



Appeal Decision

Site visit made on 6 June 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/A3655/W/22/3306712

Land adjacent to 6 Old Parvis Road, West Byfleet KT14 6LE

- 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 N Purssey against the decision of Woking Borough Council.
- The application Ref PLAN/2022/0254, dated 15 March 2022, was refused by notice dated 31 May 2022.
- The development proposed is described on the application form as, "Change of use from former utilities building to café (Class E)".

Decision

1. The appeal is dismissed.

Application for costs

2. The Council made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. Differing to the description of development in the banner header above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Change of use from utilities building to Cafe (Class E) and external alterations (Amended red line)". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.
4. A Noise Impact Assessment¹ was submitted at the appeal stage. Subsequently, the Council stated that subject to conditions the Council considers that the 3rd reason for refusal given in the Council's decision notice has been overcome. As such, this issue is no longer a significant contested issue between the main parties. This is reflected in the main issues, below.

Main Issues

5. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - whether the site is suitable for the proposed development, having particular regard to the need to promote sustainable transport;

¹ RF Environmental Ltd (August 2022)

- the effect of the proposal on highway safety in terms of off-road car parking provision; 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 proposal.

Reasons

Whether Inappropriate Development

6. The Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. There is a closed list of exceptions to this in paragraph 150 of the Framework, one of which relates to the re-use of buildings provided that the buildings are of permanent and substantial construction (paragraph 150 d)).
7. In a similar vein, Policy CS6 of the Woking Core Strategy (adopted 2012) (Core Strategy) provides that, amongst other things, within the Green Belt strict control will continue to apply over inappropriate development, as defined by Government policy currently outlined in the Framework, and Policy DM13 of the Development Management Policies Development Plan Document (adopted 2016) (DMP) provides that, amongst other things, unless very special circumstances can be clearly demonstrated, the Council will regard the construction of new buildings and forms of development other than those specifically identified on allocated sites in the Site Allocations DPD as inappropriate in the Green Belt.
8. The building to which this appeal relates is a single-storey former utilities building. Externally, the building is in a poor state of repair, with some local residents describing it as a dilapidated and derelict ruin.
9. The wording, 'of permanent and substantial construction', found at paragraph 150 d) of the Framework, implies that a building should be structurally sound. In this regard, I have taken account of the submitted Structural Report². The methodology of this report, however, raises serious questions as to whether its conclusion that the building typically appears to be structurally sound can be relied upon for the purpose of satisfying the requirements of paragraph 150 d) of the Framework.
10. I say this as only a visual inspection was made by the author of that report, with no intrusive works carried out. Furthermore, the building was not accessed internally and overgrown foliage surrounding the building limited the access around it. Importantly, no access was available to inspect the roof, with the report stating that the roof needs to be inspected for any structural damage.
11. Moreover, the observations given in the report are highly caveated. For example, the report states that 'it is anticipated' that the brickwork would remain in reasonable condition behind the render, and that there are cracks which continue below roof level which are noted in the render but 'it is unclear' if these continue into the masonry beyond.

² Construction Design Partnership (December 2021)

12. Considering the above, and noting particularly that the report concludes that the building 'typically appears' to be structurally sound rather than providing a firm view on this point backed up by a thorough analysis of the state of the brickwork and a structural analysis of the existing roof, in relation to a building that was built for quite a different use than the one now proposed, I find that, on a balance of probabilities, it has not been adequately demonstrated that the building is of substantial construction.
13. The fact that, aside from the proposed change of use element, the proposal only refers to external alterations, does not obviate the need for the building as it stands to be of substantial construction, as required by paragraph 150 d) of the Framework. It follows that the proposal would not fall within the exception given at paragraph 150 d).
14. Reference has been made to paragraph 150 e) of the Framework, which relates to material changes in the use of land. However, the main element of the proposal relates to the change of use of the former utilities building. The proposal does not sit squarely with that exception, which relates to land rather than buildings. Consequently, the proposal would not fall within the exception given at paragraph 150 e). As the proposal does not involve the erection of new buildings or structures, the proposal does not fall within the exception given at paragraph 149 g) of the Framework, which relates to, amongst other things, the partial or complete redevelopment of previously developed land.
15. Paragraph 150 requires an assessment of a proposal in relation to the openness of the Green Belt. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
16. Although the Council have made reference to footpaths to serve the café, no hardstanding is proposed as part of the proposed change of use of the building to a café, nor is any outdoor seating proposed. The proposal's effect on openness would therefore be limited to non-permanent features such as visitors to the café including any visitors arriving by private vehicles, and delivery vehicles.
17. Considering that only 20 covers are proposed, with reduced opening hours during the winter, it is unlikely that the proposal would attract so many visitors (including those in private vehicles) or delivery vehicles that the openness of the Green Belt would be adversely affected. Even though the openness of the Green Belt would be preserved, this does not change the position that the proposal would not fall within the exceptions to inappropriate development considered above.
18. I therefore find that the proposal would represent inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt.

