



Appeal Decisions

Hearing Held on 24 March 2021

Site visit made on 27 May 2021

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

Appeal A: Ref APP/M3645/C/19/3231743

Land at Sawmills, Green Lane, Outwood, Redhill, Surrey RH1 5QP

- 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 A Needham (Tone Scaffolding Services Ltd) against an enforcement notice issued by Tandridge District Council.
 - The enforcement notice, numbered No 8 (2019), was issued on 14 May 2019.
 - The breach of planning control as alleged in the notice is without planning permission making a change of use of the Land and buildings from use as a sawmill (*sui generis*) to a mixed use a sawmill (*sui generis*), for the storage and distribution of scaffolding and for the storage and distribution of event staging, seating and associated equipment.
 - The requirements of the notice are to cease using the Land for the storage and distribution of scaffolding and storage and for the distribution of event staging, seating and associated equipment.
 - The period for compliance with the requirements is 4 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 made on ground (a) the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Appeal B: Ref APP/M3645/W/19/3243745

Green Lane Sawmills, Green Lane, Outwood, Redhill RH1 5QP

- 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 Tone Group Ltd against the decision of Tandridge District Council.
 - The application Ref TA/2019/868, dated 26 April 2019, was refused by notice dated 13 November 2019.
 - The development proposed is change of use of land and buildings to Class B1, B2 and B8 use, retention of sawmill use, retention of existing bunding (under power lines), retention of Ryall & Edwards sales building on current site and retention of welfare buildings on existing site, widening of access road.
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Decisions

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at Sawmills, Green Lane, Outwood, Redhill, Surrey RH1 5QP, as shown on the plan attached to the notice, for a mixed use as a sawmill (*sui generis*), for the storage and distribution of scaffolding and for the storage and distribution of event staging, seating and associated equipment subject to the conditions in the attached schedule.

2. Appeal B is dismissed insofar as it relates to retention of existing bunding (under power lines), retention of Ryall & Edwards sales building on current site and retention of welfare buildings on existing site. The appeal is allowed insofar as it relates to change of use and widening of the access road, and planning permission is granted for change of use of land and buildings to Class B1, B2 and B8 use, retention of sawmill use, and widening of access road at Green Lane Sawmills, Green Lane, Outwood, Redhill RH1 5QP in accordance with the terms of the application, Ref TA/2019/868, dated 26 April 2019, and the plans submitted with it so far as relevant to that part of the development hereby permitted and subject to the conditions in the attached schedule.

Procedural Matters

3. On 4 December 2020, the Council granted a Lawful Development Certificate (LDC) for the use of the land as a sawmill (Use Class B2) which attached a plan showing the extent of Previously Developed Land (PDL) within the site (TA/2020/1598). A planning application (TA/2020/2074)¹, currently before the Council with an officer recommendation to approve, was submitted on 9 December 2020 to regularise the use taking place within the PDL area.
4. At the hearing, and through the Statement of Common Ground (SOCG), the Council stated that there are no areas of disagreement with the appellant and confirmed that it was no longer pursuing the reasons for enforcement and refusal. The shared position of the main parties was that I should determine the appeals by granting permission for the development as described in TA/2020/2074, made acceptable by the imposition of agreed conditions.
5. The 'Procedural Guide – Planning Appeals'² advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. While I acknowledge what is said in the SOCG about the public having had an opportunity to consider the development subject to application TA/2020/2074, the notification and consultation processes as regards that application lay outside of the appeals before me and accordingly I am not in a position to consider all the comments made upon it. Further, the Town and Country Planning (Use Classes) Order 1987 has been amended by legislation³ that makes changes to use classes. The amending legislation provides that as the deemed planning application (Appeal A) and planning application (Appeal B) relevant to these appeals were submitted prior to 1 September 2020, they must be determined by reference to the uses or use classes referred to in those applications.
6. For these reasons, I decline to amend the description of development as suggested.
7. The planning application in respect of Appeal B is largely retrospective. The appellant has confirmed that he is no longer seeking permission for bunding and my Decision reflects this. Its appeal site lies entirely within the larger appeal site of Appeal A.

