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## Appeal Decision

Site visit made on 30 September 2020

**by N Holdsworth MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 October 2020**

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**Appeal Ref: APP/C3620/W/20/3252640**

**Hunters Moon, Burnt Oak Lane, Newdigate, 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/2019/1727/PLA, dated 27 September 2019, was refused by notice dated 12 December 2019.
  - The development proposed is erection of entrance gates, piers and brick walling and a single storey machinery store.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. An amendment to the plans has been undertaken to reflect the addition of metal doors to the structure. This is a minor change which can be accepted without prejudicing the interests of any parties. The works have already been carried out, and this is reflected in my assessment of the case.

### Main Issues

3. The site is located in the Green Belt and so the main issues are:
  - i) Whether the proposal is inappropriate development within the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - ii) The effect on the openness of the Green Belt;
  - iii) The effect on the character and appearance of the area; and
  - iv) If the development is inappropriate, 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.

### Reasons

#### *Whether Inappropriate Development*

4. The planning policies cited in the first reason for refusal are general policies about new development which, amongst other things, make reference to the need to protect the Green Belt. However, they predate the National Planning Policy Framework (the Framework). This sets out current national policy in

relation to development in the Green Belt. With certain exceptions, the construction of new buildings in the Green Belt is regarded as inappropriate development. This is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. The machine store sits beyond a thick hedge to the rear of the residential property at Hunters Moon. It is contiguous with a large field. It is argued that the building falls within the residential curtilage of the host property, but there is no certificate of lawful use establishing this position. The fact that this land falls within the ownership of the appellant and this has been reflected on a number of red line plans is of little relevance in determining curtilage. The building cited as an outbuilding which was the subject of a previous planning appeal is sited well to the east of the proposed machine store, it does not set a precedent relating to curtilage in respect of this part of the land.
6. Various assertions are made as to the previous use of the land around the machine store, but the evidence before me on this point is limited. It is not ultimately sufficient to demonstrate with certainty that the machine store and the area around it fall within the curtilage of the residential property at Hunters Moon. On inspection the siting of the building beyond the hedge supports the position that it is outside of the established residential curtilage.
7. The machine store would therefore amount to a new building in the countryside outside the established residential curtilage. It would serve the purpose of housing machinery for land management but would not comprise a building for agriculture or forestry. The entrance gates, piers and brick walling would also comprise a new building in the Green Belt. None of the exceptions to inappropriate development, as set out in paragraphs 145 and 146 of the Framework apply.
8. The appellant acknowledges this position<sup>1</sup>. I therefore conclude that both parts of the proposal amount to inappropriate development within the Green Belt. It conflicts with the objectives of policy CS1 of the Mole Valley Core Strategy (2009) which seeks to apply PPG2: Green Belts to new development. This has been superseded by the Framework, but a similar restrictive approach continues to apply in national planning policy. I attach substantial weight to the harm that would arise, in consequence.

### *Openness*

9. The physical bulk of both the machine store and the works to the front of the residential dwelling mean that there would be a noticeable increase in the volume of built form, across the site. There is evidence of other development around the site, including residential development to the east and this proposal would clearly add to it. The machine store would be well screened from public views but would still be seen in private views. It follows that there would be a loss of openness to the Green Belt. I attach significant weight to the harm that would arise, in consequence.

### *Character and Appearance*

10. The site of the machine store comprises a field beyond the end of a residential property. It is surrounded by countryside but enclosed on one side by low rise

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<sup>1</sup> Paragraph 4.7 of the appeal statement of case.

- residential development. The front of the residential building faces on to a country road with scattered housing facing on to it.
11. The machine store has a similar appearance to an agricultural barn. The metal doors are painted black, in common with the remainder of the building, so are not visually prominent. The building is set within a loose cluster of residential buildings of a similar appearance and overall finish, well away from any important public views. It is not of a scale that is unduly large in relation to the other buildings it sits close to. In this context, there is no significant harm to the character and appearance of the area.
  12. Regarding the front boundary gate and associated pillars, these are similar to other existing examples along this road, found in front of residential properties. The degree to which the lane is enclosed by the gate, which is set well back from the road, is minimal. Whilst it would screen views of the host property from views from the road, it is not of a scale that is unduly prominent or visually overbearing. The proposal does not detract significantly from any prevailing rural character, in this respect.
  13. As such, there is no significant harm to the character and appearance of the area as a consequence of the two elements of this proposal. There is no conflict with policy ENV22 of the Mole Valley Local Plan which requires, amongst other things, that new development respects the character and appearance of the locality and is appropriate to the site in terms of scale, form and appearance. The effect on the character and appearance of the area is a neutral matter.
  14. Reference is also made to Policy RUD 9 of the Mole Valley Local Plan. However, this applies to garages and domestic outbuildings in the curtilage of dwellings in the countryside. It has been established that, for the purpose of this decision, this part of the development falls outside the curtilage of the dwelling, so the policy is not relevant.

#### *Other Considerations and the Green Belt Balance*

15. The proposed building would enable machinery to be stored to help manage the field in which it is located, along with the residential property, in a secure way. However, this is a relatively large building, and it has not been demonstrated that the structure is the only way of achieving this objective. This consideration therefore only attracts limited weight in favour of the proposal.
16. It is suggested at various points that the machine store or something similar could be installed under permitted development rights. However, it has not been clearly demonstrated that such rights apply here and amount to a viable fall-back position. In the absence of clear evidence on this point, I attach very little weight to these arguments.
17. In terms of the works to the front of the building, it appears to be common ground that what has been built exceeds the height limit under Permitted Development. The additional height is significant and has an impact on the overall appearance of the gates and associated boundary treatment. As such this permitted development fall-back position does not justify the proposal.
18. The Council have previously approved development associated with the host building, some of which does not appear to have been implemented and the appellant regards as less visually intrusive than what is now proposed with the

machine store. However, the previously approved garage<sup>2</sup> appears to be closer to the host building, within its curtilage, and so has a different impact on the Green Belt. These previous approvals do not amount to a justification for the proposed machine store.

19. It is also argued that the Council have previously taken a more relaxed approach towards the implementation of Green Belt policy, both on the appeal site and in the area surrounding the site. This includes the approval of large walls rising to a similar height as that proposed to the front of the building. However, this is not a convincing justification for development that conflicts with national planning policy.
20. Concerns about conditions imposed on previous planning decisions are issues that strictly fall outside the remit of this decision. There was a previous appeal decision on another part of the site, but in that case the Inspector found that the proposed change of use was not inappropriate development. It is of little relevance to what is being proposed here, which amounts to the creation of a new building.
21. The proposed development cannot be made acceptable by planning conditions, for instance those that seek to limit the occupation of the new building. This would not overcome the harm to the Green Belt.
22. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, I have also found that there would be harm to the openness of the Green Belt. On this occasion, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.

### **Conclusion**

23. Whilst there would be no unacceptable harm to the character and appearance of the area, the proposal is unacceptable in relation to its impact on the Green Belt. It conflicts with the development plan, when it is considered as a whole, and there are no other considerations, including national planning policy, that outweigh this finding. The appeal should be dismissed.

*Neil Holdsworth*

INSPECTOR

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<sup>2</sup> Council reference MO/2012/1671/PLAH