



Appeal Decision

Site Visit made on 26 July 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal Ref: APP/K3605/W/21/3271943

Apps Court Farm, Hurst Road, Walton-on-Thames KT12 2EG

- 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 Apps Court Farm Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2020/2162, dated 26 August 2020, was refused by notice dated 11 November 2020.
 - The development proposed is described as, "Erection of new building for use as equipment and grounds maintenance store".
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Decision

1. The appeal is allowed and planning permission is granted for a single-storey building (450sqm) for D2 use at Apps Court Farm, Hurst Road, Walton-on-Thames, KT12 2EG in accordance with the terms of the application, Ref 2020/2162, dated 26 August 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (20 - P006 - 02), Proposed Site Layout (20 - P006 - 01), Proposed Floor Plans & Elevations (20 - P006 - 03), Site Section (20 - P006 - 04).
 - 3) The development hereby permitted shall be constructed only in blockwork and steel.
 - 4) No development shall commence until an assessment of the risks posed by any contamination (including Ground Gas Migration), carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the Local Planning Authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the Local Planning Authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and

approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the Local Planning Authority within 7 days of the report being completed and approved in writing by the Local Planning Authority.

- 5) The building hereby permitted shall not be used at any time other than as a storage building for purposes ancillary to the operations of the wider site known as Apps Court Farm.

Preliminary Matters

2. The description of development shown above is taken from the planning application form. It differs from that shown on the decision notice. This identifies the proposed development as, "Single-storey building (450sqm) for D2 use". I have used this description in my consideration of the appeal and in my decision since it best describes the proposed development in precise and concise terms. It does not fundamentally alter the development which is the subject of this appeal.
3. As the planning application was submitted prior to 1 September 2020, under The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (SI 2020 No. 757) the appeal has been determined with reference to the use class specified ("D2 use").
4. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published, which replaced the February 2019 version. The parties were provided with an opportunity to comment on its relevance to this appeal. Although no comments were received, as the Framework is a material consideration in planning decisions, I have had regard to it in the determination of this appeal.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy; and
 - if the proposal would be inappropriate development, 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 it.

Reasons

Whether inappropriate development

6. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate. There are however a limited number of exceptions to this, as set out in paragraph 149 of the Framework. The relevant one to this proposal is b) which relates to the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This principle is reflected in Policy DM17 of the Elmbridge Local Plan Development Management Plan (adopted

2015) (Local Plan) which provides that, amongst other things, inappropriate development will not be approved unless the applicant can demonstrate very special circumstances that will clearly outweigh the harm.

7. It is common ground that the proposal would constitute the provision of appropriate facilities, in accordance with the first limb of paragraph 149 b). With respect to the second limb of paragraph 149 b), the Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
8. The principal views of the proposal would be across private land and in that regard the proposed new building would be located within a discrete part of the large overall complex. That part of the complex is already characterised by stacked storage facilities and other built development. Furthermore, it would be partially screened on 3 sides by existing development, and would likely only be visible in glimpsed views from public vantage points. As such, despite its large size, its visual impact on the openness of the Green Belt would be limited.
9. Nevertheless, although its curved roof structure would assist in reducing its bulk and mass, the new building would still be a tall and substantially-sized structure which would occupy a large footprint. Accordingly, taking into account its placement within the overall complex, the proposal would not preserve the openness of the Green Belt in spatial terms.
10. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework and Policy DM17 of the Local Plan. Inappropriate development is, by definition, harmful to the Green Belt. Moreover, for the reasons given above, the proposal would result in harm to the openness of the Green Belt.

Other considerations

11. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that '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.
12. Apps Court Farm is used as a recreational complex, which incorporates a wide range of outdoor sport and recreational uses. The evidence indicates that the type and range of equipment proposed to be stored in the proposed new building would be appropriate and reasonable for those uses.
13. It is clear that the storage building is needed to reduce weathering and theft of equipment, and to provide an indoor maintenance area close to a power source. On the evidence before me, it is clear that there are no other storage buildings on site which would meet these requirements. Considering the size and range of equipment involved, it is reasonable to conclude that the building proposed is proportionate in size. Additionally, the evidence indicates that the new building would provide a cost-effective storage solution which would support the commercial operations of Apps Court Farm, which in turn would likely assist with job retention and the local economy.

14. Moreover, planning permission has recently been granted at the appeal site, for the use of the land as an events site. In this regard, over-and-above the existing need for additional indoor secure storage, the appellant has referred to the urgent need for additional storage space arising from the new activities which will be taking place. This storage requirement includes larger pieces of equipment and a number of smaller items, which would be used in connection with events on site, including grounds maintenance, crowd control measures, and vehicles used to manage various events (including major music events). The proposal would provide secure storage for all these items, would protect them from the elements, and would enable them to be close to a power source.
15. I recognise the wide range of events potentially allowed under the extant planning permission, and that some of these may be large events with an attendance potentially exceeding 5,000 persons. Taking into account the existing need for storage, and this additional significant requirement resulting from the use of the land as an events site, and the benefits that the proposal would bring in supporting the commercial operations of Apps Court Farm and the local economy, collectively I have given these other considerations very substantial weight.

Other Matters

16. Representations have been made querying the need for the storage building, and its intended purpose. In this regard, reference has been made to previous planning applications and consents, how equipment has previously been stored on site, and examples of existing storage containers and maintenance facilities on site have been given. However, taking account of the extant permission referred to above, and the list of items proposed to be stored within the building, it is clear that the intended purpose of the storage building is congruent with the outdoor sport and recreation activities taking place at Apps Court Farm. Reference has also been made to alleged breaches of planning control, but this is not a matter that I can assess in the context of a planning appeal.

Balancing of considerations and whether very special circumstances exist

17. The proposal would be inappropriate development in the Green Belt and would result in the loss of its openness. These matters carry substantial weight. Taken together, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. Therefore, the proposal would comply with the Green Belt aims of Policy DM17 of the Local Plan and the Framework, and consequently would be acceptable.

Conditions

18. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance. A condition is necessary, in the interests of clarity and enforceability, setting out the approved plans. A condition is necessary specifying the materials, to ensure that a satisfactory external appearance is achieved.
19. As the appeal site is near a landfill site, a condition is necessary to mitigate any potential risks arising from any contaminated land (including Ground Gas

Migration) and to ensure that the potential for any unforeseen ground contamination is appropriately dealt with. This condition must be a pre-commencement condition, to ensure that any potential contamination risks, which may impact human health, are assessed by the Council before development takes place. As required by s100ZA(5) of the Town and Country Planning Act 1990 (as amended), the written agreement of the appellant to the terms of the pre-commencement condition has been obtained.

20. A condition is also necessary specifying that the building shall only be used as a storage building for purposes ancillary to the operations of Apps Court Farm, to ensure that the development does not conflict with the purposes of the Green Belt.
21. The Council has suggested conditions relating to piling and imported materials. However, evidence has not been provided demonstrating that piling or imported materials would be used as part of the development and therefore, on the evidence before me, I consider that those conditions are not necessary. Accordingly, they have not been imposed.
22. An interested party has suggested that any grant of planning permission should be conditional on alleged planning breaches being remedied. However, such matters are not relevant to the development to be permitted, and therefore conditions have not been imposed relating to this matter.

Conclusion

23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, I conclude that the appeal should be allowed.

Alexander O'Doherty

INSPECTOR