



Appeal Decisions

Site visit made on 23 February 2021

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2021

Appeal A Ref: APP/Y3940/C/20/3259952

Land at Box Hill Yard, Ashley, Box, Wiltshire SA13 8AN

- 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 S Emery (Emery Brothers Ltd) against an enforcement notice issued by Wiltshire Council.
 - The enforcement notice, numbered 20/00087/ENF, was issued on 29 April 2020.
 - The breach of planning control as alleged in the notice is: *Without planning permission, operational development comprising the erection of two storage buildings shown in the approximate locations "D" and "E" on the attached plan titled "20/00087/ENF" and two storage racking units shown in the approximate locations "G" on the attached plan titled "20/00087/ENF".*
 - The requirements of the notice are: a) *Demolish the two storage buildings shown in the approximate locations "D" and "E" on the attached plan titled "20/00087/ENF"; b) Demolish the two storage racking units shown in the approximate locations "G" on the attached plan titled "20/00087/ENF"; c) Permanently remove all material resulting from requirements a) and b) from the Land.*
 - The period for compliance with the requirements is three 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.
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Appeal B Ref: APP/Y3940/C/20/3259955

Land at Box Hill Yard, Ashley, Box, Wiltshire SN13 8AN

- 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 S Emery (Emery Brothers Ltd) against an enforcement notice issued by Wiltshire Council.
 - The enforcement notice, numbered 20/00087/ENF, was issued on 26 August 2020.
 - The breach of planning control as alleged in the notice is: *Without planning permission, operational development comprising the erection of a storage building shown in the approximate location hatched in blue on the attached plan titled "location plan".*
 - The requirements of the notice are a) *Demolish storage building shown in the approximate location hatched in blue on the attached plan titled "Location Plan"; b) permanently remove all material resulting from the requirements a) from the Land.*
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeal A Ref: APP/Y3940/C/20/3259952

1. 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.

Appeal B Ref: APP/Y3940/C/20/3259955

2. The appeal is dismissed and the enforcement notice is upheld.

Appeal A - Ground (a) and the deemed planning application

3. The appellant provides the appeal is submitted on the basis that planning permission is sought for the two storage racking units identified as "G" on the enforcement notice plan. The appeal does not seek to secure permission for the two buildings which are also the subject of this notice. I will consider the appeal on this basis.

Main Issues

4. These are:
 - i. Whether the development would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and the purposes of including land within it, and any relevant development plan policies;
 - ii. The effect of the development on the visual and landscape appearance of the area taking into account its location within the AONB; and
 - iii. If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Site and surroundings

5. The appeal site is a flat triangular area surrounded with mature trees and hedgerows. Located in open countryside, the site is within the Cotswolds Area of Outstanding Natural Beauty (AONB) and the Western Wiltshire Green Belt. The site has one access to the lane to the south. To the north, the boundary adjoins the main London to Bath railway line, beyond which is the A4 Bath Road and to the east the site shares its boundary with a residential property. The site is currently used in association with a building firm who use the land for the storage of building materials and associated equipment. At my site visit I saw there were portacabins, containers and machinery and much of the area in between was used for open storage of building materials.

Whether inappropriate development

6. Whilst there are no specific Green Belt Development Plan policies that have been brought to my attention, the National Planning Policy Framework (the Framework) at paragraph 143 advises that inappropriate development is, by

definition, harmful to the Green Belt and should not be approved except in very special circumstances.

7. When considering planning applications substantial weight should be given to any harm to the Green Belt by reason of its inappropriateness. In this particular case the development is not defined as an 'exception' listed at paragraph 145 and is therefore considered to be inappropriate development in the Green Belt. Such inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
8. The Government attaches great importance to Green Belts. The Framework at paragraph 133 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
9. The preservation of openness and conflict with Green Belt purposes are not exclusively dependent on the size of the building or structure. Whether or not the development has an adverse impact, and so cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications.
10. The storage racks are essentially scaffolding poles jointed together and shelves which provide a substantial framework on which to store items. In their basic state the racking units are a "frame structure" rather than a solid structure. They have a more open appearance than a secure building which allow views through. However, due to their purpose and as shown by the appellant's photographs and seen during my site visit, it is likely that these views will be regularly compromised by an assortment of stored items.
11. The development is within an area with a lawful use as a builder's yard. Nevertheless, the physical presence of the permanent storage racking units, due predominantly to the scale and height of the structures, diminishes the open aspect of the site to a significantly greater degree than the existing development. This is harmful to both the visual and spatial openness of the land within the Green Belt.

