



Appeal Decision

Site visit made on 26 June 2023

by H A Orr MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/G2245/C/23/3314841

The Beacon, 46 London Road, Farningham, Dartford DA4 0JP

- 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 Adrian Pollock against an enforcement notice issued by Sevenoaks District Council.
 - The enforcement notice, numbered 22/00143/OP DEV, was issued on 20 December 2022.
 - The breach of planning control as alleged in the notice is the erection of outbuildings (marked X and Y in the approximate location on the attached Plan A).
 - The requirements of the notice are: Demolish the outbuildings marked X and Y in the approximate location on the attached Plan A; and Remove all resultant material from the Land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) 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.
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Decision

1. It is directed that the enforcement notice is varied by: the deletion of the words 'Remove all resultant material from the land' at paragraph 5 and replace them with the words 'Restore the land to its condition before the development took place'.
2. Subject to the variation 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.

Background and the notice

3. The enforcement notice was issued following the refusal of planning permission for a stable building and greenhouse, on 1 December 2022, (22/02789/HOUSE). This appeal is against the subsequent issue of a notice against that development.
4. The appeal site lies to the south of London Road, within the Metropolitan Green Belt (GB) and the Kent Downs Area of Outstanding Natural Beauty (KDAONB). The site is accessed by a long-gated drive and lies to the rear of a number of residential properties that front onto London Road. The appeal dwelling is a large, two storey, detached property set within a large parcel of land that extends to some 1.4 hectares. From my observations part of the land is

planted with ornamental shrubs with the remainder laid to grass. The subject buildings are sited some distance from the dwelling, behind a substantial line of hedge towards the eastern boundary, with woodland beyond.

5. From the evidence the buildings replace older outbuildings that have been demolished, although at least part of the concrete base may have been reused. One of the buildings (building X on the enforcement notice plan) has the external appearance of a large timber stable building, with three loose boxes and there is understood to be a tack room. The green house (building Y) is smaller in scale, sited adjacent to the stables and is part glazed.
6. The appellant submits that the new buildings were constructed on an original concrete base, which is consistent with what I saw on site. This is not disputed by the Council. The notice requires that the materials resulting from the demolition, are removed from the land. It is unclear from the notice whether this includes the concrete base. For the avoidance of doubt, I shall vary the requirements of the notice to require that the land is restored to its condition prior to the development taking place. I consider that the notice can be varied in this way, without causing injustice to the parties.

Main Issues

7. The site lies within the Green Belt and I consider that the main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework), including its effect on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area and the Kent Downs Area of Outstanding Natural Beauty (KDAONB); and
 - If the development is inappropriate, 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

Ground (a)

Whether inappropriate development in the Green Belt.

8. The Framework identifies that the primary policy aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Planning Policy Guidance states openness is capable of having both spatial and visual aspects, in other words, the visual impact of the proposal can be relevant, as could its volume.
9. It is the appellant's case that the development should not be considered as being inappropriate, by virtue of the specified exemptions set out in paragraph 149 (d) and/or (g) of the Framework. The appellant does however, acknowledge that the appeal development is larger than the original buildings, although this is said to be in part due to the infilling of previous walkways between the buildings.

10. From the Council's statement the floor area of the original building would not have exceeded 40m² and this is not contested by the appellant in his evidence. The new stable building has a floor area of some 125.94m² and the greenhouse approximately 11.7 m². Several photographs have been provided by the appellant that show the previous buildings to be a moderately sized greenhouse and a brick building on a substantial concrete base. It is clear that the two original buildings did not cover the whole base.
11. In contrast from my observations, the new timber stables are of substantial scale both in terms of floor area and height. The greenhouse is smaller in scale, but in combination they appear to cover the entire original concrete base, being significantly larger than the previous buildings. It follows that they have a greater impact on the openness of the Green Belt. Moreover, it is not clear what the function of the stable building is. At the site visit, access could not be provided to the stables, as the doors were padlocked and no key available. The building is understood to be used for a friend's domestic storage, whilst he is abroad.
12. For the above reasons, I am satisfied that the development is materially larger than those previously on site, both in physical scale and visually. Consequently, they have a greater impact on openness. Accordingly, it does not benefit from the above exceptions and represents inappropriate development. Paragraph 143 of the Framework, states that inappropriate development is, by definition, harmful to the Green Belt. In accordance with Paragraph 144, I attach substantial weight to that harm.