Sustainable Transport

19. The Council have referred to Policy CS2 of the Core Strategy, which seeks to, amongst other things, support the development of Woking Town Centre as the primary centre for economic development in the Borough, with the town centre

being the preferred location for town centre uses. This policy applies borough-wide, in that it seeks to ensure that certain types of development come forward in the town centre rather than further afield. As Policy CS2 does not specifically refer to small scale rural development or a sequential approach, I consider that it is not inconsistent with paragraph 89 of the Framework which provides that, amongst other things, the sequential approach should not be applied to applications for small scale rural development.

20. The proposed change of use relates to a café, and I note that cafés are not listed amongst the town centre uses listed in the Glossary to the Core Strategy. However, the use of the word 'including' in that list indicates that the examples of leisure facilities provided are not exhaustive, and in any event a café can reasonably be said as falling within the remit of a leisure-type use.
21. Nevertheless, Policy CS2 does not mandate that certain uses must be located in the town centre, but rather states that the town centre is the 'preferred location' for town centre uses. With this preference in mind, the Council's concerns relate to one of the underlying objectives of Policy CS2 which is to reduce the use of private cars (as expressed in paragraph 4.3 of the Core Strategy).
22. A number of local residents have mentioned that the towpath adjacent to the site is lightly-used by pedestrians, with little to no use in the hours of darkness, in the early morning, or during the winter, and that nearby residents would not have any need to use the proposed café. In this regard, I understand the concern that the proposed café could potentially attract commercial vehicle drivers, including delivery drivers, particularly considering the site's location near to Brooklands.
23. Nonetheless, the proposed café would not be large, offering only 20 covers and would have only one serving hatch. This small café would not offer any other attractions apart from its use as a café. Hence, any vehicles attracted to Old Parvis Road would be unlikely to be travelling significant distances solely to reach the proposed café.
24. Given the above-mentioned factors, even if the volume of pedestrian traffic along the towpath is generally limited, the evidence does not indicate that the proposal alone would result in a significant number of customers visiting from further afield to the extent that the proposal would undermine the need to promote sustainable transport in the area.
25. I therefore find that the site is suitable for the proposed development, having particular regard to the need to promote sustainable transport. The proposal would comply with Policy CS2 of the Core Strategy, the aims of which have been set out above.

Highway Safety

26. To the west of the site is a primarily residential area and beyond the M25 to the north-east is a commercial and retail area at Brooklands, which includes an Amazon warehouse. Both Parvis Road (A245) and Dartnell Park Road are mostly busy roads during the daytime.

27. The site is situated on Old Parvis Road, a cul-de-sac. The submitted transport statement³ contains 2 parking surveys, which demonstrate a wide degree of variation between the number of vehicles parked on a weekday (8) and on a weekend (22). Despite this wide variation, no further surveys have been undertaken which might indicate whether any trends are apparent. All-in-all, 2 parking surveys, each undertaken for an hour, only represents snapshots in time.
28. The transport statement mentions that a significant volume of customers will be walkers along the towpath and long distance footway and therefore the number who will drive will be low, but this assertion does not match-up with the evidence provided by local residents, who have consistently said that many walkers drive to Old Parvis Road before commencing their walk.
29. Local residents have also strongly indicated that parking on Old Parvis Road can become very limited in the summer months, particularly at weekends and Bank Holidays. Considering the attractiveness of this area, the pleasant and tranquil walks available, and the presence of boating-related businesses in close proximity to the site on Old Parvis Road (which occasionally hold events), this is likely. The evidence therefore indicates that, during these times, parking would reach saturation point. It has also been said that commercial vehicles use Old Parvis Road as a kind of lay-by for lunch stops.
30. It is recognised that the TRICS database contained only 3 sites within the relevant category at the time that the transport statement was produced, including 2 which are not representative of the proposal. However, few details have been provided to demonstrate how the selected example is comparable with the appeal site, particularly considering the differing hours of operation involved. Accordingly, whilst the proposal relates to a small café which due to its location at the far end of a cul-de-sac (which is itself separated from the A245 by Dartnell Park Road) would be unlikely to attract passing trade, the transport statement does not convincingly demonstrate that the increase in vehicular movements generated near the site would be low.
31. It is common ground between the main parties that the Parking Standards Supplementary Planning Document (2018) requires that the proposal should provide a maximum of 6 parking spaces. The proposal does not incorporate any specific parking provision. This is of a particular concern, considering that local residents have stated that the end of the cul-de-sac contains service ditches for the M25, which are occasionally used by National Highways employees who require parking nearby.
32. Moreover, the site is adjacent to the end of the cul-de-sac, which has a tight turning circle. The first Swept Path Analysis provided in the transport statement shows a vehicle undertaking a manoeuvre which is not possible, due to the presence of railings along the north side of the road edge at the end of the cul-de-sac. Both images only show 3 parked cars on Old Parvis Road, which as indicated above, is unlikely to be the case on weekends in the summer months.
33. Figure 8.18 in Manual for Streets advises that a parallel parking space should be 2 metres wide, which the appellant has stated would mean that the remaining carriageway would allow 2 cars to pass each other, but this does not