¹ "Change of use of land and buildings to Class E(g)(i) Offices, B2 General Industrial and B8 Storage and Distribution uses, retention of sawmill use (B2), re-siting of Ryall Edwards sales building and widening of the access road."

² Procedural Guide – Planning Appeals – England (Annex M.2.1)

³ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Appeal A and the deemed planning application; Appeal B

Main Issues

8. The main issues in the appeals are:

- Whether the appeal developments are inappropriate development in the Green Belt.
- The effect of the appeal developments on the openness of the Green Belt and the purposes of including land within it.
- The effect of the appeal developments on the character and appearance of the site and area.
- The effect of the appeal developments on the living conditions of neighbouring occupiers, as regards noise and disturbance.
- The sustainability of the location and effect of the appeal developments on highway safety and capacity.
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations? If so, would this amount to the very special circumstances required to justify the appeal developments?

Reasons

Green Belt, character and appearance

9. The appeal sites are located within the Green Belt to the west of the M23 in a predominately rural area. There are sporadic groupings of buildings in the locality, mainly dwellings.
10. The sites comprise an access road, buildings, hardstanding and adjoining land. The area of land at the end of the access road leading from Green Lane was formerly solely in use as a sawmills business (together with associated buildings and open storage of timber) and there is a long planning history of waste and industrial uses on the land nearby including brickworks dating from the 1940s. When the sawmills business was established in the 1960s the disused clay pits from the brickworks were used for the deposit of saw dust and waste wood. The main parties have agreed the extent of this PDL and this has been confirmed in the LDC issued by the Council.
11. The National Planning Policy Framework (the Framework) says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 146 says that material changes in the use of land and engineering operations are not inappropriate provided they preserve its openness and do not conflict with the purposes of including land within it.
12. The mixed use of the appeal developments, particularly the storage of scaffolding and event equipment, would clearly reduce the openness of the Green Belt and encroach into the countryside were it to occur outside of the extent of the PDL. However, within the PDL area I consider the impact to be neutral when compared with the historic and lawful use of that area for industrial purposes including a timber yard with consent for timber stacking to

- 25 feet above ground level (GOR/222/70). Local character and appearance would also be preserved within the restricted area, for the same reasons.
13. Similarly, the impact upon the Green Belt (and character and appearance) by the widening of the access road within the PDL area is negligible in the context of the pre-existing access and lawful use.
14. However, the Ryall & Edwards sales building and the welfare buildings (4 interlinked portacabins) are situated outside of the extent of the PDL. Paragraph 145 of the Framework local provides that the construction of new buildings is inappropriate in the Green Belt, and these buildings do not meet any of the stated exceptions. Even in the near context of the buildings and other forms of built development associated with the lawful use of the land, these buildings on previously undeveloped land within the Green Belt significantly reduces its sense of spatial openness. Further, though near the existing acceptable development, they represent an unacceptable encroachment into the countryside thereby conflicting with one of the purposes of including the land within the Green Belt. And, despite very limited views of them from beyond the site, these rather utilitarian buildings in their current locations significantly harm the character of the countryside character and its intrinsic beauty. Such harm is not contingent on public views.

