions. I have phrased them so that the actions in both submitting details for approval and implementation are required to be undertaken in certain specified timescales. If these are not met the Council has powers under s172 or s187A of the Act to enforce against the actions rather than the developments as a whole. I consider this to be a proportionate approach in each case.
19. The Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. In this case, because of the need to protect the openness of the Green Belt I consider there is justification to control domestic enlargements and ancillary domestic structures. This is consistent with the conditions applying to permitted development rights for the conversion of rural buildings, and also to Policy DP13 which suggests there may be a need to restrict permitted development rights in re-used rural buildings.
20. I consider there to be insufficient justification for restricting agricultural permitted development rights to erect buildings on the holding, as I have found that by themselves the conversions have not given rise to the need for further agricultural buildings on the site.
21. I have imposed a condition on the permission granted under Appeal A restricting the use of the mobile home to ancillary residential accommodation to the dwelling to reflect the terms of the application and to avoid the proliferation of separate residential uses and curtilages within the Green Belt.

Conclusion

22. I conclude that appeals A and B are allowed.

Guy Davies

INSPECTOR

Appeal A - schedule of conditions

- 1) Within three months of the date of this permission, details demonstrating how the development would satisfy a 10% reduction in carbon emissions over current building regulation standards through renewable energy sources shall be submitted to and approved in writing by the Planning

Authority. The renewable energy provision shall be implemented within three months of it being approved and thereafter retained.

- 2) Within three months of the date of this permission, the dwelling hereby permitted shall be provided with an electric vehicle fast charge socket and thereafter retained.
- 3) Within three months of the date of this permission, details of both hard and soft landscaping to include means of enclosure, existing and proposed trees, plants and hard surfacing materials shall be submitted to and approved in writing by the Planning Authority. All landscaping shall be carried out within 12 months or the first planting season, whichever is earlier, of the date of the details being approved. Within a period of 5 years from planting, any trees or plants that die, are removed or become seriously damaged or diseased shall be replaced by the end of the next planting season with others of similar size and species.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no form of enlargement of the dwelling hereby permitted shall be carried out without the permission of the Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fences, walls or other means of enclosure or garages, sheds, greenhouses or other ancillary domestic outbuildings shall be erected within the curtilage of the dwelling hereby permitted without the permission of the Planning Authority.
- 6) The mobile home included within the red-edged site as shown on drawings numbered 1908-11-PL05a and 1908-11-PL07a shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling hereby permitted.

***** End of conditions for Appeal A *****

Appeal B – schedule of conditions

- 1) Within three months of the date of this permission, details demonstrating how the development would satisfy a 10% reduction in carbon emissions over current building regulation standards through renewable energy sources shall be submitted to and approved in writing by the Planning Authority. The renewable energy provision shall be implemented within three months of it being approved and thereafter retained.
- 2) Within three months of the date of this permission, the dwelling hereby permitted shall be provided with an electric vehicle fast charge socket and thereafter retained.
- 3) Within three months of the date of this permission, details of both hard and soft landscaping to include means of enclosure, existing and proposed trees, plants and hard surfacing materials shall be submitted to and approved in writing by the Planning Authority. All landscaping shall be carried out within 12 months or the first planting season, whichever is earlier, of the date of the details being approved. Within a period of 5 years from planting, any

trees or plants that die, are removed or become seriously damaged or diseased shall be replaced by the end of the next planting season with others of similar size and species.

- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no form of enlargement of the dwelling hereby permitted shall be carried out without the permission of the Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fences, walls or other means of enclosure or garages, sheds, greenhouses or other ancillary domestic outbuildings shall be erected within the curtilage of the dwelling hereby permitted without the permission of the Planning Authority.

***** End of conditions for Appeal B *****