³ Planning Appeal Statement (Transport) (Motion) (July 2022)

alter the lack of clarity over whether an adequate turning circle could be achieved by vehicles during busy periods.

34. Given that parking is often highly restricted on Old Parvis Road at weekends in the summer months, although vehicle speeds would likely be low, the shortfall in parking provision would likely create undue levels of parking stress on Old Parvis Road, potentially resulting in further conflict between road users near the far end of the cul-de-sac. Considering this, and the deficiencies identified within the Swept Path Analysis, it has not been adequately demonstrated that the proposal can safely accommodate the additional vehicles likely to be turning within the end of the cul-de-sac during busy periods, including for delivery vehicles, in conflict with paragraph 111 of the Framework which provides that, amongst other things, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
35. I therefore find that it has not been demonstrated that the proposal would not have an unacceptable and harmful effect on highway safety in terms of off-road car parking provision. The proposal would conflict with Policy CS18 of the Core Strategy which provides that, amongst other things, development proposals should provide appropriate infrastructure measures to mitigate the adverse effects of development traffic and other environmental and safety impacts (direct or cumulative), and with Policy DM16 of the DMP which provides that, amongst other things, where developments cannot provide onsite servicing space, that it is demonstrated that the proposal can function satisfactorily without giving rise to adverse effects on traffic congestion, pedestrian and highway safety.

Other Considerations

36. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes 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.
37. I note that planning permission was granted in 1983 for a development on site which involved a restaurant use, and in a similar vein the proposal would bring a derelict building back into use, thereby in principle making an efficient use of land. Few details have been provided to detail the potential economic benefits that would arise via the proposal, although these would include employment-related benefits. The proposal would provide a social benefit in terms of it supporting the recreational use of the local area.

Other Matters

38. The site is situated within the Wey and Godalming Navigation Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
39. The significance of the conservation area, as a whole, as a designated heritage asset is derived predominantly from the historic importance of the River Wey

and the adjacent towpath, and its pastoral character. The site contributes to the significance of the conservation area primarily by the presence of green space around the derelict utilities building which adds to the tranquil feel of the locality. Also of note are the historic boating facilities along Old Parvis Road in close proximity to the site.

40. The proposal would improve the appearance of the existing derelict building, including through the use of crittal style windows with horizontal glazing bars, and it would be brought into active use. The intention to incorporate Art Deco features is also noted. Nevertheless, considering the small scale of the building its influence on the conservation area when considered as a whole is minimal. It follows that the proposal would merely preserve the character and appearance of the conservation area, in compliance with Policy CS20 of the Core Strategy and Policy DM20 of the DMP. Although there would be no harm to its significance as a designated heritage asset, this is a neutral factor, which does not weigh in favour of the proposal.

Balancing of Considerations

41. The proposal would be inappropriate development in the Green Belt. Paragraph 148 of the Framework provides that, amongst other things, substantial weight should be given to any harm to the Green Belt. The proposal would also result in planning harm with respect to highway safety, in the terms described above, which is a matter to which I accord significant weight.
42. The finding on the second main issue, above, in relation to sustainable transport, is a neutral matter, which does not weigh in favour of the proposal.
43. The other considerations, summarised above, would amount to no more than moderate weight in favour of the proposal. It follows that the other considerations do not clearly outweigh the totality of the harms identified.
44. As such, the very special circumstances necessary to justify the proposal do not exist. The proposal would not comply with the Green Belt aims of Policy CS6 of the Core Strategy, nor Policy DM13 of the DMP, nor the Framework, and consequently would be unacceptable.

Conclusion

45. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR