



Appeal Decision

Hearing Held on 24 February 2021

Site visit made on 25 February 2021

by David Cliff BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th April 2021

Appeal Ref: APP/T0355/W/20/3256185

Stevens Yard, Kimbers Lane Farm, Oakley Green Road, Oakley Green, Windsor, SL4 4QF

- 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 P Stevens (PWS Rides Ltd) against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/00063, dated 19 December 2018, was refused by notice dated 23 January 2020.
 - The development proposed is described in the application form as 'extension of existing maintenance building and showman's store'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Notwithstanding the description in the banner heading above which is taken from the planning application form, it was agreed at the hearing that the clearest and most accurate description of the proposed development is that set out in the Statement of Common Ground. This states 'extension to an existing maintenance and storage building, the partial demolition and rebuilding of a second building adjoining the maintenance unit, and the demolition of a third maintenance/storage building'. I have considered the appeal on this basis.
3. As agreed at the hearing, annotated dimensions of the proposed development have been added to the relevant appeal drawings as submitted following the hearing. These drawings are for clarity only and do not alter the size or form of the appeal proposals under consideration.

Main Issues

4. The main issues are:
 - i) Whether or not the proposed development would be inappropriate development in the Green Belt?
 - ii) The effect upon the openness of the Green Belt; and
 - iii) If the development is inappropriate within the Green Belt, would this harm, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposals?

Reasons

Inappropriate development

5. Policies GB1 and GB2 of the Windsor and Maidenhead Local Plan 2003 ('the Local Plan') seek to generally protect the Green Belt from inappropriate development. Policy GB1 sets out the types of development that are considered to be appropriate in the Green Belt. However, this list is not entirely consistent with the more recent National Planning Policy Framework ('the Framework'). Part A of Policy GB2 is generally consistent with the Framework, whilst Part B includes other non-Green Belt considerations that are not included in the Green Belt considerations outlined in the Framework. The main parties agree that, for this appeal, paragraph 145 of the Framework is key to considering whether or not the proposed development would be inappropriate in the Green Belt.
6. One exception to inappropriate development as set out paragraph 145(c) of the Framework is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Part of the proposal includes an extension to the existing maintenance and storage building. The extension would amount to a 68% increase in the footprint of the original building and a 69% increase in its volume. Whilst it matches the ridge and eaves height of the original building it would amount to a large increase in its size substantially increasing the overall length and size of the building. This would amount to a disproportionate addition over and above the size of the original building and would therefore be inappropriate when considered against paragraph 145(c).
7. Considering the proposed showperson's storage building as an extension to the existing building, the increase in its size of 96% in footprint and 160% in volume, would clearly be a disproportionate increase and it would also not be considered appropriate when considered against paragraph 145(c). Paragraph 145(c) does not make allowances for the demolition of any existing buildings.
8. Paragraph 145(d) of the Framework provides, as a further exception, for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Should it be considered, for the avoidance of doubt, as a replacement rather than as an extension to the existing building, the large increase in footprint and volume would clearly result in it being materially larger than the existing.
9. Also, in the context of paragraph 145(d) taking account of the demolition of the existing storage building adjacent to the southern boundary, the proposed showman's storage building would have a smaller footprint than the buildings to be demolished (including the existing showman's storage building to be partially demolished). However, as a result of its greater height than each of the existing buildings, its volume would be approximately 25% larger in volume than the combined volume of both the buildings proposed to be demolished. I consider that, notwithstanding a small decrease in overall footprint, such an increase in height and volume would amount to it being materially larger. Therefore, even taking account of the demolition of both existing buildings, the replacement would be inappropriate when considered against paragraph 145(d).
10. The third exception discussed is paragraph 145(g) for limiting infilling or the partial or complete redevelopment of previously developed land, whether

redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development.

