



Appeal Decision

Site Visit made on 21 September 2021

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2021

Appeal Ref: APP/G2245/C/21/3271033

Leydens Farm, Leydens Lane, Hever, TN8 7EP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Demitrious Michael of Eden Prestige Sales Ltd against an enforcement notice issued by Sevenoaks District Council.
- The notice was issued on 28 January 2021.
- The breach of planning control as alleged in the notice is erection of an office building without planning permission (as shown edged blue on Plan B).
- The requirements of the notice are:
 - Demolition of office building (as shown in blue on Plan B)
 - Removal of all resultant materials from the land.
- The period for compliance with the requirement is: 6 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Preliminary Matters

1. The National Planning Policy Framework (the Framework) was published during the course of the appeal. The Council and appellant were given the opportunity to comment and I have taken its contents into account in coming to my decision.
2. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (S106) was submitted during the course of the appeal. This would secure the demolition of the swimming pool building next to the dwellinghouse at Leydens Farm should planning permission be granted for the office building subject of this enforcement notice. I have taken the UU into account in coming to my decision.

The Appeal on Ground (a) and the Deemed Planning Application

Main issues

3. The main issues are:
 - Whether the development comprises inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt and the purposes of including land within it;
 - The effect of the development on the landscape and scenic beauty of the High Weald Area of Outstanding Natural Beauty;

- Whether there are other considerations weighing in favour of the development; and
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, does this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The Framework states that new buildings within the Green Belt should be considered inappropriate with a number of exceptions. This includes the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy LO8 of the Sevenoaks District Council Core Strategy (CS) maintained the extent of the Green Belt. Policy GB9 of the Allocations and Development Management Plan (ADMP) allows the replacement of non-residential buildings, provided that the existing building is lawful and permanent in nature and the replacement building would be within the same use as the building to be demolished.
5. Leydens Farm comprises a number of buildings in the Green Belt in a mix of uses, including houses, stables and commercial buildings in use as part of the appellant's car sales business. The office has been constructed close to the main commercial buildings.
6. The UU would secure the demolition of the previous swimming pool building that is located away from the commercial buildings, beyond the main dwelling. The appellant suggests that was used as the office for the car sales business prior to the current office building being constructed. I note that it is suggested the car sales business has become lawful through the passage of time in accordance with Section 171 of the Town and Country Planning Act 1990 (the Act). However, this has not been established through a Lawful Development Certificate under Section 191 of the Act. It is unclear whether the Council accept that the use has become lawful and limited evidence has been provided with this appeal to demonstrate this is the case. Even if the lawfulness of car sales business were accepted in some buildings and parts of the site, it is not clear whether the use of the pool building as an office related to that use is lawful.
7. Taking all the above into account and on the balance of probability, I conclude that the new building is not in the same use as that it would replace. As a result, the development conflicts with Policy LO8 of the CS and Policy GB9 of the ADMP. For these reasons, the proposal would constitute inappropriate development within the Green Belt as set out in the Framework.

Openness and the purposes of the Green Belt

8. Leydens Farm is located within the open countryside and comprises a group of buildings accessed via a long drive from Lydens Lane. The buildings comprise a number of former farm buildings that are now used for a car sales business, including repair and restoration facilities, equestrian facilities and residential dwellings. A public footpath runs alongside the buildings from Lydens Lane and continues through the fields beyond Leydens Farm. There are limited public views of the building except through the hedge alongside the public footpath.

9. The pool building at Leydens Farm that is proposed to be demolished is located on the edge of the group of buildings at the property. It is separated from the main farm buildings by the main house and located within its garden. The garden comprises previously developed land as defined by the Framework. It is between a tennis court and the building currently used for valeting and detailing by the appellant's car sales business. As such, there would be a limited beneficial effect on the openness of the Green Belt arising from the removal of this building.
10. The office building is located closer to the main farm buildings but extends their built area into the adjacent paddock. This has extended built form in a different direction from the pool building. The location of the building means that the built form has been extended and the effect of the office building on the openness of the Green Belt is significantly greater, in spatial terms, than the benefit of removal of the pool building.
11. The main farm buildings at Leydens Farm are visible in views from the adjacent public footpath. The pool building is, however, located beyond those buildings, including house, and a substantial hedge between the paddock in which the office is partially located and the garden of the main house. This means that there are limited public views of the pool building from outside the site.
12. The office is visible over the paddock from the public footpath. The paddock slopes up away from the building, such that the land has been cut away to the rear in order to accommodate the building. It is seen in the context of the farm buildings that, in some views, form the backdrop to the building. The office visually extends the built form at Leydens Farm, albeit that effect is limited to some extent by the topography of the land. Additional planting may also soften or disguise the building to some extent. Nevertheless, given its visibility from the public footpath, it has a greater visual effect on the openness of the Green Belt than the pool building.
13. The purposes of the Green Belt include safeguarding the countryside from encroachment. Given the relative relationship between the pool building and office with the other farm buildings, the office encroaches into the countryside considerably more than the pool building. Consequently, the development does not safeguard the countryside from encroachment.
14. For these reasons, I conclude that the office building, even taking account of the removal of the pool building, would result in harm to the openness of the Green Belt and the purposes of including land within it. As a result, it is contrary to the Framework that seeks to keep land permanently open and safeguard the countryside from encroachment.

