



Appeal Decision

Site visit made on 27 September 2021

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Appeal Ref: APP/Y3615/W/20/3257323

Valentines Farm, Rose Lane, Ripley, Woking GU23 6NE

- 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 Guildford Borough Council.
 - The application Ref 19/P/01881, dated 29 October 2019, was refused by notice dated 11 February 2020.
 - The development proposed is the enclosure of Barn B and change of use of the whole barn building (comprising Barn A and Barn B) from light industrial use (B1(c)) to a mix of general industrial (B2) and storage and distribution (B8) uses, the sub-division of the barns into 8 No. separate units (4 No. units in Barn A and 4 No. units in Barn B) and the installation of 2 No. extractor fan chimneys on the south-west facing roof of Barn A.
 - This decision supersedes that issued on 2 February 2021. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed and planning permission is granted for the enclosure of Barn B and change of use of the whole barn building (comprising Barn A and Barn B) from light industrial use (B1(c)) to a mix of general industrial (B2) and storage and distribution (B8) uses, the sub-division of the barns into 8 No. separate units (4 No. units in Barn A and 4 No. units in Barn B) and the installation of 2 No. extractor fan chimneys on the south-west facing roof of Barn A at Valentines Farm, Rose Lane, Ripley, Woking GU23 6NE in accordance with the terms of the application, Ref 19/P/01881, dated 29 October 2019, subject to the conditions set out in Schedule 1 of this decision.

Preliminary Matters

2. The appeal is being re-determined and therefore the previous decision on this case has no status in law. I shall determine the case again on the basis of the evidence before me and on the merits of the case. The original appeal submission was accompanied by an application for Costs by the Council; that decision was not the subject of a challenge and so it remains.
3. The appeal relates to 2 linked open sided barns which form a single building which was originally constructed for agricultural use. Proposals to enclose the building combined with changes of use have twice been refused permission and dismissed on appeal (Refs; APP/Y3615/A/08/2072128 and APP/Y3615/A/13/2196747). Permission was subsequently granted for the change of use of the building to B1(c) light industrial use and ancillary storage including the external cladding of one half of the building (Barn A) (Ref

14/00045 dated November 2014). The appellant claims that the permission was implemented, and the Council does not dispute this, although the materials used appear to differ from those approved.

4. Both barns are now wholly enclosed, and both have been internally subdivided into four units each. The units are being used for a variety of industrial and storage uses. The development proposed therefore has already taken place and permission is sought to retain it subject to appropriate planning conditions.
5. Since September 2020 Use Class B1(c) light industrial use has been subsumed into a new Class E (Commercial, Business and Service).

Main Issue(s)

6. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect on the character and appearance of the area,
 - The effect of development related traffic on highway safety,
 - The effect on the living conditions of neighbouring occupiers in relation to noise, disruption and fumes, and

Reasons

Whether the development is inappropriate in the Green Belt

7. The Framework states that, when considering planning applications, the construction of new buildings should be regarded as inappropriate in the Green Belt, with a number of stated exceptions (now paragraph 149 which was paragraph 145 in the version in force at the time of the original consideration of this appeal). Exception c) 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"*.
8. The enclosure of Barn B with cladding and the sub-division of both barns amounts to alterations to the building. These alterations have not increased the internal floor area of the building nor its mass. As a result, these alterations do not amount to disproportionate additions over and above the size of the original building and the development falls within this stated exception.
9. The Council indicates that it is necessary to consider the appeal further under what is now paragraph 150 of the Framework (previously paragraph 146). This states that *"other forms of development 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..."*. The list of such forms of development within this paragraph then includes, *"d) the re-use of buildings provided that the buildings are of permanent and substantial construction."* Thus the Council states that it is necessary to specifically test the appeal scheme against its effects on openness, under paragraph 150.

10. I have been provided with a number of references to appeal and High Court judgements: notably, *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest DC and another* and ; *Bromley LBC v SSCLG judgement* [[2016] EWHC 595] and; appeal decision Ref APP/G2245/W/19/3243177. In the *Lee Valley* judgement it was determined that “*once a particular development is found to be, in principle, appropriate, the question of the impact of the building on openness is no longer an issue.*” Within the Framework at paragraph 149, the impact on openness is implicitly taken into account in the exceptions unless there is a specific requirement to consider the actual effect on openness. Therefore, for those exceptions within paragraph 149 where the effect of the development on openness is not expressly stated as a determinative factor in gauging inappropriateness, there is no requirement to further assess the impact of the development on the openness of the Green Belt. The *Lee Valley* judgement adds that the fact that once a particular development is found to be, in principle, appropriate, the question of the impact of the building on openness is no longer an issue, (Paragraph 20). Therefore, I conclude on this issue that there is no need to further assess the effects of the development in relation to openness and that the development is not inappropriate within the Green Belt.