11. The proposals would result in an increase of 30% in footprint and 55% in volume in relation to both the existing storage buildings and the maintenance building. The demolition of the existing storage building adjacent to the south boundary limits to a degree the extent of the impact on Green Belt openness. However, this building is low profile and sits unobtrusively in the corner of the site. Any beneficial effect on limiting the spread of buildings is also reduced as the existing storage building is located immediately adjacent to an existing residential structure and the proposed extension to the existing maintenance building would significantly extend the overall footprint of buildings further to the north.
12. The extension to the maintenance buildings would be of a substantial size, increasing the length of the existing building by 16.8m. Whilst matching the height of the existing, its overall massing would be considerable. It would represent a substantial projection of the main built development to the north increasing the spread of main buildings in this direction. Despite the presence of some existing landscaping, this would be clearly visible in views from the north of the site including from the footpath crossing the adjoining fields. Whilst rides are stored on land around the buildings and there are various vehicles and other structures located in the northern section of the site, the extended building of a considerable footprint and massing would have a greater visual impact, albeit partially screening by existing landscaping, as well as contributing to an increase in the overall built footprint of the site leading to a significant spatial decrease in openness.
13. Although the appellant states that the building would appear as an agricultural storage shed/building as part of a traditional farmstead, the proposal is not for an agricultural use and is therefore subject to different Green Belt policy considerations than agricultural development.
14. As outlined above, the demolition of the building adjacent to the south boundary will only have a limited mitigating effect, taking into account its relatively low height and unobtrusive location.
15. Therefore, in the context of paragraph 145(g) of the Framework the proposals would have a greater impact on openness than the existing development and so would amount to inappropriate development.
16. Consequently, taking paragraph 145 as a whole, the proposals would amount to inappropriate development within the Green Belt. This would be the case whether considering each of the exceptions in 145 (c), (d) and (g) on an individual or a combined basis. The proposals would also not fall within the forms of development considered to be appropriate in the Green Belt by Policies GB1 and GB2 of the Local Plan.

Openness

17. Notwithstanding the demolition of the existing storage building, taking into account my considerations above, I consider that the proposed development would result in a significant effect upon the openness of the Green Belt.

18. Given the increase in the footprint and massing of built development on the site, most particularly the significant extension of the maintenance building to the north, the proposals would also conflict to a limited degree with the purpose of the Green Belt to assist in safeguarding the countryside from encroachment. Existing landscaping would reduce such an impact to a degree but, even with new landscaping, it would not eliminate some encroachment. Whilst there are other farmsteads (notwithstanding that they would generally be appropriate development) and groups of buildings existing in the landscape, openness and a rural countryside character still prevail in the surrounds of the site.
19. Paragraph 144 of the Framework states that substantial harm should be given to any harm to the Green Belt which in this case primarily arises from the harm arising from inappropriateness and from the significant harm to openness. I go on to consider this further later in this decision.

Other considerations

20. The main parties are in agreement regarding the existing lawful use of the site (including for the purposes of maintenance and storage of travelling show persons equipment and ancillary repair). Any concerns regarding the use of the site made by an interested party during the appeal would be for the Council to consider if necessary outside of this appeal.
21. The proposed development would provide further space and improve the existing facilities for the appellant, including for the provision of maintenance, repair, servicing and safety checks of rides. This would include the increased capability for rides to be stored under cover and for two rides to be worked on at the same time.
22. There is little detailed and substantiated evidence to support the need for the development of the size proposed in these respects. For example, to demonstrate that reasonable safety checks have not been able to be properly carried out with the existing arrangements or to clearly set out the operational space requirements for the development now proposed.
23. However, the advantages of being able to store and work on more rides undercover than at present is understandable. Submissions were also made at the hearing regarding the construction of new rides at the site for use by others. Whilst an approximate figure has been provided, the evidence is not clear as to the proportion of work that is carried out on the construction of new rides for others as opposed to the storage, maintenance and repair of existing rides for the appellant. However, I accept that working on and maintaining rides for others might not necessarily fall outside of the activity that could be reasonably be expected to be undertaken as part of a use as a travelling showperson site. Furthermore, the operations taking place could vary from one such site to another depending on the particular circumstances of the travelling showperson concerned.
24. The Borough's Gypsy, Traveller and Travelling Show person's Accommodation Assessment (2018) shows that there is an unmet need for 14 plots within the Borough to 2022. Its single issue Traveller Local Plan appears to be some time from adoption. Notwithstanding this and the apparent lack of sites being put forward to meet this need, the appeal site contains a lawful showperson's plot which does not appear to be in danger of being lost. The specific needs of a

