



Appeal Decisions

Site visit made on 1 July 2024

by H A Orr MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2024

Appeal A Ref: APP/A3655/C/23/3319813

Appeal B Ref: APP/A3655/C/23/3319815

Land at Hollybush Farm, Byfleet and known as The Oaks, Murrays Lane, Byfleet, West Byfleet, Surrey, KT14 7NE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal A is made by Mr Tom Valler and Appeal B by Thomas James Valler against an enforcement notice issued by Woking Borough Council.
 - The enforcement notice, numbered Plan/2022/0978, was issued on 21 February 2023.
 - The breach of planning control as alleged in the notice is:
 - (i) The erection of a means of enclosure comprising two brick walls and pillars at the front entrance of the land as shown in the approximate position as a black oval on the attached plan and by way of the attached photograph; and
 - (ii) The erection of a detached single storey building known as the 'machinery store' comprising two sections measuring approximately 2.9m high, 4.8m deep, 5.85m wide (main section) and 2.9m high, 2.4m deep, 2.4m wide (smaller section) as shown in the approximate position hatched black on the attached Plan and by way of the attached photograph.
 - The requirements of the notice are:
 - (i) Remove the means of enclosure comprising two brick walls and pillars described at paragraph 3(i) above; and
 - (ii) Remove the detached single storey building known as the 'machinery store' described at paragraph 3(ii) above; and
 - (iii) Remove from the Land all materials, rubble and debris arising from compliance with requirements (i) and (ii) above.
 - The period for compliance with all of the requirements is 6 months.
 - 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.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 11th July 2024.

Decision

Appeal A

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.

Appeal B

2. The appeal is dismissed and the enforcement notice is upheld.

Appeal A Ground (a) - the deemed application

Main issues

3. It is common ground that the appeal site lies within the Metropolitan Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 142 of the revised National Planning Policy Framework (the Framework) makes clear that openness and permanence are the essential characteristics of the Green Belt.
4. Having regard to the reasons why the notice was issued, I consider that the main issues are:
 - The effect of the developments on the openness of the Green Belt and the purposes of including land within it;
 - Effect of the developments on the character and appearance of the area;
 - The effect of the walls and pillars on highway safety; and
 - Whether the harm to the Green Belt and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the grant of planning permission.

Reasons

Policy background

5. The development plan comprises saved policies in the Woking Local Development Document Woking Core Strategy (2012) (the CS) and the Woking Local Development Documents Development Management Policies Development Plan Document (2016) (the DMP). From the evidence the most important policies for determining this appeal are policies CS6, CS21 of the CS and DM13 of the DMP.
6. Policies CS6 and DM13 sets out the Council's approach to development in the Green Belt, and as such it broadly reflects the thrust of the Framework, which seeks, amongst other things, good design. As such, Policies DM13 and CS6 should carry significant weight. Policies CS21 and CS18 are more general policies dealing with design and transport considerations respectively. There is no dispute that these policies are consistent with many respects of the Framework and should carry full weight.
7. Policy CS14 is referred to in both parties' appeal statements. Whilst it was not included in the reasons why the Council issued the notice, it relates specifically to the development of sites for Gypsies and Travellers, setting out criteria to assess their acceptability. This policy seeks to ensure that, amongst other things, sites have a safe vehicular access to the highway and no adverse effects on amenity or the character of the area. To my mind it is therefore relevant to the main issues for this appeal.

Inappropriate development

8. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings in the Green Belt are generally considered to be inappropriate and I have nothing to suggest that the walls and pillars fall within any of the exceptions set out in the Framework.
9. Turning to the appeal building, exceptions can include buildings for agriculture and forestry and for appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport or recreation. It is the appellant's case, that the appeal building falls within these exceptions, as it is required to provide secure storage for equipment used to maintain the adjacent agricultural paddock. Alternatively, he suggests that this paddock is used for open recreation and needs to be maintained for this purpose.
10. The appeal site comprises an irregular plot of land of some 1.4 hectares to the west of Byfleet. To the west is the M25 in close proximity to the site boundary. Access is from Murray's Lane which also provides access to a Scout Hut and the permitted Gypsy and Traveller site at Boyd's Farm. Murray's Lane becomes a gated non-vehicular public right of way and bridleway, just beyond the site access, leading to a bridge across the M25 to the River Wey beyond.
11. The four mobile homes and day rooms are all sited in a curve to the west of the site with a grassed paddock to the east. The location plan attached to planning permission PLAN/2018/1072, shows that this adjacent paddock is also within the appellant's control, although was outside the red line of the application site. It partly wraps around the mobile homes to the south, along the boundary to the M25.
12. The appeal building is located to the north-west and to the rear of the mobile homes. At the time of my site visit, there was a secure fenced yard in the corner with Murray's Lane and the M25. Within this yard there were two sizeable timber buildings. I was provided with access to one of these buildings and it was used to store a quad bike, a motorcycle and a quantity of paint pots. The yard area appeared to store, two covered vehicles, including one on a vehicle trailer and a large quantity of tyres.
13. The appeal building is larger than the other timber buildings and has been constructed with metal powder coated box section, giving it a utilitarian appearance. From the site visit it comprises two sections, the smaller section has an open roof with a propane storage tank. Since the notice was issued the remainder of the building has been enclosed and fitted with large metal doors. This larger section had some domestic style storage including an ornamental pillar, a trailer, a ride on grass cutter, hedge trimmer, vehicle ramps, hydraulic jacks, chains and a quantity of mixed tools.
14. The paddock was partially fenced from the mobile homes and there was a badminton style net, two chairs and some sporadic ornamental tree planting towards the boundaries. It was clear that the grass is mown. There was a further timber building sited within the paddock and to the south of the mobile homes. This also appeared to be used for car storage and a workshop area.
15. I have nothing to establish how the paddock has been used over the years, or that the permitted use of this land is anything other than agriculture. However, from the evidence and my site visit there is no evidence of any current, or recent agricultural or grazing activity. Accordingly, the appellant's evidence is

