



Appeal Decision

Site visit made on 13 June 2022

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 1 July 2022

Appeal Ref: APP/G2245/C/21/3282967

Oak Tree Farm, London Road, Halstead, Kent, TN14 7AB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Knockholt Properties Ltd against an enforcement notice issued by Sevenoaks District Council.
 - The notice, numbered 20/00539/MCU, was issued on 19 August 2021.
 - The breach of planning control as alleged in the notice is: 1) Change of use of land for the siting of 3 caravans (1 mobile home and 2 tourers) for residential use; 2) Change of use of land to storage of containers, skips, machinery, unused mobile homes, lorries, hardcore material and other miscellaneous items; 3) Erection of a steel frame structure connected to existing outbuilding and laying of hardstanding floor slab adjacent to the existing outbuilding;
 - The requirements of the notice are to: 1) i) Cease using the 3 caravans (1 mobile home and 2 tourers) for residential use and remove from the land; 2) i) Cease the storage use on the land and remove the containers, skips, machinery, unused mobile homes, lorries, hardcore material and other miscellaneous items from the land and return the land to original condition; 3) i) Cease works adjacent to the existing outbuilding; ii) Take down the steel frame structure, dismantle the hardstanding floor slab and remove all resultant materials from the land.
 - The periods for compliance with the requirements are: 1) i) and 2) i): 9 months 3) i): 1 day and 3) ii): 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), (g) of the Town and Country Planning Act 1990 (the 1990 Act) 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.
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Decision

1. 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.

Site and surroundings

2. The appeal site lies within the Metropolitan Green Belt and adjoins the appellants' waste transfer business. There is a residential property on the site, in a poor state of repair and which, I understand, has had a prohibition order served on it, preventing its lawful occupation. The site covers the lawful residential curtilage of the house and an area beyond it, adjacent to the road, on which there are numerous items stored, such as containers, skips and apparently disused vehicles.
3. To the north of the house is an outbuilding which, I am told, once contained a swimming pool that has now been filled in. At the time of my visit there were vehicles stored in this building. A steel frame above a concrete floor slab has been attached to the north side of this outbuilding and, again, I saw vehicles

stored on the hardstanding. The frame is clearly intended to be part of an extension to the outbuilding and it is this structure that is referred to in the enforcement notice and which the appellants claim is permitted development.

4. There are various piles of building materials stored around the house which appear to be intended for the completion of the extension. There were also 4 caravans and a camper van within the residential curtilage shown on the plan attached to Lawful Development Certificate SE/12/02723/LDCEX.

Main Issues

5. The main issues in this case are:

on ground (c): whether the developments enforced against in allegations 1 and 3 are development permitted by Town and Country Planning (General Permitted Development) Order 2015 (as amended)(GPDO);

on ground (a): (i) whether the developments enforced against represent inappropriate development within the Green Belt and, if so, whether there are any material considerations that outweigh the harm caused by such development, and any other harm, and are sufficient to justify the proposal on the grounds of very special circumstances and

(ii) the effect of the development on the character and appearance of the surrounding area;

On ground (f): whether the requirements of the enforcement notice exceed what is necessary to remedy the breach of planning control and

On ground (g): whether the time for compliance is reasonable.

Reasons

Ground (c)

6. Ground (c) is pleaded only in respect of the extension to the existing outbuilding and the storage of caravans within the curtilage of the dwelling. It is submitted that the steel frame is development permitted by class E of Part 1 of Schedule 2 of the GPDO, which allows for outbuildings within a residential curtilage provided that, amongst other things, their use is '*incidental to the enjoyment of the dwelling house as such*'. It is claimed that the building will be for a recreational use by the occupiers of the house, when refurbished, and will contain a gym, games room and sauna.
7. It is true that the building meets the size limitations of the GPDO but the courts have held that it must also be '*reasonably required*' for the use for which it is intended. However, it seems to me that the size of the building would be overly generous for use with a house of this size, particularly for the purposes stated. The appellants say that the house has a footprint of 200m² and the existing outbuilding is 240m². The steel framed extension would add a further 213m², taking the additional available accommodation to more than double that of the footprint of the house.
8. The appellants have stated that they intend to change the property into a house in multiple occupation (HMO) to be occupied eventually by workers on the adjacent waste facility. Unless the Council has already imposed any limitations on the permitted development rights for this, planning permission would not be needed for the change, provided no more than 6 people were to occupy the house.

9. Considering there is already a sizeable building to which the extension would be attached, and that the main house is of a relatively modest size, I consider that the scale of the facilities would be far in excess of what up to 6 occupants would reasonably need for the recreational purposes stated. It is also the case that, at present, the house is unfit for habitation and cannot lawfully be occupied. Whilst this situation continues there can be no incidental residential use to which the proposed new building could be put.
10. I therefore find that the steel framed structure is not development permitted by the GDPO and the appeal on ground (c) in respect of it fails. Following on from this finding, it is also the case that any materials intended for the completion of the building and stored on the land are also being kept there unlawfully and can be required to be removed through the enforcement notice.
11. Turning to the caravans which are said to be required for workers on the waste facility, their use for residential occupation separately from the house would require planning permission. However, the appellants consider that the caravans could nevertheless lawfully be stored within the residential curtilage of the house. However, there is no current residential use actively taking place in the house and the change of use of the land for the storage of caravans unconnected with any residential use would require planning permission. The appeal on ground (c) in respect of the caravans also fails.