- travelling showperson's site could vary from case to case, with some being more intensive and requiring greater space than others depending on the particular nature of the operations.
25. In this respect the appellant has occupied and operated from the site since 1990, since when the buildings on the site have been previously upgraded. Despite the lack of information of any alternative locations to accommodate travelling show people in the Borough, whilst the application seeks to provide for an upgrade of the existing storage and maintenance facilities, there is no clear or substantiated evidence that the dismissal of this appeal would result in a significant likelihood of the applicant needing to close his business or for his family to need to leave the site.
26. I have considered the best interests of the child which should be a primary consideration in decision making. As above, in spite of the proposals, it is not clear that the dismissal of this appeal would lead to the appellant and/or his family needing to leave the site. This is not a case where the dismissal of the appeal would leave the appellant or his family with no accommodation and there is no significant likelihood that the health, education and general wellbeing of the applicant's child would be significantly affected.
27. The existing operations also provide for employment opportunities for an organised local community group. However, as above, it does not seem from the evidence that there is a strong likelihood of these opportunities being lost in the event of the appeal scheme not progressing.
28. Overall, whilst it appears unlikely that the appellant would have to cease operation of the site if the outcome of this appeal was not to be favourable, I have given considerable weight to the benefits that could arise from the use of the proposed extended accommodation in relation to the lawful use of the site, most particularly to support the activities of the appellant as a travelling showperson.
29. The removal of the existing building adjacent to the southern boundary would provide some mitigation in terms of the overall impact on the openness of the Green Belt. However, as explained above, the benefits arising from the removal of this building would be limited. Even taking account of its removal, both the footprint and volume of the extended and replacement buildings would be considerably greater than the footprint and volume of the existing buildings. The overall proposal for new development amounts to more than an extension to an existing building. It also involves the replacement of the showman's storage building and the partial demolition of and rebuilding of the existing showman's storage building. I am not aware of a specific policy basis for applying a 50% increase in such cases and the overall increase in volume would exceed this in any case. The proposed buildings would represent a significantly greater impact on openness than those to be removed/partially removed and therefore the weight in favour of the scheme arising from the proposed demolition would be limited.

Other matters

30. Taking account of the considerable degree of separation and the presence of the existing buildings on the site I do not consider that the proposal would result in harm to the setting of the nearby listed buildings, including Willow Farmhouse.

31. Several other matters have been raised by interested parties in their objections to the proposals. However, from the evidence before me, these matters do not add any further harm beyond that I have found to result upon the Green Belt.
32. Given its current stage in the examination process and as agreed in the Statement of Common Ground, the policies of the emerging Borough Local Plan only carry limited weight at this time and do not change my overall conclusions in determining the appeal.

The Planning balance

33. I have found the proposal to represent inappropriate development that would have a significant adverse impact on the openness of the Green Belt. It would also result in some limited encroachment into the countryside. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In accordance with the Framework I have given the harm to the Green Belt substantial weight. 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.
34. Policy E of the Government's Planning policy for traveller sites (which includes traveling showpersons) states that subject to the best interests of the child, personal circumstances and unmet demand are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. In this case, as there does not appear to be any significant substantiated threat to the appellant's continued use or residential occupation of the site, I do not consider from the evidence that the proposed development is necessary in order to secure the best interests of the child and there appears to be little threat to the health, education and general wellbeing of the appellant's child.
35. Notwithstanding the above, I have still given considerable weight to the benefits that would accrue for the appellant as a travelling showperson. Moderate economic benefits would also arise from the proposals. I have considered the Human Rights of the appellant and the proposed occupiers including the best interests of the children. Whilst it would not allow the appellant to proceed with the expansion of the facilities as currently proposed, dismissal of the appeal would not result in the likelihood any adult or child losing their home. The other considerations, including the personal circumstances of the appellant do not in this case clearly outweigh the substantial harm that would result to the Green Belt. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
36. In this case, taking account of the harm to the Green Belt, I am satisfied that the dismissal of the appeal would be proportionate and necessary.
37. The proposals would therefore be contrary to Policies GB1 and GB2 of the Local Plan. These policies are not wholly consistent with the Framework which reduces to a moderate degree the weight to be given to the conflict with them, noting however that there is some consistency in seeking to generally control inappropriate development within the Green Belt.

38. The proposal would also not comply with the Green Belt policies of the Framework. In the context of paragraph 11 (d) of the Framework, the harm to the Green Belt, and the absence of very special circumstances to clearly outweigh this harm, means this is a case where the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the proposed development.

Conclusion

39. The proposal conflicts with the development plan and it would also be contrary to Green Belt policy set out in the more up to date Framework.
40. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

David Cliff

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Joe Cunnane	Cunnane Town Planning
Perrin Stevens	Applicant
Roseanne Stevens	Applicant's wife

FOR THE LOCAL PLANNING AUTHORITY

Claire Pugh	Principal Planning Officer
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INTERESTED PARTIES

Cllr Louvaine Kneen	Local Councillor
Cllr Nick Pellew	Local Councillor
Roddy Kane	Local resident
Amjal Randhawa	Owner of neighbouring property (Elmfield)
Michael Yin	Owner of neighbouring property (Willow Farm)

DOCUMENTS SUBMITTED AT THE HEARING

1. Photographs submitted by Mrs Randhawa relating to the adjacent property (Elmfield)

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Copies of application drawings of proposed buildings included annotated dimensions
2. Decision notice for application Ref. 11/00537 granting planning permission for 'Erection of shed/outbuilding and formation of a hardstanding area (retrospective)'
3. Confirmation of agreed additional footprint and volume calculations
4. Agreed wording of suggested tree protection and noise levels conditions