



Appeal Decision

Site visit made on 12 November 2020

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2020

Appeal Ref: APP/X0360/C/20/3256775

Land at Meadows, London Road, Wokingham RG40 1PD

- 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 Brendan Francis Carne against an enforcement notice issued by Wokingham Borough Council.
 - The enforcement notice, numbered RFS/2019/085004, was issued on 29 June 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a building.
 - The requirements of the notice are:
 1. Demolish the building outlined in blue on the attached plan. Excavate the slab and remove underground services which connect to the building.
 2. Remove all resultant material and debris resulting from step 1 from the "land".
 - The period for compliance with the requirements is six months from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Summary Decision: That the appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Procedural Matters

1. The appeal was initially made under both grounds (a) and (d), under section 174(2) of the Town and Country Planning Act 1990 as amended. However, the appellant withdrew the ground (d) appeal by email dated 29 September 2020. For this reason the appeal continues under ground (a) only.
2. At my site visit I noted that the development subject of the enforcement notice is a single storey 'L' shaped building with a centrally ridged roof. The building is divided into two large rooms, each accessed via an external door. Most window openings have been fitted with UPVC frames and glazing. In each room drainage pipes were projecting from the concrete floor. Some electrical wiring had been fitted but there were no electricity sockets or light fittings. The walls in one of the rooms had been plastered. Neither of the rooms were in use.
3. As noted above, the appeal is against an enforcement notice issued by Wokingham Borough Council (WBC), but the council confirm that the appeal site straddles the administrative boundary of WBC and Bracknell Forest Borough Council (BFBC). In this regard I note the letter submitted with the Council's statement from BFBC authorising WBC to issue the enforcement notice on land within its administrative area. I also note that BFBC was notified of this appeal and has made representations.

4. In the reasons for issuing the notice only development plan policies from the Wokingham Borough Local Development Framework Adopted Core Strategy Development Plan Document January 2010 (WBCS) have been referred to. This is part of the development plan for the administrative area of the local planning authority that issued the enforcement notice. The appeal will be determined on this basis.

Ground (a) and the deemed application for planning permission

5. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The Council has stated two substantive reasons for issuing the enforcement notice. From these the main issues in this case are as follows:
 - Whether or not the location of the development is acceptable, having regard to local planning policy on the location of development; and
 - The effect of the development on the character and appearance of the surrounding area.

Location:

6. The appeal site is adjacent to a two storey detached dwelling and a single storey building, part of which is currently vacant and the remainder appears to be in use for commercial purposes. The site is accessed off London Road via a driveway between the dwelling and the single storey building. There is an open field parcel to the side of the site and a wooded area to the rear.
7. With regard to the location of the development, Policy CP11 (Proposals Outside Development Limits – Including Countryside) of the WBCS is relevant. The appeal site is outside of the development limits defined in the WBCS. Policy CP11 is an exceptions policy that only permits development outside of the development limits in certain circumstances. Whilst most of the criteria of the policy are not relevant to the development in this case, I note that criterion 1) would allow for development that 'contributes to diverse and sustainable rural enterprises within the borough, or in the case of other countryside based activities, it contributes and/or promotes recreation in, and enjoyment of, the countryside'.
8. At the time of my site visit, the building had not yet been put to a use and was still in the latter stages of construction. As such, the building in its current form cannot be regarded as making a contribution to a rural enterprise or promoting recreation or enjoyment of the countryside, in compliance with criterion 1) of Policy CP11. The appellant has, however, suggested that an employment use of the building would make a contribution and has suggested that such a use would reflect the use of other buildings on the wider Meadows site. The appellant suggests a use falling within use class E (commercial, business and service) of Part A, Article 3, Schedule 2 of The Town and Country Planning (Use Classes) Order 1987 as amended.
9. Whilst the suggested employment use of the building may well be compatible with other such premises at Meadows, the appellant's evidence indicates that the lawfulness of the commercial use of at least some of the buildings has not at this time been established. I acknowledge that permission was granted in the past at appeal for an office use of another building at Meadows and I can

see that this was a permission granted for the change of use of an existing building. Indeed, such development if proposed at present might benefit from criterion 3 of Policy CP11, which permits development that would be contained within suitably located buildings which are appropriate for conversion.