Ground (a)

12. The appellants accept that the other open storage uses taking place on the land is unacceptable and inappropriate and do not seek planning permission for this part of the development. However, it is claimed that planning permission should be granted for the outbuilding and for the residential use of the caravans on a temporary basis until the house is fully refurbished and converted into an HMO.
13. Turning firstly to the extension to the outbuilding, as I have found that it is not permitted development, the unfinished building is classed as inappropriate development in the Green Belt, whether or not it has a residential use. Also, any planning permission granted through the enforcement appeal can only cover works that have already taken place and a further permission would be needed to cover the completion of the building. In any event, I have not been provided with any details of what is intended for the finished building so could not grant permission for anything other than what is currently there.
14. I have found that, because there is no residential use at present, the building is not a residential outbuilding. However, even if it was, it could only be permitted under policy GB3 of the Sevenoaks Local Plan (The Allocations and Development Management Plan DPD and Core Strategy) (ADMP) if the building, including the cumulative impact of other outbuildings within the curtilage of the dwelling, would be ancillary to the main dwelling in terms of function and design and would not '*materially harm the openness of the Green Belt through excessive bulk or visual intrusion*'.
15. I consider that the building, even in its unfinished state, could not be considered as ancillary in terms of its design and whilst the construction may not be visible from public viewpoints it is nevertheless compromising the spatial openness of the Green Belt. Also, when combined with the other part of the outbuilding, its bulk would be excessive and cause material harm to openness.

16. Policy GB8 of the Local Development Framework Core Strategy Development Plan Document 2011 (DPD) does allow limited extensions to non-residential buildings in the Green Belt but, in my view, for the reasons given above, the extension could not be considered proportional or subservient to the host building as required by this policy.
17. In conclusion, the building is causing harm to openness and this harm must be added to the substantial harm accorded to inappropriate development in the Green Belt. I have been given no justification for the building, other than a recreational use for up to 6 future occupants of the house, that could amount to the very special circumstances required to overcome this harm. I consider that this does not outweigh the cumulative harm identified and consequently, the development also conflicts with national planning policy as set out in paragraphs 147 and 148 of the National Planning Policy Framework.
18. The appellant also seeks permission to retain 3 caravans for use by the workers at the neighbouring facility for a temporary period of up to 18 months. However, this would still be inappropriate development in the Green Belt and the continued use of the caravans would impact on the openness of the surroundings. I have considered the support accorded by planning policies to business ventures and the benefits this would bring to the waste business, but, for the reasons set out in subsequent paragraphs, I consider that the enforcement notice allows sufficient time for the house to be renovated and workers to be relocated there.

Ground (f)

19. The appellant states that the caravans could be left on site but not used residentially, but, as noted above, the storage of caravans within a residential curtilage but unconnected with that use is a material change that has not been authorised. It is not excessive to require their removal and the appeal on ground (f) fails.

Ground (g)

20. The appellant asks for an extension of time from 9 to 12 months to comply with the requirement to cease the use of the caravans. He submits that it would be helpful to have longer to render the house fit for occupation and in the meantime the caravans are needed as accommodation for some of the workers at the waste facility.
21. At the site visit I saw that little active work seemed to be going on in the house. There was still a considerable amount of furniture inside and some indication that it was still being used, if not for sleeping, perhaps as a mess or day room for the occupants of the caravans.
22. I have not been told what exactly needs to be done to make the house habitable but from what I saw it seems to me that the 9 months allowed for the removal of the caravans would be a reasonable time frame to allow for completion of the refurbishment works, which would appear to be mainly internal. If this time limit remains unchanged, I consider this would serve to encourage the work of upgrading the house to be undertaken in a timely manner. In the event that a longer period is genuinely needed and the appellant can make a compelling case for an extension beyond this deadline, the local planning authority has the power under S173A(1)(b) of the 1990 Act to grant this, whether or not the enforcement notice has come into force.

Other Matters

23. The appellant complains that it is not clear what is meant by the '*other miscellaneous items*' referred to in the notice and also says that the building materials should not have to be removed. In respect of the miscellaneous items, the Council explains that this term refers to any other item that is not listed individually. The photographs submitted by the Council show that there are a number of items of indeterminate description stored on the site, particularly outside the residential curtilage, and including the building materials. It seems to me to be reasonable to describe these as '*miscellaneous items*' to make clear that any objects or material stored on the land are to be removed.
24. As previously noted, the building materials are on site for the purpose of constructing an unauthorised extension that has no current link to a residential use at the house. They can therefore be required to be removed and it is not excessive for the notice to call for this.

Conclusion

25. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Katie Peerless

INSPECTOR