Living conditions of neighbours, noise and disturbance

15. The appellant has submitted a comprehensive "Noise Assessment" document⁴ setting out the results of environmental monitoring, with the noise impact of the change of use associated with the appeal developments being assessed using a relevant British Standard⁵. This assessment concludes that the change of use does not result in significant adverse noise impacts on health and quality of life. The methodology is consistent with the Council's development plan (Policy DP22 of the Tandridge Local Plan: Part 2 – Detailed Policies 2014-2029 (2014) (LP)).
16. I have no reason to doubt the report's conclusions, nor does it seem do the Council's experts in Environmental Health, though I note that the "night-time" (23.00 to 07.00) impact of the site has been predicated on the stated practice by the appellant of "pre-loading" trailers so that emergency out-of-hours collections do not create the "metallic 'clang' of scaffold poles" which were noted to "subjectively generate the highest sound levels"⁶ during the day.
17. Therefore, in taking the concerns of neighbours into account and the need to protect their living conditions, I will impose a condition on each permission (agreed by the main parties) which restricts the loading, unloading and handling of scaffolding and other equipment to within specified hours during the day and with tighter restrictions on weekends and Bank Holidays. With this condition, I find that there would be no material harm to living conditions in respect of both appeals.
18. I have seen very limited substantive evidence of the light and air pollution concerns raised by local residents and accordingly do not find that the developments cause any material harm in these regards.

⁴ Mayer Brown Limited, February 2020.

⁵ BS 4142+A1: 2019 Methods for rating and assessing industrial and commercial sound

⁶ Para 5.2, p18

Site location sustainability, highway safety and capacity

19. Notwithstanding the associated reason for enforcement in Appeal A, these were not issues in respect of the Council's refusal of the development subject to Appeal B since in the intervening period the Highway Authority's (HA) concerns had been overcome (subject to proposed conditions) by a Transport Statement and framework Travel Plan submitted by the appellant. The HA sets out its assessment and conclusions in a consultation response dated 24 October 2019.
20. The Travel Plan indicates that less than half of the workforce drives to work by private car, there is an element of car-sharing in place, and over a third of the workforce either cycles to work or is transported by a company-owned shuttle bus from the train station. I agree with the HA that this represents a variety of transport modes in accordance with the Framework, and in order to support continuing bicycle use as supported by the Framework I am attaching a condition for their secure parking. The Council confirmed it was not necessary to attach a condition requiring the appellant to submit any further Travel Plan and given the existing evidence of sustainable transport modes, I agree.
21. The HA acknowledges that the developments generate an increase in HGV movements along access routes to the appeal sites. However, the HA says that this increase is small compared with existing HGV movements on the local network including Green Lane. It can also be inferred from its comments that despite third party concerns the HA finds that the local roads, including their widths, are suitable for HGV traffic. Further, it finds that the recent 5-year accident record shows that there have been a low number of accidents and very few involving HGVs, all which occurred at least 1.5km from the sites and cannot be determined to be associated with them. Also, notwithstanding the concerns of the Parish Council and local residents, none of the casualties involved pedestrians or cyclists. I find the HA's reasoned professional opinions on these matters to carry significant weight, and while I acknowledge the concerns of interested third parties, I am not persuaded taking all into account that the developments are unacceptable as regards highways matters.
22. Significantly, the HA supports the modified vehicular access onto Green Lane which it says is necessary to accommodate HGV turning movements into and out of the sites. I am therefore securing its retention and maintenance by conditions. I am also imposing conditions so that a written scheme is approved by the Council ensuring vehicles enter and leave the site only in forward gear.

Other considerations

23. The developments create continued long-term local employment on an existing industrial site in a location, which I have found, to be reasonably sustainable in terms of access. The appellant's business is able to be located within one base, which he also says results in fewer vehicle movements. There are also benefits to the local economy through the business purchasing goods and services. These are all benefits of significant weight. However, I have seen no substantive evidence that these benefits would not exist without the elements of the developments which I have found to cause planning harm (namely the Ryall & Edwards sales building and welfare portacabins in their current locations) and the appellant's statement suggests another way of providing the necessary floorspace without inappropriate development in the Green Belt⁷.