However, the development subject of this appeal differs to the development proposed in that case; planning permission is sought for a new office building and not the change of use of an existing building. Criterion 3 of Policy CP11 is not, therefore, relevant.

10. Notwithstanding this, the appellant has provided limited information with regard to the nature of the enterprises proposed for the building, their viability and the number of people that would be employed. If the building were to be used to accommodate an employment use, on the basis of the evidence before me I cannot be certain that the proposed enterprises would be diverse and sustainable, or that they would be countryside based enterprises that contribute and/or promote recreation in, and the enjoyment of, the countryside. In these circumstances I cannot conclude that the building can be regarded as an exception to the general restriction on development beyond the development limits identified in the WBCS.
11. I note that the area to the side of the building, which is part of the allocation in Policy CS4 (Land at Amen Corner, Parish of Binfield) of the Bracknell Forest Borough Local Development Framework Core Strategy Development Plan Document adopted February 2008 (BFCS) for a comprehensive mixed use development. This does not, however, justify the development subject of the enforcement notice. The WBCS identifies the appeal site as being within an area where restricting development is important to protect the separate identity of settlements, maintain the quality of the borough's environment, and prevent the proliferation of development in areas away from existing development limits. The development is harmful to this purpose of the WBCS and, therefore, its strategy with regard to the location of development.
12. Whilst I acknowledge the appellant's suggestion that, as the appeal site is partly within the administrative area of BFBC, the development is in compliance with the BFCS Policy CS4, the BFCS is not the development plan for the local planning authority that issued the notice. BFBC have specifically given authority to WBC to issue the enforcement notice and in doing so it would have had regard to its own policies. Nevertheless, the provisions of BFCS Policy CS4 would not justify development that is otherwise in conflict with development plan policies identified in the WBCS, which forms part of the development plan for the issuing authority's area.
13. For the above reasons I conclude that the location of the development is not acceptable and is in conflict with WBCS Policy CP11.

Character and Appearance:

14. The appeal site is on the edge of a collection of buildings that are accessed off London Road. These are within an area of relatively undeveloped land that is bound on two sides by dual carriageway. Although there is major built development within close proximity to the appeal site, its immediate surroundings have a rural character and, on the whole, provide an open area that separates the road network, urban areas and other development in the area.

15. Whilst I acknowledge the field parcel to the side of the site forms part of the mixed use allocation, referred to above, the wooded area to the rear of the site is allocated as open space associated with that adjoining new development¹. The purpose of this land is, therefore, to provide open space to serve the comprehensive development of the adjoining land. The appeal building extends the built development contained within Meadows and the adjoining properties into the undeveloped landscape. As such, it has an undesirable effect on this open area. The building's completion and the landscaping of the site would not overcome its effect on the surrounding area.
16. That the building replaces an earlier structure does not change my findings above. The evidence indicates that the building is entirely new development that does not amount to the extension or alteration of an existing building.
17. I acknowledge that views of the building from public vantage points are limited. Nevertheless, the building results in an encroachment of built development into the rural landscape, having a harmful effect on the character and appearance of the surrounding area. For this reason the development is in conflict with Policy CP1 (Sustainable Development) of the WBCS, which requires that new development maintains or enhances the high quality of the environment.

Other Matters

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the development fails to accord with the development plan. It is, therefore, necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
19. In this regard, I have already considered any potential benefits of an employment use of the building under the first main issue and in the context of WBCS Policy CP11. No other uses of the building have been identified that could weigh in favour of granting permission for the development.
20. The appeal site may well be in a location that can be accessed by more sustainable modes of transport. In this regard the building may well achieve one of the aspects of sustainable development. However, this has a neutral effect in the planning balance.
21. Whilst the appellant suggests that removing the building will not serve any useful planning purpose, I cannot agree. Its removal would eliminate the harm it causes.
22. I have considered whether conditions would overcome the harm caused in this case, but conclude that they would not. Accordingly, and having regard to the above, I have not been unable to identify material considerations of sufficient weight to indicate determination of this ground (a) appeal and the deemed planning application should be made otherwise than in accordance with the development plan.

¹ Policy SAL04 (New open space associated with residential development within and adjoining the Borough) of the Wokingham Borough Managing Development Delivery Document Adopted February 2014 allocates the land for open space to be associated with the development on the site allocated in Policy CS4 of the BFCs.

Conclusions

23. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

24. 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.

J Moss

INSPECTOR