



Appeal Decision

Hearing Held on 9 March 2023

Site visit made on 9 March 2023

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 MAY 2023

Appeal Ref: APP/L3625/W/20/3265215

Arlington Stables, 23A Woodmansterne Lane, Banstead, Surrey SM7 3EY

- 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 B Chambers against the decision of Reigate & Banstead Borough Council.
 - The application Ref 20/00614/F, dated 18 March 2020, was refused by notice dated 19 November 2020.
 - The development proposed is the erection of a dayroom.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of a day room at Arlington Stables, 23A Woodmansterne Lane, Banstead, Surrey SM7 3EY in accordance with the terms of the application, Ref 20/00614/F, dated 18 March 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the determination of the planning application and the submission of the appeal, the Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework). The main parties have had an opportunity to comment on the significance of any relevant changes.
3. At the event, the appellant expressed a desire to change the proposed close boarded fencing as shown on the submitted drawings, to post and rail fencing with hedgerow to the rear of the day room and between the smaller paddock. This matter was discussed at the event and no party raised any objections and all parties agreed that the amendment would represent a more visually acceptable solution.
4. Having regard to the revision proposed in consideration of the appeal and having regard to the Wheatcroft¹ principles, I am satisfied that interested parties would not be prejudiced if the revision proposed was accepted. Consequently, I am able to accept the above revisions and shall consider the appeal based on the amended boundary treatment proposed. This can be further secured through the imposition of a suitably worded condition.

Main Issues

5. The main issues of this appeal are:

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

- whether the development would be inappropriate development in the Green Belt;
- the effect of the development on the openness of the Green Belt;
- the effect on the character and appearance of the appeal site and surrounding area; and,
- if the development is inappropriate development in the Green Belt, 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 the development.

Reasons

Inappropriate development in the Green Belt

6. The relevant development plan policy is CS3 of the Reigate and Banstead Local plan: Core Strategy 2014 (CS), which conforms to the thrust of national Green Belt policy. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
7. One exception to this is Paragraph 149 e) of the Framework for limited infilling in villages, which the appellant has relied upon his submission. The terms “limited” and “infilling” are not defined in the Framework. Additionally, in respect of limited infilling in villages as an exception, the definition of village is a matter of judgement as it is not defined within the Framework.
8. The Council has provided recent appeal decisions² to strengthen its position on this matter and the appellant has referenced a judgment³ to support his case. The appellant has made reference to the site being part of a village setting, but from my observations, the appeal site sits within a line of ribbon of sporadic development off Woodmansterne Road, particularly on its northern side. There are open fields in proximity to the site, to the front and rear and there is a notable distance between the appeal site and any facilities, resulting in a lack of a clear identity to form a distinct place. Thus, the proposed development would not amount to limited infilling within a village and consequently it would not comprise an exception under paragraph 149 e) of the Framework.
9. There is some disagreement between the parties as to whether the proposal would be sited on previously developed land (PDL). However, notwithstanding the classification (or otherwise) of the land as PDL, paragraph 149 g) of the Framework states that development in this respect should not have a greater impact on the openness of the Green Belt than the existing development, amongst other things. My conclusions on the next issue will, therefore, determine whether or not the development is inappropriate in this respect.

Green Belt openness

10. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. The

² APP/L3625/W/21/3276535 and APP/L3625/W/21/3269434

³ Wood v Secretary of State for Communities and Local Government [2015] EWCA Civ 195

Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a proposal on Green Belt openness. It states that openness is capable of both spatial and visual aspects.

11. The proposed development would be located in front of the existing structures and would be partially screened by a fence with hedgerow, which along with the distance from the front boundary reduces its visual effect. Nevertheless, the effect on openness is not just about the degree to which a new building would be visible in the public realm, but it is also concerned about the spatial aspect of encroachment on openness which can result from the cumulative effect of even small new buildings.
12. I recognise that the development is of a simple single storey design, relatively small in scale, occupying a small part of the site. Nonetheless, the development introduces additional bulk and massing to the site and therefore, in spatial terms, would have a harmful impact upon the openness of the Green Belt. It follows that whilst the development would not be visually intrusive in terms of openness, it would nonetheless, have a harmful impact on openness due to its spatial characteristics. This was accepted by the appellant at the event.
13. For the above reasons, I conclude that the proposed development would result in a moderate loss of openness to the Green Belt. Consequently, the scheme would be inappropriate development in the Green Belt in the terms of CS Policy CS3 and the Framework.
14. Policy NHE5 of the Reigate and Banstead Local Plan, Development Management Plan 2019 (DMP) has been referred by the Council in its decision notice. However, this policy appears to relate to extensions/alterations, replacement buildings and Green Belt boundaries. Therefore, I find it is not directly applicable to the case before me as the proposed development is a new building.

