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## Appeal Decisions

Site visit made on 18 October 2021

**by Gareth Symons BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 October 2021**

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### **Appeal A: APP/N0410/C/21/3270965**

#### **Land at Bellswood Farm, Bellswood Lane, Iver, Buckinghamshire SL0 0LU**

- 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 Paul Kelly against an enforcement notice issued by South Bucks District Council.
  - The enforcement notice was issued on 8 February 2021.
  - The breach of planning control as alleged in the notice is: Without planning permission, the carrying out of operational development comprising the following: a) the construction of a building on the Land in the approximate position shown cross hatched and marked 'A' on the Plan (the "Building"); and b) the laying of concrete hardstanding on the Land located in the approximate position shown dotted and labelled 'B' on the Plan (the "Hardstanding").
  - The requirements of the notice are: 5.1 Demolish or dismantle the Building (in the approximate position shown cross hatched and marked 'A' on the Plan); and 5.2 Break up the Hardstanding that is in the approximate position shown dotted and labelled 'B' on the Plan; and 5.3 Remove from the Land all debris and materials resulting from compliance with steps 5.1 and 5.2 of this Notice.
  - The period for compliance with the requirements is: 6 months from the date on which this notice takes effect.
  - 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.
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### **Appeal B: APP/N0410/C/21/3270966**

#### **Land at Bellswood Farm, Bellswood Lane, Iver, Buckinghamshire SL0 0LU**

- 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 Paul Kelly against an enforcement notice issued by South Bucks District Council.
- The enforcement notice was issued on 8 February 2021.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of the Land from agriculture to a mixed use of (i) agriculture and (ii) Use Class B8 storage comprising of the stationing of metal containers for storage and the storage of a portable cabin in the approximate position shown hatched and labelled 'C' on the Plan.
- The requirements of the notice are: 5.1 Cease the use of the Land for storage falling within Use Class B8 of the Use Classes Order 1987 (as amended) and remove from the Land all of the items and structures (in the approximate position shown hatched and labelled 'C' on the Plan) that are used for and in connection with the aforesaid unauthorised Use Class B8 use; and 5.2 Remove from the Land all debris and materials resulting from compliance with step 5.1 of this Notice.
- The period for compliance with the requirements is: 6 months from the date on which this notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and

Country Planning Act 1990 as amended.

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## **Decisions**

### **Appeal A - APP/N0410/C/21/3270965**

1. It is hereby directed that the Enforcement Notice (EN) is varied by deleting "6 months" from section 6 and replacing that with "9 months". Subject to this variation, the appeal is dismissed and the EN is upheld. Planning permission is also refused on the application deemed to have been made under s177(5) of the 1990 Act as amended.

### **Appeal B - APP/N0410/C/21/3270966**

2. The appeal is dismissed and the EN is upheld.

### **Appeal A – Ground (a) Planning Merits**

3. The main issues are:
  - Whether the development is inappropriate development in the Green Belt (GB) having regard to the National Planning Policy Framework (2021) (NPPF) and any relevant development plan policies;
  - The effect of the development on the character and appearance of the area;
  - 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 required to justify the development.

#### *Inappropriate development*

4. In responding to the assertions made in the Council's appeal statement about the use of the building, the appellant clearly states that the building is a stable for use by his horses. I shall consider the use of the building on this basis.
5. The construction of new buildings in the GB is inappropriate development. Exceptions to this at paragraph 149 of the NPPF include new buildings associated with providing appropriate facilities for outdoor sport and recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
6. The appeal building is a large L-shaped building with timber cladding on the front and sides. It has a steep pitched tiled roof. The height and length of the of the building as stated by the Council is over 6m and about 28m respectively, giving it a significant scale. The main method of construction is concrete blocks with what appears to be a damp proof course/membrane. In the rear roof slopes, there are several rooflights. The building has three bays/sections.
7. In the first bay that I saw there were three horse stalls and two horses. In the second bay there was a horse carriage and a few horse related items, but the use for horse recreation appeared limited. These two bays had conventional stable style doors at the front. The third bay, forming the shorter L-shape return, had a large roller shutter garage style door and it was being used for