Landscape and scenic beauty

15. The development is located within the High Weald Area of Outstanding Natural Beauty (AONB) where the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty. The AONB comprises small fields and woodland with groups of agricultural or former agricultural buildings and settlements in a hilly landscape. The buildings are set some distance from Lydens Lane, with the land sloping up to the rear. The public footpath, from which the office building is visible, is to the side for the former farm buildings.

16. The office comprises a substantial, single storey timber clad building with casement windows and gable ended porch over the steps to the glazed front entrance. It is set into the hillside such that it is lower than the neighbouring buildings and seen with those in the background in some views from the public footpath. The scale, layout and materials of the building reflect the appearance of an agricultural building to some extent. However, the windows and porch result in a more commercial appearance. The office building extends built development at Leydens Farm into the adjacent paddock and is visible from the public footpath. This is a limited incursion of built development into the AONB. Taking account of all these factors, the office building affects the landscape and scenic beauty of the area.
17. I understand that planting could be provided that would restrict views toward the building and reduce its visibility within the AONB. Nevertheless, the building would still be likely to be visible in closer views such that this would not wholly overcome the effect of the building on landscape and scenic beauty.
18. I note that the pool building is proposed to be removed. However, this is located within the garden of the house. It has the house to one side and is between the tennis court and valeting and detailing building on another two sides. Although it may be in a more prominent position in wider views, it is substantially hidden from views from the public footpath by other buildings and a substantial hedge. Consequently, its removal would not outweigh the effect of the office on the landscape and scenic beauty of the AONB.
19. For these reasons, I conclude that the office building does not conserve and enhance the landscape and scenic beauty of the AONB. As such, it is contrary to Policy EN5 of the ADMP and the Framework that seek to protect the landscape and scenic beauty of the AONB, and conserve and enhance the character of the landscape.

Other considerations

20. Eden Prestige Sales Ltd is a car sales operation that specialises primarily in high value cars. I understand that it provides employment to approximately five full time equivalent staff and a further nine self-employed people within the workshops.
21. Suitable accommodation is required for the office accommodation to meet clients and service the business. The office building meets that need. Its location is better related to the rest of the car sales business within the farm buildings than the pool building that is separated from most of those buildings by the main house. The office building also provides better quality and more energy efficient accommodation than the pool building.

Conclusion

22. I have found that the office building, even taking account of the proposed demolition of the pool building, would not comprise a replacement building in the Green Belt as defined by Policy GB9 of the ADMP and the Framework. As such, the development is inappropriate development in the Green Belt. It would harm the openness of the Green Belt and conflict with the purposes of including land within it. In addition, it would not conserve or enhance the landscape or scenic beauty of the High Weald Area of Outstanding Natural Beauty.

23. The building better meets the needs of the car sales business than the pool building, including in terms of its location. Consequently, it contributes to the sustainability of that business which provides a significant level of employment. However, these matters can only attract modest weight.
24. Taking these matters into account, the substantial weight to be given to Green Belt harm and any other harm is not clearly outweighed by other considerations, either individually or cumulatively, sufficient to demonstrate very special circumstances. Therefore, the office building is contrary to Policy LO8 of the CS, Policy GB9 of the ADMP and the Framework that seek to protect the Green Belt from inappropriate development.
25. For these reasons, I conclude that the development does not accord with the development plan. The appeal on ground (a) therefore fails.

Formal Decision

26. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

AJ Steen

INSPECTOR