Character and appearance

15. The existing site already represents an established Gypsy and Traveller pitch and benefits from various detached structures located towards the rear of the right-hand section of the site, when viewed from the front. The proposed development would be located in front of the existing static caravan and would involve the loss of a small section of the adjacent paddock area. However, the larger paddock on the opposite side of the access would remain unaltered.
16. Given the existing use of the site and the structures already present, I do not consider that a day room would represent an incongruous feature on the site. Furthermore, whilst concerns have been raised in respect of the scale of the proposed development and its location on the pitch, I find that the height and footprint of the day room is commensurate with the size of the plot that it would serve, and its location would be adequately set back from the front boundary to avoid any visual harm to the appeal site or surrounding area. In addition to the set back of the building, a post and rail fence with hedgerow is proposed, which will soften the appearance even further. Both the boundary treatment and the external materials can be satisfactorily secured by means of condition.
17. For the above reasons, I conclude that the proposed development would not result in any significant harm to the character and appearance of the appeal

site or surrounding area. Consequently, the scheme would comply with the design, character and appearance aims of DMP Policies DES1, DES7, which requires high quality design, reinforces local distinctiveness, and respects the character of the surrounding area, amongst other things. The scheme would also comply with the requirements of the Framework in this respect.

Other considerations

18. Paragraph 148 of the Framework sets out 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.
19. Given the agreed Gypsy and Traveller status of the appellant and his family and the presence of 3no. children, aged 7, 5 and 2 years old, the proposed development would provide suitable accommodation to improve their current living conditions, which weighs in support of the scheme.
20. Thus, in exercising duties under the Human Rights Act 1998, Article 8, a Convention Right⁴, affords a person the right to respect for their private and family life, their home and their correspondence. It is a qualified right that requires a balance between the rights of the individual and the needs of the wider community. I also have in mind the positive obligation to facilitate the Gypsy way of life to the extent that the vulnerable position of Gypsies as a minority group means that some special consideration should be given to their needs and different lifestyle in the regulatory planning framework and in reaching decisions on particular cases.
21. Under the Equality Act 2010, I have had due regard to the public sector equality duty (PSED). This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

Green Belt balance

22. The proposed development is inappropriate development in the Green Belt which is harmful, and there is a harmful loss to openness of the Green Belt, albeit modest. The Framework establishes substantial weight should be given to any harm to the Green Belt.
23. It is common ground between the parties that there is a need for some form of day room on the site, but the dispute lies within the size and location of the proposed development. Given my findings on character and appearance, I do not share the Council's concern in this regard. Whilst pre-application discussions since the determination of the planning application were referenced at the event, I find that the size of the scheme is not excessive for the site. The scheme is proportionate when compared to the site size and meets the existing and future needs of the appellant and his family.
24. Any application for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. There would be no harm to the character and appearance of the appeal site or surrounding area, but this would attract neutral weight. When considering the

⁴ Article 8 of the European Convention on Human Rights, enshrined into UK law by the Human Rights Act 1998.

Green Belt location of the site, I find that very special circumstances exist because the identified harm through inappropriateness and other harm, is clearly outweighed by other considerations. For these reasons, the scheme accords with CS Policy CS3 and the requirements of the Framework.

Other Matter

25. Whilst noting some support on the application for the scheme, I have also had regard to a number of objections received from local residents, expressing a wide range of concerns including, but not limited to the following: drainage, ecology, highway safety, noise and disturbance, amongst other things. However, I note that these matters were considered where relevant by the Council when it determined the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Conditions

26. The Council has suggested conditions which it considers would be appropriate in its submission. I have reviewed these in accordance with the tests set out in the PPG and have amended the wording where necessary in the interests of clarity and simplicity.
27. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. Conditions securing the submission of external materials to the Council is reasonable and necessary to ensure the facing materials of the proposed development is acceptable to the character and appearance of the appeal site and surrounding area.
28. For similar character and appearance reasons, the submission of details of the fencing and hedgerow behind the day room is reasonable and necessary, as too is the 5-year planting protection, given the introduction of a new hedgerow. A condition confirming the use and ancillary status of the proposed development is also reasonable and necessary for certainty and to define the permission. This approach would also tie this scheme to the personal element of the main permission.

Conclusion

29. For the reasons given above, I conclude that the appeal should be allowed.

W Johnson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Block Plan J003510-DD03 B, 27.10.2020; Proposed Plans J003510-DD04 B, 27.10.2020; Location Plan J003510-DD01, 19.03.2020 and Block Plan J003510-DD02, 19.03.2020.
- 3) No development shall take place above slab level until written details of the materials to be used in the construction of the external surfaces have been submitted to and approved in writing by the Local Planning Authority (LPA), and on development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the fencing shown on the submitted drawings, details of post and rail fencing with hedgerow for the boundary between the proposed day room and the front paddock shall first be submitted and approved in writing by the LPA. The approved details shall then be implemented prior to first use and occupation of the day room and retained for the life of the development.
- 5) All planting comprised in the approved details of Condition no. 4 shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The use of the building hereby approved shall be as a dayroom, ancillary to the existing use of the site which is as a single Traveller Pitch granted by permission 18/00816/F (main permission). The building shall be removed from the site within one month of the site ceasing to be occupied by those named in the main permission and the land restored to its former condition.

****End of Conditions****

APPEARANCES

FOR THE APPELLANT:

Mr B Woods (Agent)	WS Planning & Architecture
Mr P Brown	WS Planning & Architecture
Mr B Chambers (Appellant)	

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Parker	Reigate & Banstead Borough Council
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INTERESTED PARTIES:

Mrs Catalina Bassallo-Bonner	Banstead Village Residents' Association
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HEARING DOCUMENTS

- Historic/existing and aerial photographs x 6
- APP/L3625/W/21/3276535 – 1 Fairlawn Grove, Banstead SM7 3BN
- APP/L3625/W/21/3269434 - Land between 4 & 5 Farley Close, Banstead
- Accompanying narrative and map for the above appeals.