Character and appearance

11. The site is on the fringe of Ripley and land to the south and west of the site in particular has a rural character. However, the site is well screened by bunds, high fences and vegetation and these limit intervisibility with the surroundings. The original agricultural use of the barn may have blended well with this rural character but the appearance of the site has changed over time. The site now has a lawful industrial use and its character and appearance reflect this. This includes the enclosure of Barn A (the larger barn), hardstanding around the building and the access through to Rose Lane.
12. The enclosure of Barn B, the subdivision of both barns and the likely associated greater activity outside the building does not result in a material change to the character and appearance of the site or to a material adverse impact on the rural surrounds. The proposal does not therefore conflict with Policy D1 of the LPSS or with those parts of Saved Policy G1 of the Guildford Borough Local Plan (2003) (GBLP) that require development to reflect the distinct local character of an area. Neither would there be conflict with the parts of LPSS Policy E5 and the Framework that support economic growth including within rural areas.
13. The Council has referred to changes in character arising from significant storage associated with the uses, the ever increasing expansions to the south and west and the metal enclosure of the barns as opposed to the timber cladding shown on the plans for the change of use. It would be possible to control external storage with a planning condition as with the implemented permission. If there are breaches of planning control associated with the present appearance of the site, then it is open to the Council to consider the expediency of appropriate enforcement action, but the site nonetheless now has an industrial character.

Highway safety

14. The Council’s refusal reason refers to insufficient information to fully assess traffic impacts. The fluid nature of the proposal allowing an interchange between B2 and B8 uses would be likely to result in some variation in traffic

flows over time. The appellant's Technical Note provides a snapshot of activity on a weekday in September 2019 after subdivision of the barns with all 8 units occupied. The survey records 96 two-way vehicle trips, none of which related to heavy goods vehicles. The total compares favourably with the estimated 136 two-way daily trips associated with an approved but unimplemented permission for a gym at the site, although this would have involved fewer light goods vehicle movements. The number and nature of trips could change, particularly with more B8 occupiers, but given the relatively small size of the subdivided units this would be unlikely to result in materially different traffic flows.

15. The application form specifies 54 employees. Several of these could drive to the site. The plans do not indicate where employees could park but this could be the subject of a planning condition. The Council comments that conditions to restrict the size and number of vehicles visiting the site would be difficult to enforce, but it has not been demonstrated that such conditions are necessary.
16. The access is located on the outside of a bend in Rose Lane, allowing good visibility in both directions, and is constructed from compacted hardcore to provide a stable surface. Its width varies along its length but there is good forward visibility for drivers to accommodate passing vehicles. Even if traffic flows would sometimes be higher than indicated in the Technical Note, there is no reason to indicate that this would result in conditions prejudicial to highway safety.
17. Paragraph 111 of the Framework states that "*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". The impacts would not be unacceptable in my judgement. The proposal would not be contrary to section nine of the Framework, to the objectives of Policy ID3 of the LPSS or to the third Surrey Local Transport Plan (2011) in relation to highway safety.

Living conditions

18. The nearest residential properties are The Cottage, a detached house close to the access on to Rose Lane, and The Paddocks, a caravan site on the opposite side of the access track. Vehicles accessing the appeal site would pass near to these residences but even allowing for some change in the number and nature of these vehicle movements, the impact in relation to increased noise and disruption is unlikely to be materially different from that arising in relation to the lawful industrial use of the site.
19. The barns are sited a considerable distance from these nearest residences. Traffic noise from the adjacent busy A3 would to some degree mask any noise arising from activities within the barns, even with the doors to individual units open. The B2 general industrial activities proposed have the potential to result in a greater level of noise and disturbance than the lawful B1(c) light industrial use which by definition would be compatible with location within a residential area. But the site is not located within a residential area and the distance to the nearest residences is such that some increase in noise at the barns would be most unlikely to significantly affect the living conditions within these residences.
20. The paint spray booth installed in one unit could affect occupiers of the nearest residences through odour or fumes, but any such nuisance would be likely to

be much greater for other users of the barns due to their proximity. However, a planning condition could be used to mitigate such impacts as the Council has suggested in the event that the appeal is allowed. Conditions could also be used to control operating hours in the units, the times of deliveries to and dispatch from the site and to mitigate noise within the units to protect the living conditions of the nearest residential occupiers.

21. The development is not therefore be contrary to Saved Policy G1(3) of the GBLP that seeks to protect the amenities enjoyed by the occupiers of buildings in respect of matters including noise, vibration, pollution, dust and smell. Neither would there be conflict with the Framework which at Paragraph 130(f) promotes a high standard of amenity for existing and future users.