Openness

13. As I have found that the development represents inappropriate development in the Green Belt, it is then necessary to quantify the scale of that harm. I accept that the area of land affected by the development is limited. Nonetheless, the development has introduced additional built form into this area of the GB and KDAONB.
14. From the evidence, there are no views of the development from the public highway, or other public vantage points. Nonetheless, the increased scale and bulk of the stable building, together with the greenhouse have both a spatial effect because of their physical existence on the land, and a visual effect that is apparent from within the site and the adjacent land. Consequently, I consider that cumulatively, the buildings result in moderate harm to openness and the purposes of including land in the Green Belt.

Character and appearance

15. The site is set well back from London Road and as a result has a rural backdrop, with woodland to the side and rear boundaries leading to open fields beyond. The buildings are sited some distance from the main dwelling on an area of unmanicured grass. The relatively undeveloped nature of the site to my mind, makes a positive contribution to the rural character and appearance of the wider area.
16. The siting of the two buildings means that they are unlikely to be visible from the road. The existing hedge screens them from views from the neighbouring residential properties and gardens to the west. They would, however, be visible from the adjacent area of woodland.

17. I accept that the greenhouse may be like, other garden buildings found in the local area. Nonetheless, the stables are large, with an extensive flat roof and of a highly utilitarian design. In combination, the development has introduced an incongruous form of development into the countryside. The stables and greenhouse, due to their combined design, scale and bulk have an overly urbanising effect, further eroding the open character and appearance of this part of the Green Belt and KDAONB.
18. Overall and for the above reasons, I find that the development fails to conserve and enhance the KDAONB and causes modest harm to the character and appearance of the area. The development is therefore contrary to policy EN5 of the Allocation and Development Management Plan (2015) which seeks to ensure that new development will conserve and enhance the character of the landscape.

Other considerations

19. The appellant has put forward a number of reasons, why he considers that planning permission should be granted. However, I have been provided with no evidence to demonstrate that there are any very special circumstances existing, that clearly outweigh the substantial weight to be given to the GB harm.

Green Belt Balance

20. I have found that the development is inappropriate development in the terms set out in the Framework and in addition, has led to a loss of openness and modest harm to the character and appearance of the area KDAOMB.
21. In the absence of any very special circumstances to outweigh the substantial weight given to the GB harm, and having due regard to all of the other matters raised, I find that the appeal on ground (a) should fail and the deemed planning application is refused.

Ground (g)

22. For an appeal under this ground to succeed, it is necessary to consider whether the compliance period of 3 months is too short. It is submitted that the construction of the buildings took place over a period longer than three months and he has suggested that an alternative timescale of 6 months, to comply with the full requirements of the notice would be more reasonable.
23. The development must be considered in the context of the identified harm to the Green Belt and the time required to undertake the works. The notice requires the demolition of the two buildings and removal of all resultant material from the land.
24. Whilst I acknowledge that the appellant may need to have time to instruct contractors to carry out the works, they do not involve any complex building operations. Accordingly, I consider that a period of 3 months is a reasonable timescale for the requirements of the notice to be complied with. The appeal on ground (g) therefore fails.

Other matters

25. My attention has been drawn to other development in the area that the appellant submits have a greater impact on the character of the area. These

include the Pedlam Place Golf Course; and a maintenance store on London Road, permitted by application 18/03897/FUL. I took the opportunity to view the latter, from the road at my site visit. Whilst I acknowledge that this building is larger than the appeal development, I have been provided with no information about the relevant history for either of these sites, the circumstances relating to any planning applications, or specifically how they relate to the appeal development before me.

26. Therefore, these examples do not change my decision, on the basis of the evidence before me.

Conclusion

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

Hilary Orr

INSPECTOR