The AONB

12. Core Policy 51 of the Wiltshire Core Strategy 2015 (WCS) provides that development should protect, conserve and where possible enhance landscape character and must not have an unacceptable impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscaping measures. The Framework states that great weight should be given to conserving landscape and scenic beauty. AONBs have the highest status of protection in relation to landscape and scenic beauty.
13. The Council argues that the storage racking units form incongruous and intrusive elements within the wider landscape and AONB. Views of the storage racking units from beyond the site boundaries adjoining the lane are limited, due to the mature trees and hedgerows. To the north views may be glimpsed fleetingly against the backdrop of the site as a whole by train passengers. However, there are clear views of one of the storage racking units from the

public realm around site access and the adjoining residential property would appear to have views into and through the site.

14. Whilst the commercial use of the appeal site is well-established by the business activities taking place on the land, the wider landscape is characterised by rolling countryside with open fields defined by hedgerows and trees. The site is intensively used, covered to a large extent with materials and equipment concomitant with the use of the site as a builder's yard¹. However, from what I saw during my visit, the storage racking units, due to their appearance, scale and height, are dominant and discordant features. In this context, I find that the development, which is uncharacteristic within the wider rural environment, is visually intrusive and has a harmful effect on the wider landscape and the appearance of the AONB.
15. For these reasons the development is considered contrary to the aims of Core Policy 51 and 57 of the WCS for new development to not have a harmful impact upon landscape character and for development to contribute positively to the character of Wiltshire through, amongst other matters, enhancing local distinctiveness by relating positively to its landscape setting.

Other considerations

16. The site has a long history as a storage facility, and it is clearly fully utilised by its current occupiers. The addition of the units undoubtably benefits the commercial use of the site providing an optimum storage solution which allows for a more structured and accessible use of the site. The appellant provides that the site is in a location which is convenient for the business. He rightly points out that national planning policies support "the sustainable growth and expansion of all types of business in rural areas, both through the conversion of existing buildings and well-designed new buildings".
17. Although it may be a convenient location, I have not been provided with any information to support the development considering the functional viability of the site without the storage racking units. The units are undoubtably helpful to the organisation of materials and equipment within the site and allow for additional storage provision. Furthermore, I acknowledge that the Framework adds weight to supporting a prosperous rural economy. However, it is also important to ensure that development is sensitive to its surroundings. In these circumstances the benefits arising from the storage racking units are modest and I afford them limited weight.

Green Belt Balance

18. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt. In this case, I have found harm to the Green Belt by reason of the development's inappropriateness, openness and effect on the AONB.
19. Balanced against that are the other considerations advanced in support of the development. However, even when considered together, these do not clearly outweigh the harm to the Green Belt. Consequently, the very special

¹ The Council's appeal statement advises that storage containers and porta-cabins on the land, other than the one used as a site office, are kept empty and are being lawfully stored on the land for distribution for use on construction sites.

circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case.

20. Although the development plan does not contain specific policies in relation to the Green Belt, the development would not be compliant with the policies relating to the protection of the Green Belt within the Framework. This provides a clear reason for not allowing the development.

Conclusion on ground (a)

21. For the reasons given above I conclude that the appeal on ground (a) should not succeed and I refuse to grant planning permission on the deemed application.

Appeals A and B on Ground (g)

22. The appeals on ground (g) are that the period for compliance with the notices falls short of what is reasonable.
23. The reason for issuing the notices is primarily because the land is situated within the Green Belt where the fundamental aim of Green Belt policy is to keep land permanently open. The period for compliance with the notices is three months.
24. The Council considers the buildings are being used to store floor stones in addition to those being stored in the open, protected by wrapping and therefore there is no actual requirement for the buildings for this particular purpose. Furthermore, the removal of these buildings would not prevent the storage use continuing on the land. It considers 3 months to be ample time to comply with the notices.
25. The appellant submits that under usual circumstances the three month compliance period may have been a reasonable length of time. However, delays in one job in particular, caused by the pandemic, means that a longer timeframe for compliance is sought and consequently the appellant requests a six month compliance period.
26. I am mindful that the request for the extended period for compliance was made in September 2020 and that construction work has not been curtailed by more recent lockdown measures due to the Covid-19 crisis. Consequently, I consider that three months is an adequate period for complying fully with the requirements of the notices.
27. For these reasons, the appeals on ground (g) fail.

SA Hanson

INSPECTOR