



Appeal Decisions

Site visit made on 27 June 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 14th August 2023

Appeal A Ref: APP/Q3630/C/22/3303384

Appeal B Ref: APP/Q3630/C/22/3303385

Land at Casino, 43 Laleham Reach, Chertsey, Surrey KT16 8RR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeals are made by Mr V Audipudi (Appeal A) and Mrs Anushree Agarwal (Appeal B) against an enforcement notice issued by Runnymede Borough Council.
- The notice, ref EA/004758, was issued on 17 June 2022.
- The breach of planning control as alleged in the notice is "Without planning permission the erection of two detached outbuildings".
- The requirements of the notice are to: "5.1 Demolish and remove from the Land the detached outbuilding (garage) as shown in the approximate position outlined and crosshatched in blue on the attached plan and as shown by the attached photographs labelled A; 5.2 Demolish and remove from the Land the detached outbuilding (timber cabin) as shown in the approximate position outlined and crosshatched in green on the attached plan and as shown by the attached photograph labelled B; 5.3 Remove from the Land all materials, debris, plant and equipment associated with Steps 5.1 and 5.2 above".
- The period for compliance with the requirements is 3 months from the date on which the notice takes effect.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) 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.
- Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decisions

1. The appeals succeed in part and the enforcement notice is upheld with the variation in the terms set out below in the Formal Decisions.

Formal Decisions

2. It is directed that the enforcement notice is varied by deleting paragraph 6 and substituting it with the following new paragraph 6:

6. TIME FOR COMPLIANCE

This enforcement notice has a compliance period of six (6) months from the date on which it takes effect.

3. Subject to this variation, the appeals are 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.

Preliminary Matters

4. The Council granted planning permission for a replacement dwelling within the appeal site in July 2020, under reference RU.20/0203 (Dwelling Permission). Condition 21 of this permission restricts certain permitted development rights in connection with the property, including the erection of outbuildings. In their evidence, the appellants have suggested that the imposition of this condition was unreasonable, and that it should be removed. However, there does not appear to be any contention that the condition is Wednesbury unreasonable, being a condition that is so unreasonable that no reasonable planning authority could have imposed it. In turn, I have no reason to think that the condition is not valid.
5. In any event, the buildings which are subject to the Enforcement Notice (EN) exceed the size parameters for the development to be permitted under Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). Building B also accommodates a kitchen and additional bedroom space, both of which are principal residential uses, and not uses incidental to the enjoyment of a dwelling. Irrespective of the condition referred to above, the buildings would therefore require planning permission, as they would fall outside of the parameters of Class E.

APPEAL A (GROUND A)

Main Issues

6. In this context, the main issues are:
 - whether the development represents inappropriate development in the Green Belt having regard to the National Planning Policy Framework (2021) (Framework) and any relevant development plan policies;
 - the effect of the development on the openness of the Green Belt; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriate Development

7. The appeal site is located within the Green Belt. The Framework is explicit 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, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Paragraphs 149 and 150 of the Framework set out a number of exceptions where development in the Green Belt may not be considered inappropriate. In particular, paragraph 149(c) provides an exception for extensions or alterations of a building, provided that it does not result in disproportionate additions over and above the size of the original building. Paragraph 149(d) also provides an exception for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

9. The parties agree that the development would not fall within the paragraph 149(c) exception, partly on account of the intervening distance between the outbuildings and the main dwelling. Paragraph 7.16 of the appellants' statement states "the buildings are further than 5.0m from the main house and so could not reasonably be considered to be an extension to it". Notwithstanding any arguments pertaining to proportionality, there is no reason before me to disagree with this position.
10. In terms of the exception under paragraph 149(d), it is understood that a static caravan and a portacabin previously occupied part of the appeal site in a similar position to the outbuildings. The appellants contend that the development would therefore fall within the paragraph 149(d) exception, given that the outbuildings have replaced these structures.
11. However, with the exception of two satellite images of the appeal site, little evidence has been presented in respect of the physical characteristics of the caravan or portacabin. I am therefore unable to determine their degree of permanence or physical attachment to the ground, and in turn, whether they amounted to buildings. This is problematic, as caravans and portacabins are commonly moveable and temporary structures, and will generally be considered to form part of a use of land as opposed to buildings in themselves. Without evidence to the contrary, the outbuildings would therefore not represent replacement buildings.
12. On the available evidence, I am therefore not persuaded that the development falls within the exceptions under paragraph 149(c) or (d). There is also nothing to suggest that the development would meet any other exception under paragraph 149. Indeed, as per the explanatory text to Policy EE14 Runnymede 2030 Local Plan (Local Plan), the appeal site is not within a village, so the development would not fall within the exception under paragraph 149(e) which relates to limited infilling in villages. Irrespective of whether the outbuildings would amount to previously developed land as per the Framework, given my conclusion on openness (set out below), the development would also not meet the exceptions set out in paragraph 149(g). These provide exceptions for limited infilling or the redevelopment of previously developed land, provided they do not have a greater impact on the openness of the Green Belt than any existing development. The other exceptions under paragraph 149 relate to agricultural/forestry buildings, outdoor recreation facilities and affordable housing, none of which would be relevant.
13. When assessed against the provisions of the Framework, the development therefore represents inappropriate development in the Green Belt. Similarly, the development would be deemed inappropriate when assessed against Policy EE14 of the Local Plan, which is consistent with the provisions of the Framework in terms of approach to development within the Green Belt.