- parking of cars. I was informed that the vehicle parking was temporary, but there is nothing to show how this large space is otherwise used.
8. Given the limited extent of use for stabling and storage of horse related paraphernalia, the scale of the building is excessively large. There is also nothing to explain why such a tall building is needed for this recreational use, particularly given that when I looked up through the substantial joists to the underside of the large roof, there appeared tantamount to another storey in the roof space. Moreover, I can see no need for a damp proof membrane in a building intended for stabling of horses. There is little to support why such a large building is justified and given its overall design and limited stable use, I find that it is not appropriate for the intended purpose.
  9. Furthermore, the scale of the building has had a significant negative spatial impact on the openness of the GB. Whilst views of the building are relatively limited due to the screening effects of tall trees to the rear and a high roadside gate, it is visible from the road due to its height on land that also slopes up from the highway. Consequently, there is a moderate adverse impact on the visual openness of the GB as well. These findings mean that the openness of the GB has not been preserved. Also, given the appeal location, the building has not safeguarded the countryside from encroachment thus bringing the development into conflict with one of the purposes of the GB.
  10. Regarding the hardstanding, paragraph 150 of the NPPF lists other forms of development that are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include engineering operations. The hardstanding is an engineering operation which is extensive. It includes the driveway into the site, a large vehicle parking and turning area and an area at the front of the building, albeit I saw at my site visit that some of the land at the front has been grassed.
  11. The appellant advises that the hard surfacing is commensurate for the size required for the parking and manoeuvring of horse boxes and larger agricultural vehicles. I saw a small horse transporter vehicle, a horse box trailer and a small van. However, there was no sign of any agricultural machinery or anything to back up why this might be needed or what such vehicles might be. There were no signs of agriculture and in the evidence, the appellant refers only to use of the adjoining land for paddocks. The space leftover from parking the horse transport would accommodate several more vehicles for which I can see no justification. Being level to the ground, the hardstanding has preserved the openness of the GB, but it has not assisted in safeguarding the countryside from encroachment.
  12. In view of the above, the building and the hardstanding are inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be given to any harm to the Green Belt.
  13. I am aware of the planning permission granted for stables on the site and how the appellant considers the existing building could be adapted. These are fallback positions which are material considerations that I shall take account of under 'Other Considerations'. They are not part of considering whether the appeal building is inappropriate development.

### *Character and Appearance*

14. The building is well designed and finished to a high-quality standard. It is also not unduly prominent in the wider landscape due to the backdrop of tall trees at the rear. The local area is also not devoid of development, some of which are other large commercial/agricultural buildings. Nevertheless, related to the immediate neighbouring buildings which are residential in scale, the appeal building is very large, and its excessive scale has not been justified. It is overly large for its stated purpose and along with the extensive hardstanding set aside for parking, servicing, and access it dominates the lower end of the overall site. There is no landscaping scheme before me to show how the hardness of the development could be ameliorated by planting. It is difficult to see how the expanse of the hard surface could be softened even taking account of the grassed areas at the front of the building.
15. In my opinion the appeal development has harmed the character and appearance of the area. I give substantial weight to this harm.