not sufficient to demonstrate that, on the balance of probability, the subject building is reasonably required, either for the purposes of agriculture or forestry, or in connection with the existing use of land for outdoor sport or recreation. For these reasons, I find that the walls, pillars and the appeal building all represent inappropriate development in the Green Belt.

Openness

16. The Framework's policy aims have been summarised above. Planning Policy Guidance states that 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.
17. The building as a whole is substantial in size, even when considered in the context of the existing mobile homes and the range of other outbuildings already on the site. The walls and piers are of substantial brick construction, extending both along the highway edge and then curving into the site.
18. Cumulatively, I find that the scale and design of the piers and walls, and the appeal building, all add to the built development on the site both in visual and spatial terms. Consequently, there is a resultant loss of openness, which harms the Green Belt. I attach significant weight to that harm.

Character and appearance

19. From my site visit, the general character of the area in the vicinity of the appeal site is semi-rural, with a denser form of residential development to the east. The building is seen in the context of the mobile homes and other buildings on the site and the surrounding development.
20. Due to the topography of the land and existing vegetation the machinery store is well screened from the M25. However, despite the existing fencing and vegetation, which provides a variable level of screening, it is still apparent from within the site and from Murray's Lane in both directions. The parties both make different and conflicting points regarding the siting of the building in the context of the permitted area for the parking of four touring caravans. The Council suggest that it displaces these tourers and the appellant that by permitting parking in this area, there is additional justification for the retention of the building.
21. However, a review of the submitted plans appear to show a number of anomalies with the proposed and actual layout of the site and the storage area for the touring caravans. The notice plan seems to show that the building is approximately sited within the land hatched green on the landscaping plan, attached to the appellant's appeal statement and annotated 'proposed native buffer plantations'. This is largely consistent with what I saw on site. Neither party have provided a detailed survey to demonstrate whether, or not, the building is sited within the touring caravan parking area and if so to what extent. For this reason, I am unable to apportion any weight to the parties submissions on these points.
22. The curved design of the walls and pillars provide some views of the site from the highway, and it is not uncommon for residential front boundaries to have walls and fencing. However, in contrast with other nearby boundary treatments, the height and scale and forward siting of the subject walls and pillars make them prominent in the street scene, resulting in an overly

urbanising and incongruous form of development that jars with the semi-rural character of the area.

23. Drawing all of the above points together, the appeal building and the walls and pillars, have introduced additional built development into this part of the Green Belt. In my judgment, cumulatively due to their scale and design they result in incongruous development, that is at odds with this semi-rural location causing modest harm to the character and appearance of the area and the Green Belt. The development is therefore in conflict with Policies CS6, CS14 and CS21 of the CS and Policy DM13 of the LP. In summary these policies seek to protect the Green Belt from inappropriate development unless very special circumstances are clearly demonstrated and ensure that development conserves and respects the character of the landscape and surrounding area.

Highway safety

24. The two curved brick walls and pillars form an open bellmouth into the site. A third internal wall has been constructed slightly further back. Whilst all three appear to fall within the indicative black oval on the plan attached to the notice, it is clear from the wording of the notice that it relates only to the two brick walls and pillars at the front entrance. Accordingly, I have considered the appeal on this basis.
25. Murray's Lane is an informal rural road with no footpath or streetlights. The two subject walls have been sited very close to the tarmacked carriageway. The appellant has suggested that the walls have been constructed partly on land forming part of the public highway. However, I have not been provided with anything to demonstrate whether, or not, this is the case. I note that a copy of the notice was served on National Highways Limited and Surrey County Council, although I have nothing from either to suggest that any encroachment has taken place.
26. It was clear from my site visit, that due to the solid design and height, visibility to the east was obscured by the wall and pillars. This means that vehicles exiting the site have reduced visibility when turning right. I accept that Murray's Lane does not provide a thoroughfare for vehicular traffic. However, the presence of Boyd's Farm and the large modern Scout Hut, with its significant parking, suggests that other vehicles, horse riders and pedestrians are highly likely to use the Lane throughout the day and evenings. Moreover, the lack of a footpath means that pedestrians, cyclists and horses would be travelling close to the edge of the carriageway, to make way for passing vehicles and would therefore be at greater risk from vehicles leaving the site.
27. I acknowledge that the walls provide some security and screening for the residents of the site, However, I have been provided with no evidence to suggest that this could not be provided by other means that have a less harmful impact on highway safety.
28. For the above reasons, I am not satisfied that on the balance of probability, the development provides adequate visibility for those leaving the site, to ensure the safety of others using the highway. I give significant weight to this harm. Accordingly, the development is contrary to Policies CS14, CS18 and CS21 of the CS. These policies seek to support development that encourages and increases access to all, delivering improvements to cycle, pedestrian and public

transport networks and avoiding adverse impact of the development on road safety.