Other Matters

22. The Council has referred to the Written Ministerial Statement of 2015 in relation to intentional unauthorised development in the Green Belt. Whilst it is regrettable that the development has occurred without the prior submission of a planning application, the proposal nevertheless has to be considered on its individual planning merits. I have taken account of the numerous representations submitted and sought to address the relevant planning considerations within my reasons. I have also noted the recently adopted Lovelace Neighbourhood Plan but find no conflict with the relevant policies referred to by the Council.

Conditions

23. I have taken account of the advice in the Framework and the Planning Practice Guidance in relation to the use of planning conditions. The Council has submitted a list of preferred conditions and the appellant has made some reference to the use and possible need for certain conditions.
24. I shall include a condition which identifies the approved plans for the sake of certainty. So that there is no unacceptable effects on nearby residents, conditions restricting the hours of use, any further sub-division, the provision of any mezzanines and the hours for deliveries and despatches to and from the site are necessary.
25. The Council have requested that a parking plan should be required and implemented for the site. The large hard-surfaced area currently exists and is used for parking and there appears to be ample space. In my judgement, there is no need to seek a more formal arrangement. With regard to the requested energy statement, I agree with the appellant that this appears to be more relevant to new buildings and refers to a requirement under the Building Regulations; in these circumstances I shall not duplicate the requirement covered by other legislation. I agree that the provision of charging points for vehicles should be provided but I have altered the wording and timescale in the suggested condition. I have included a condition to restrict external lighting so that the proposal does not have an unacceptable effect on the character of the area. For the same reason and so that neighbouring residents are not unacceptably affected, I have included a condition which would prevent any of the commercial activities or storage of materials outside the building (Barns A and B).

26. I agree with the need for conditions to require both a noise mitigation strategy and mitigation relating to noise, odour and fumes from the 2 extractor units but I have included a timescale that I consider more reasonable than that suggested by the Council. Additionally, I have included a condition which seeks to control the use of the building so that the Council have suitable control over subsequent changes. In this respect, I have made suitable alteration to reflect the recent changes to the Use Classes Order. The Council has also requested a condition which would require the replacement of the external metal cladding with timber cladding. Notwithstanding the fact that timber cladding has previously been approved at the site, I consider that the metal cladding is consistent with the character of the site and there is no justification for requiring the suggested alteration.

Conclusions

27. For the reasons set out above, I find no conflict with the Council's relevant policies or the Government's policy set out within the Framework. As a consequence, the appeal is allowed.

S T Wood

INSPECTOR

SCHEDULE 1 Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: WS V-1010 REV A, WS-V1002 REV A and WS-V1011 REV A.
- 2) The use of the units hereby permitted shall not operate other than between the hours of 8am to 6pm Mondays to Fridays (inclusive), 8am to 2pm on Saturdays and shall not operate at all on Sundays or Bank or National Holidays.
- 3) The building shall not be subdivided any further than the subdivision shown on drawing WS-V1011 REV A.
- 4) Notwithstanding the provisions the Town and Country Planning (General Permitted Development) Order (as amended) (or any Order revoking or re-enacting or amending that Order with or without modification) no mezzanine floor(s) shall be constructed within any of the eight units hereby approved.
- 5) No deliveries shall be taken at or dispatched from the site except between the hours of 7am to 8am; 10am to 3pm and 5pm to 7pm Mondays to Fridays (inclusive), 8am to 2pm on Saturdays nor at any time on Sundays, Bank or Public Holidays.
- 6) Within 3 months of this decision, a scheme for the provision of at least three fast charge sockets on the site shall be submitted to and approved in writing by the Local Planning Authority. Within 3 months of receiving the written approval of the Local Planning Authority, the approved scheme shall be implemented in full and made available for use. Thereafter the approved scheme shall be retained and maintained in the approved form.
- 7) There shall be no floodlighting or external lighting erected on the building or the site at any time.
- 8) The uses hereby approved shall occur only within the barn and shall not take place externally. No open storage of materials, products, plant, equipment or temporary buildings or structures shall take place within the site.
- 9) Within 4 months of the date of this decision a noise mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall detail how all eight units will be treated and managed to control the escape of noise. This could involve physical works to the building (such as internal soundproofing) and / or management techniques to minimise noise and disturbance. Within 3 months of receiving the written approval of the Local Planning Authority, the approved scheme shall be implemented in full. The scheme shall be adhered to in full for the lifetime of the development.
- 10) The two extractor units shall be removed from the building and the structure made good unless, within 3 months of the date of this decision a scheme which successfully mitigates the potential impacts of noise, odour and fumes from the units is submitted to and approved in writing by the Local Planning Authority. Within 3 months of receiving the written approval of the Local Planning Authority, the approved scheme shall be

implemented in full. The scheme shall be adhered to in full for the lifetime of the development.

- 11) The eight units hereby approved shall be used only for purposes falling within Classes B2, B8 and light industrial use within Class E and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).