### *Other Considerations*

16. Planning permission Ref: PL/18/3272/FA for the erection of stables on the appeal site was granted by the Council on 31 January 2019. The appellant claims that this planning permission has been implemented because the foundations have been dug. It might be the case that the back wall of the existing building lines up with where the rear wall of the approved stables would go. However, there is no substantive evidence such as accurate overlay drawings to show that the lines of these two walls match. Moreover, the orientation of the approved stables is very different from what is currently on the site. As such, its footprint would not be the same and it would appear to come more in line with the existing property to the east. It is doubtful that the planning permission has been implemented.
17. In any event, the appellant also states that the permitted stables could still be built because the time limit for commencing the approved development has not expired. However, the approved development is only for two stables, hay store, tack room and equipment store. Looking at the approved drawings and based on the Council's report for the planning application, it would be a much more modestly sized building at about 13m long and far lower in height in the order of 4.15m compared to the over 6m height of the existing building. The conventional size and appearance of the approved structure would be materially different from the appeal building. As such, it provides very limited support to justify the current building. I give this fallback very limited weight.
18. Moreover, given the material differences between the existing and the approved buildings, it is very difficult to see how the building on the site could feasibly be adapted/remodelled to take on the shape, form, and position of the permitted stables. There is also nothing to show how this could realistically be achieved. Adaptation back to the approved building is a consideration that has very limited weight.
19. It might be possible to take off the L part top end of the appeal building to make it rectangular which would make it smaller. However, this would not address the height of the building and the adverse effect this has on the spatial and visual openness of the GB. In my view, such a smaller building would also still be unduly large without any significant evidence to show that it would be in

line with the exception given to new buildings in the GB as set out in the NPPF. Therefore, securing such a modified building by a condition on a planning permission is not an appropriate course of action. I give this further fallback also very limited weight.

### *Green Belt Balance*

20. Substantial weight must be given to any harm to the GB. Very special circumstances will not exist unless the harm to the GB by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case I have found harm to the GB by way of definition and to its openness. I have found further harm to the character and appearance of the area. Substantial weight is attached to these harms. The combined weights I have attached to the other considerations for the reasons given, do not clearly outweigh the totality of the harm in this case. Therefore, the very special circumstances needed to justify the appeal development do not exist.

### *Conclusion*

21. For the reasons given, the appeal development does not accord with the GB protection and design aims of policies GB1 and EP3 of the South Bucks District Local Plan and the NPPF. The development does not accord with the development taken as a whole and material considerations do not indicate a decision other than in accordance with the development plan. The Council has also referred to policy CP8 from the South Bucks Core Strategy. However, the two development plan policies I have referred to seem most relevant to the development in this appeal.
22. The ground (a) appeal fails.

### **Appeal A – Ground (f)**

23. The EN alleges the erection of a building and laying of a hardstanding, and the EN requires these to be demolished and broken up, and for the resulting debris and material to be removed from the land. On this basis, the purpose of the EN is to remedy the breach of planning control under s173(4)(a) of the 1990 Act. The EN is not seeking to remedy the injury to amenity under s 173(4)(b).
24. It might be more environmentally friendly and efficient to adapt the existing building to make it smaller or to bring it line with the approved stables. Nevertheless, I have already covered above why possible lesser steps with less cost and disruption to the appellant would not be appropriate and they would fall well short of achieving the purpose of the EN. Consequently, the steps required of the EN to achieve the purpose of remedying the breach of planning control are not excessive. Thus, the ground (f) appeal fails.

### **Appeals A and B – ground (g)**

25. Demolishing the building and breaking up the concrete hardstanding will be a significant operation. It will take quite a time to do this and then arrange for the debris to be removed from the land. Six months is therefore too short in my view. Although the appellant has suggested 12 months, 9 months would strike the right balance between ending the continuing harm to the GB while the developments are still in place and being reasonable. There is success under ground (f) related to Appeal A and I shall vary the EN accordingly.

26. Moving the portable containers and cabin from the land in Appeal B would be much easier. I note that the appellant does not wish to move them to another unauthorised site if an authorised facility cannot be found. However, that is a matter for the appellant to resolve. There is no substantive evidence to show difficulties in finding another site, what efforts might have been made to move the containers already or that the costs of doing so are prohibitive. I shall not vary the time in Appeal B. The ground (f) appeal under Appeal B fails.

### **Conclusions**

27. For the reasons given, I shall vary the time under Appeal A. Other than that, the appeals fail and the ENs are upheld.

*Gareth Symons*

INSPECTOR