Openness

14. The two outbuildings are sited towards the front boundary of the appeal site, close to Laleham Reach. They occupy a significant proportion of the front garden to the appeal property, and extend across approximately half of its width. Spatially, the development therefore results in some loss of openness to the Green Belt.

15. The appeal site is also relatively narrow, particularly when compared to other properties further west along the road. Given the notable size and scale of the outbuildings, they appear especially cluttered and constrained within this narrow context. This impact is readily experienced when looking out over the garden from the appeal dwelling itself, as well as from the closest neighbouring dwellings. Moreover, given their close proximity to the front boundary of the property, the buildings are also prominent in views into the appeal site from the road. These factors mean that the outbuildings also result in some loss of visual openness.
16. I acknowledge that outbuildings are prevalent along Laleham Reach, which limits the associated visual harm, as they are not a unique feature along the road. Nonetheless, this loss of spatial and visual openness does still weigh against the development.
17. Once again, the development therefore conflicts with Policy EE14 of the Local Plan, which says development should preserve the openness of the Green Belt. The development also conflicts with the Green Belt provisions of the Framework, which are clear that Green Belt land should be kept permanently open.

Other Considerations

18. As per the Framework, the development constitutes inappropriate development within the Green Belt. By definition, it is therefore harmful, and substantial weight must be attributed to this harm. Some limited harm also arises from the loss of openness to the Green Belt. Whilst the outbuildings provide more living and storage space, these are private benefits solely for the benefit of the appellants. No public benefits have been identified.
19. As set out above, I have also concluded that condition 21 attached to the Dwelling Permission remains valid, and therefore enforceable. This means the restriction on Class E permitted development rights continues to apply to the appeal site, so no outbuildings could be erected on the site without permission from the Council. In turn, there is no legitimate fall-back on which the appellants could rely.
20. Consequently, there are no other considerations in this case which would clearly outweigh the harm by reason of inappropriateness. In turn, the very special circumstances necessary to justify the development do not exist in this instance.
21. The development therefore conflicts with paragraph 147 of the Framework, which says inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As outlined above, the development also conflicts with Policy EE14 of the Local Plan.

APPEALS A AND B (GROUND F)

22. As per s173(4) of the Town and Country Planning Act 1990, the purpose of the EN is to remedy the breach of planning control. The requirements of the notice must therefore achieve this purpose.
23. As set out above, the Class E permitted development rights do not apply in respect of the appeal property, so the appellants do not have a fall-back

position in this regard. Moreover, whilst the appellants have suggested that a reduction in the height or size of the buildings could make the outbuildings acceptable in planning terms, no plans or drawings have been submitted. Without specific detail, I cannot properly consider the planning merits of any alternative scheme. This is especially problematic given their location in the Green Belt, as any revised scheme would still need to overcome the issues of inappropriateness and openness.

24. Nonetheless, the requirements to remove the unauthorised outbuildings and the resultant materials and debris from the site, go no further than remedying the original breach of planning control. Indeed, any lesser steps would not properly achieve this purpose. In turn, the appeals on ground (f) fail.

APPEALS A AND B (GROUND G)

25. As set out in the EN, the period for compliance with the requirements is three months. Whilst the physical works required should not take long to complete, they will still need to be carried out by someone with appropriate experience.
26. On account of current labour shortages, I think it is reasonable to extend the period for compliance, to ensure the appellants have sufficient time to find someone suitably qualified to carry out the works. A period of six months should suffice for this purpose. The appeals on ground (g) therefore succeed to that extent.

Conclusion

27. As set out above, the period for compliance with the requirements of the EN should be extended to six months. The appeals on ground (g) therefore succeed. However, for the reasons given, the appeal on ground (a) and the appeals on ground (f) should not succeed. Subject to the variation outlined, I shall therefore uphold the notice and refuse to grant planning permission on the application to have been made under section 177(5) of the 1990 Act as amended.

James Blackwell

INSPECTOR