



Appeal Decision

Site visit made on 18 February 2021

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 19 April 2021

Appeal Ref: APP/K3605/W/20/3258534

MCS Site, Redhill Road, Cobham, KT11 1EG

- 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 Alexander Stewart-Clark against the decision of Elmbridge Borough Council.
 - The application Ref 2019/3310, dated 22 November 2019, was refused by notice dated 28 February 2020.
 - The development proposed is change of use to B8 storage along with ancillary parking, circulation space, landscaping and associated works.
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Procedural Matters

1. The application is for a change of use to B8 storage. However, the appellant argues that this site already has a B1/B8 use, but this is disputed by the Council. Unfortunately an appeal for planning permission is not the appropriate procedure to determine the existing use of the site in these circumstances. There needs to be an application for a LDC, so relevant aspects can be determined. I can give the appellant's assertion and evidence little weight in this respect. The appellant also refers to the adjacent B1/B8 use, but currently that is limited to a small part of the site.
2. The appellant notes that the application seeks to regularise the existing storage area on the site, providing the Council with the necessary control over the areas and heights for storage. The application follows a lawful development certificate that was part approved and part refused in December 2018, and a letter dated 02/05/2019 from the Enforcement Officer, reference INV/2018/0057 with respect to the 1999 enforcement notice requesting the discontinuation of a building contractor's yard.

Decision

3. The appeal is refused.

Main Issues

4. The main issues are:-
 - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework) and development plan policy.
 - The effect on the openness of the Green Belt.

- If the development is inappropriate in the Green Belt, 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

5. The development plan includes the Elmbridge Development Management Plan 2015 [MP]. Also relevant is the National Planning Policy Framework [NPPF]. DM Policy DM17 relates to buildings in the Green Belt and I agree with the appellant that it does not relate directly to changes of use. However, it does note a principle that inappropriate development will not be accepted other than in very special circumstances. It notes that in order to uphold the fundamental aims of the Green Belt to prevent urban sprawl and to keep land within its designation permanently open, inappropriate development will not be approved unless the applicant can demonstrate very special circumstances that will clearly outweigh the harm. Whether or not that should be directly applied, the National Policy Framework is relevant.
6. The NPPF notes that the Government attaches great importance to Green Belts. 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. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It lists development that is not inappropriate, but certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). I accept that this is not a closed list, but the types of uses identified, cemetery and sports uses, are not particularly intrusive and generally low key.

Inappropriate Development and Openness

7. To decide inappropriateness the effect on openness and the purposes of the Green Belt need to be considered. I accept that there are no buildings associated with the development. However, there are likely to be other operations necessary for the use to perform and these are included in the application, such as parking, turning and circulation space. While this would be a low hard surfacing it still has an impact on the openness of the Green Belt.
8. The use itself is likely to have an effect on the openness of the Green Belt, because of the need for vehicles associated with the facility. While these will be transient, they are also likely to be a continuing intermittent intrusion into the openness of the Green Belt. The appellant also refers to the possibility of conditions to limit the height of any storage. This could be helpful, but any storage is likely to have an impact on the openness of the Green Belt.
9. One of the five purposes is to assist in safeguarding the countryside from encroachment. This will be a business use in what is a countryside location. It will have an urbanising effect and does not safeguard the countryside from encroachment. I accept that Bramley Hedge Farm has some industrial type uses, but much of it is associated with sport and leisure use. It does not have the character of an industrial estate and does not significantly change the character of the area. I therefore attach limited weight to these. I also note

other uses down the road including the golf course and horse riding centre, but these are very different uses from B8 use and not unacceptable in a countryside location.

10. The immediately adjacent site has a limited area that has a B1/B8 use that is supported by an LDC. I also accept that this site and the immediately adjacent site has had a history of different uses and may have been considered as previously developed land, but much has now been taken over by vegetation and blended into the landscape. The previous uses add little weight in this respect. I also accept that the site itself is not countryside, but it is within the countryside, where this type of use would be intrusive.
11. I conclude that it does harm the openness of the area and is inappropriate development in the Green Belt.

Very Special Circumstances

12. The NPPF notes inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
13. I have taken into consideration the previous uses of the site. I can only give very little weight to the appellant's claimed B8 use of the site for reasons given above. I accept that conditions could be included that would allow some control of the use and therefore harm to openness, but this attracts limited weight. I also note the appellant's view on the 2m high fences. Even if these prove to be lawful, the fact that something cannot be seen does not make it acceptable and this again attracts limited weight.
14. The fact that the adjacent site has some B1/B8 use and access would be shared makes little difference to the activity that would be generated at the site, with a likely increase in use of the access. This adds limited weight to the appeal. The site is reasonably close to the strategic highway network and there is no objection to the use from the Highway Authority, which attracts some limited weight.
15. I also acknowledge that in appropriate circumstances further hardstanding can be constructed as permitted development, but again this does not make the impact of further activity and storage any less. I give limited weight to this.
16. I accept that the NPPF recommends making as much use as possible of suitable brownfield sites and under utilised land and add significant weight for this. I also note Policy CS23 encourages commercial uses, but that is within strategic employment land, which this is not, and adjacent uses do not make it so. I do not accept that this area can be characterised, as suggested by the appellant, as being one of commercial uses. There are some such uses, but these are limited and the character of the area remains one of countryside and does not accord with the principle of Development Management Plan Policy DM3.
17. Policy Development Management Plan Policy DM11 encourages employment uses that have a positive impact on the local area. In this case there would be

harm to the Green Belt. Development Management Plan Policies DM17 and DM18 relate to buildings.

18. I have taken into account the various advantages and material considerations related to the proposed use. Most only attract limited weight. More significant weight is given to the making best use of brownfield land and under utilised land. However, when these are considered either individually or together I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Graham Dudley

Planning Inspector