Other considerations and Green Belt balance

29. The appellant submits that the lack of other storage buildings on the site indicate that a machinery store for maintenance equipment would be reasonable and its siting in the location in the touring caravan storage area, together with the lack of visual harm, further weighs in favour of the development. I have already considered the suggested displacement of the touring caravan storage above.
30. It is pertinent that there are a number of other buildings on the site. The buildings I could see inside were being used to store tools, a quad bike, motorcycle and a number of vehicles, with room available. I have nothing to indicate why these other buildings are not suitable to store the limited machinery, or equipment that would be required to maintain the site and the modest sized paddock. I therefore give this limited weight.
31. Turning to the walls and pillars, it is submitted that these form a defensive boundary to prevent passersby from straying into the remainder of the site. I recognise that some form of boundary treatment would provide both a sense of, and actual security to those living on the site and their possessions. However, I have nothing before me to suggest that this could not be achieved in a less harmful way. Accordingly, I give this limited weight.
32. The government attaches great importance to Green Belts. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt. In this case, I have found harm to the Green Belt by reason of inappropriateness, and the effect on openness, significant harm to highway safety and modest harm to the character and appearance of the area. Balanced against this are the considerations put forward in favour of the development as discussed above.
33. On balance even when considered together, the considerations in favour of the developments do not clearly outweigh the harm to the Green Belt and the other harm I have identified. The very special circumstances necessary to justify the development therefore do not exist. Consequently, the development conflicts with the Development Plan as a whole and the appeal on ground (a) the deemed application fails.

Appeals A and B Ground (f)

34. The appeal is that the requirements of the notice exceed what is necessary to achieve the purpose of the notice. The appellant asserts that in respect of the walls and pillars, complete removal may not be necessary by virtue of Schedule 2 Part 2 Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GDPO), which permits certain minor operations, without the need for express planning permission.
35. The purposes of an enforcement notice are set out in section 173 of the 1990 Act and are to remedy the breach of planning control (s173(4)(a)) or as the case may be, to remedy injury to amenity (s173(4)(b)). In this case the notice requires that the building, walls and pillars are removed, and specific steps are

taken to restore the land. The purpose of the notice is therefore to remedy the breach of planning control.

36. The appellants case under ground (f) relate only to the walls and pillars so I shall only consider this part of the development. An appeal under ground (f) provides some scope for a solution short of a complete remedy. The appellants assert that a reduction in the height of the walls to 1m where adjacent to the highway, would fall within the GDPO limitations and thus complete demolition is excessive. It is also suggested that part of the land where the walls are sited may fall outside the application site and thus outside the scope of condition 17 (PLAN/2018/1072), which removed permitted development rights for walls and means of enclosure. No evidence has been submitted to demonstrate that this is the case. Either way it is important to bear in mind that the GPDO does not grant retrospective planning permission.
37. I recognise that it may be possible to find a more acceptable design for the site frontage. However, any substituted scheme must be precisely defined. From the evidence I have it is not clear how this would be achieved and whether the resultant remedial work would overcome the harm to highway safety and the character and appearance of the area that I have identified above. Accordingly, there is no 'worked out alternative', whereby the notice could be varied under ground (f) with the necessary degree of precision.
38. For the above reasons I find that the steps required by the notice do no more than is required, to remedy the breach of planning control, and lesser steps would not achieve that purpose. Consequently, the appeals on ground (f) are dismissed.

Appeals A and B Ground (g)

39. For an appeal under ground (g) it is necessary to consider whether the compliance period, of 6 months, is too short. The appellants have indicated that they may wish to submit alternative proposals to the Council, which would be likely to take some three months. Therefore, the remaining 3 months on the notice would be insufficient to arrange for compliance with the notice. They have requested that the compliance period is extended to 10 months.
40. The time for compliance refers to the time required to undertake the works. In this case the removal of the building, two walls and the pillars and the resultant debris do not involve any complex building operations. I accept that an alternative scheme may be submitted to the Council. However, the periods suggested to submit a planning application and then carry out remedial works, seem to be excessive in the context of the identified harm. Moreover, in the event of an alternative scheme being submitted to the Council, s173A(1)(b) allows the Council to extend any period for compliance where they consider it to be appropriate.
41. Consequently, I am not satisfied there is a good reason to extend the compliance period further. The ground (g) appeals fail accordingly.

Conclusion

Appeal A

42. 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.

Appeal B

43. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Hilary Orr

INSPECTOR