



Appeal Decisions

Site visit made on 24 November 2020

by **JP Roberts BSc(Hons) LLB(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Appeal A Ref: APP/M3645/C/20/3254768

Edenbrook Farm, Popes Lane, Oxted, Surrey RH8 9PL

- 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 Christopher Goard against an enforcement notice issued by Tandridge District Council.
- The enforcement notice was issued on 20 May 2020.
- The breach of planning control as alleged in the notice is:
Without planning permission the erection of a building in the location outlined in blue on the attached plan and shown on the attached photograph.
- The requirements of the notice are:
 - (i) *Demolish the building outlined in blue on the attached plan.*
 - (ii) *Remove from the land all building materials and rubble arising from compliance with requirement i) above.*
- The period for compliance with the requirements is 6 months.
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. 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.

Appeal B Ref: APP/M3645/W/20/3252333

Eden Brook Farm, Popes Lane, RH8 9PL

- 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 C Goard against the decision of Tandridge District Council.
- The application, Ref TA/2020/96, dated 17 January 2020 was refused by notice dated 23 March 2020.
- The development proposed is described as the retention of an agricultural barn.

Decisions

Appeal A

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a building at Eden Brook Farm, Popes Lane, Oxted, Surrey RH8 9PL as shown on the plan attached to the notice and subject to the following condition:
 - 1) The building hereby approved shall be used solely for the purposes of agriculture.

Appeal B

2. The appeal is allowed and planning permission is granted for an agricultural barn at Eden Brook Farm, Popes Lane, RH8 9PL in accordance with the terms of the

application, Ref TA/2020/96, dated 17 January 2020 and the plans submitted with it.

Procedural matters

3. The enforcement notice refers to the site as Edenbrook Farm", whereas the appellant describes it as "Eden Brook". For the sake of consistency I shall use the appellant's description in my decision.
4. In respect of Appeal B, the description of the development refers to "retention". As retention is not an act of development, I shall deal with the proposal as one made under Section 73A of the Act for development already carried out, namely the erection of an agricultural barn.

Reasons

The s.78 appeal and the s.174 appeal on ground (a)

5. The two appeals deal with the same matter, and therefore it is appropriate for them to be dealt with together.
6. The site lies within the Metropolitan Green Belt where Policies DP10 and DP13 of the Tandridge Local Plan: Part 2: Detailed Policies 2014-2029 provide that the construction of new building is inappropriate development unless it falls within a number of specific exceptions, one of which is buildings for agriculture or forestry. These policies reflect the National Planning Policy Framework which says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. The sole issue in dispute is whether the building is for agriculture. The wider site, encompassed by the enforcement notice, is used for a number of purposes, which includes the importation and processing of inert waste, a recreational fishing pond and agriculture. The agricultural land, said by the appellant to comprise about 13 acres, is down to grass and at the time of my visit was being grazed by sheep. The agricultural land is registered as an Agricultural Holding, and with the Rural Payments Agency. The appellant also has a small area of grassland around another fishing pond about 1.5 miles away (although about 3 miles by road).
8. The appellant claims that the building is needed to store hay and agricultural vehicles and equipment. At the time of my visit, about half of one of the 5 bays was used for storing bales of hay. There was also a variety of agricultural machines and equipment stored within the building, including a tractor and towed attachments, such as a trailer, mower, harrow, baler, mulcher and a motorised roller and a mini-excavator. Other items included 14 205 litre barrels of gas oil, some sand, bags of cement and a pile of soil. Looked at in the round, I consider that most of these items are consistent with agricultural use.
9. The Council argues that the design of the building is not suitable for the use for which the appellant says it is required. The building is of simple design, with concrete columns and beams, and steel purlins. The lower parts of the columns are encased in a steel sheath. The only shelter is provided by the pitched roof, leaving the sides open. The Council argues that this is unsuitable for storing hay. However, the building is similar in form to traditional Dutch barns, which are often used for storing hay and I do not consider that agricultural use can be discounted for this reason.

10. The building as I saw it appeared to be used for agricultural purposes, although I am conscious that the visit was a snapshot in time. The Council says that the building has been noted as not having been used for agricultural purposes, but few details of these observations have been submitted. The appellant says that the appeal site has reverted from the commercial use as a yard for soil processing to an agricultural use and indicates that the use has been seasonal, with hay being stored from late summer and into winter, and that the Council's observations undertaken in connection with the application would have coincided with a time of year when all the hay would have been sold. However, he says that more intensive hay cropping is planned, with two crops a year, which would result in more of the barn being used for hay storage. This seems to me to provide a sufficient and bona fide justification of a building of the type and size involved here in order to store both hay and the equipment used in cultivating the fields and harvesting hay.
11. Whilst I understand the Council's concerns that the barn may be used for non-agricultural purposes, on the basis of the evidence before me, I am satisfied that the building is an agricultural one, and that it is therefore not inappropriate development in the Green Belt, and does not conflict with the policies I have referred to above.

Conditions

12. The Council has suggested two conditions; a condition requiring compliance with the submitted plans is unnecessary because the development has already been carried out. A condition to restrict the use to particular agricultural purposes is too restrictive and lacks specific justification. A wider condition relating to agricultural use is unnecessary in respect of Appeal B, as any material change from agricultural use would require the benefit of planning permission in any event. However, in respect of Appeal A, a condition restricting the use to that of agriculture is necessary, because the deemed application relates only to the erection of a building, and it is only acceptable in planning terms if the building is for the purposes of agriculture.

Conclusions

13. For the reasons given above, I conclude that both appeals should be allowed and planning permission should be granted. I shall therefore allow the Section 174 appeal and quash the notice. Accordingly the grounds of appeal (f) and (g) in respect of Appeal B do not need to be considered.

JP Roberts

INSPECTOR