⁷ Para 5.30, p19

Green belt balancing

24. Paragraph 144 of the Framework indicates that in considering any planning application, substantial weight should be given to any harm to the Green Belt. While within the extent of the PDL I have found no harm from the developments, I have found harm to the Green Belt in Appeal B in relation to the Ryall & Edwards sales building and welfare portacabins and I apply substantial weight in respect to it. I have also found that significant harm would be caused to the character and appearance of the area due to those buildings. In totality, the harm is of a magnitude which weighs very heavily against these parts of Appeal B.
25. Having considered all matters raised in support of the appeal development I conclude that, collectively, they do not clearly outweigh the totality of the harm I have identified in respect of these elements of the Appeal B development. Accordingly, very special circumstances do not exist and these parts of the development are contrary to the guidance in the Framework and Policies DP7, DP10, DP13 of the LP and Policies CSP18 and CSP21 of the Tandridge District Core Strategy (2008), which together seek to protect the Green Belt and local character and appearance.
26. With the exception of this finding, and not including the bunding for which permission is no longer sought, conditioned developments in respect to Appeal A and Appeal B are otherwise in accordance with the development plan⁸ and the Framework. Accordingly, I will give conditional permission in whole in respect of Appeal A, and conditional permission in part in respect of Appeal B.

Conditions

27. In addition to the aforementioned conditions in respect to noise control and highway safety, and given my finding as to harm to the Green Belt (and character and appearance), I am imposing conditions on each permission restricting the permitted change of use to the area within the PDL extent indicated by the plan attached to Schedule 2 of the LDC (TA/2020/1598).
28. Mindful of the concerns of local residents about the possible effect of the developments on biodiversity, I am also imposing a necessary condition to each permission requiring an Ecological Appraisal and the implementation of identified mitigation measures.

Conclusions

29. For the reasons given above I conclude that Appeal A should succeed on ground (a) and planning permission will be granted (with conditions). The appeal on grounds (f) and (g) does not therefore need to be considered.
30. For the reasons given above I conclude that Appeal B should be allowed in part (with conditions) and dismissed in part.

Andrew Walker

INSPECTOR

⁸ I give very limited weight to the emerging plan under examination due to the fact that it is not clear the extent to which its policies are consistent with the Framework or the extent to which any objections to its policies have been resolved. It does not affect my Decisions.

APPEARANCES

FOR THE APPELLANT:

Mr Needham (Appellant and Managing Director of Tone Group Ltd)
Celina Colquhoun (Counsel, 39 Essex Chambers)
Dan McEwan (Fluid Planning)

FOR THE LOCAL PLANNING AUTHORITY:

Georgina Betts (Principal Planning Officer)
Fiona Lander (Principal Planning Enforcement Officer)

INTERESTED PERSONS:

Mr Shaw
Lawrence Sutton
Greig Thomson

Appeal A and Appeal B: Schedule of conditions attached to each permission

- 1) The use of land and buildings hereby permitted shall be limited to within the boundary of Previously Developed Land (PDL) as marked on the plan attached to Schedule 2 of LDC Ref TA/2020/1598.
- 2) The loading, unloading and handling of scaffolding and other equipment (excluding vehicle arrivals and departures to allow for emergency out of hours collection of pre-loaded trailers and hoarding at any time) shall be restricted to the following hours:
0700 - 1730 Mondays - Fridays
0730 - 1300 Saturdays
and shall not be operated at any time on Sundays or on Bank or Public Holidays.
- 3) The modified vehicular access to Green Lane shall be retained in accordance with the drawings submitted as part of planning application TA/2019/868 and shall thereafter be permanently maintained for as long as the development exists.
- 4) Unless within 3 months of the date of this decision:
 - (i) a scheme showing the layout of parking spaces and provision of turning areas so that all vehicles can enter the site and leave in forward gear;
 - (ii) a scheme for the secure parking of bicycles within the development; and
 - (iii) an Ecological Appraisal which includes details of any protected species which may exist within or close to the site, together with any identified biodiversity mitigation measures

are submitted in writing to the local planning authority for approval, and unless the approved schemes and Ecological Appraisal (including mitigation measures) are implemented within 3 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as the schemes and Ecological Appraisal are approved and implemented.

If the schemes and Ecological Appraisal in accordance with this condition are not approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as schemes and an Ecological Appraisal approved by the local planning authority are implemented.

Upon implementation of the approved schemes and mitigation measures specified in this condition, those schemes and measures shall thereafter be maintained/retained/remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.