



Appeal Decision

Inquiry held on 7 November 2024

Site visit made on 7 November 2024

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2024

Appeal A Ref: APP/L3625/C/24/3344444

Duxhurst Farm, Duxhurst Lane, REIGATE, RH2 8QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) by Mr Darryn Beasley against an enforcement notice issued by Reigate and Banstead Borough Council.
- The notice was issued on 10 April 2024.
- The breach of planning control as alleged in the notice is 'Without planning permission, the erection of a storage shed in the Metropolitan Green Belt'.
- The requirements of the notice are to: 1. Demolish the unauthorised storage shed. 2. Remove from the land all the materials and debris resulting from the demolition.
- The period for compliance with the requirements is: 4 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) 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.

Decision

1. It is directed that the enforcement notice is corrected by:
 - the deletion of 'paragraph (b) of section 171A(1)' and its substitution with the words 'paragraph (a) of section 171A(1)' in Section 1 of the Notice; and
 - in Sections 3, 4 and 5 of the Notice, the word 'shed' is replaced with 'building'.
2. Subject to the corrections, Appeal A 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.

Preliminary Matters

3. Appeal A was made in the names of Mr Darryn and Mrs Emma Beasley, but separate recipients must make separate appeals against enforcement notices. Mrs Beasley was taken by the Planning Inspectorate as having made Appeal B¹. Her appeal did not proceed on ground (a), as it was only necessary for one appellant to pay the deemed planning application fee.
4. Both appeals were otherwise originally made on grounds (d) and (g). However, both grounds (d) and (g) were withdrawn during proceedings. It follows that Appeal B as a whole is taken as withdrawn.

¹ APP/L3625/C/24/3345008

5. An application for costs was submitted by Reigate and Banstead Borough Council against Mr Darryn and Mrs Emma Beasley. That application is the subject of a separate Decision.

The Enforcement Notice

6. The reference to paragraph (b) of s171A(1) of the Act in Section 1 of the Notice incorrectly defines the alleged breach as a failure to comply with any condition or limitation subject to which planning permission has been granted. However, as the alleged development is without planning permission, the correct sub-paragraph reference is paragraph 171A(1)(a).
7. As the breach of planning control specified in the Notice clarifies that the shed is without planning permission, and that was the basis on which both the appellant and Council presented their evidence in the appeal, correction of that error would not cause injustice to either of the main parties.
8. The signed Statement of Common Ground of the main parties in the appeal confirmed that the description of the subject operational development should be described as a 'building' rather than a 'shed'. As a more generic term but accurately descriptive of the alleged breach, I agree with the parties that no injustice would arise by correction of the allegation in that manner. However, this is subject to the corresponding correction to the requirements of the Notice and, for consistency, across the remainder of its content. The parties agreed to those corrections at the Inquiry.

Appeal on Ground (a) and the Deemed Planning Application

Main Issues

9. The main issues are:
 - Whether the building constitutes inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect of the building on the aims of Green Belt policy and the purposes of including land within the Green Belt.
 - 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.
10. The enforcement notice refers to an earlier iteration of the Framework, but there is no dispute between the main parties at the Inquiry that I must make my decision based on current planning policy and that, in any event, no material change existed between the relevant parts of the previous and current (December 2023) versions of the Framework.
11. In considering the main issues, I shall have regard to the decision on an earlier appeal² against a refusal of planning permission for the proposed retention of the building for agricultural purposes. That decision is a material consideration but not binding on me.

² APP/L3625/W/233321895

Reasons

Whether inappropriate development in the Green Belt

12. The Government's approach to protecting the Green Belt is set out in Section 13 of the Framework. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
13. Paragraph 154 of the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, an exception is made in the case of buildings constructed for agriculture and forestry. Policy CS3(2) of the Reigate and Banstead Core Strategy reflects the restrictions to development in the Green Belt as set out in the Framework. The enforcement notice does not refer to the agricultural or forestry use of the appeal building, but I need to address this matter in order to decide whether its construction amounted to inappropriate development in the Green Belt.
14. The appeal building lies within the Green Belt on a limited parcel of land owned by Beasley Developments Ltd. It incorporates the remains of what was probably a stable, which may or may not have been used as part of a farm. However, there was no dispute at the Inquiry that any active agricultural use of the site has long since ceased.
15. Indeed, the appeal building was described as a former agricultural building in planning application documents submitted as far back as 2015 and 2016. From my site visit and earlier Google Earth photographs, land about the appeal building is hard surfaced or to grass but not used for any kind of farming. Three adjacent buildings have all been subject to a change of use from agriculture to separate dwellinghouses.
16. When asked at the Inquiry as to the intended use of the building, the appellant advised that no final use was considered at the time construction commenced. He stated that the intention was then only to reinstate a building from the remnant stable walls. Since then, however, the building has in fact been used for storage as the Notice suggests.
17. The Council's photo evidence from February 2023, prior to the service of the Notice, shows the completed building being used for storage of timber and building materials. I heard that the building has also been used for the storage of small items such as ladders, hand tools, logs, fencing and scaffolding, and it is currently being used to store hay required either for the appellant's father's horses that are kept on other land, or to be sold to the equine market.
18. Taken individually or together, those items are not definitively agricultural. But even if I accept that the items were brought from a farm, their storage in the appeal building is not an agricultural activity. If the building was located within the same planning unit as a farm, it could be argued that the storage use is lawful on the basis of being reasonably incidental to the primary agricultural use. But that cannot be the situation here.
19. No matter that the main parties in the appeal agreed that the use of land for agriculture is not development that requires planning permission, the appeal site is not an agricultural holding or in fact used for agriculture. Items were imported to the site from elsewhere for the simple purpose of storage. The

building has a primary storage use; it was not constructed for agriculture or even for a purpose incidental to agriculture.

20. I conclude that the construction of the building constitutes inappropriate development in the Green Belt which, as described in the Framework, is harmful to the Green Belt by definition. That harm carries substantial weight against the appeal.

Green Belt Aims and Purposes

21. The fundamental 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. The purposes of including land in Green Belts include safeguarding the countryside from encroachment.
22. There is no dispute between the main parties that the development has caused some loss of spatial and visual openness to the Green Belt. Compared to the surveyed detail³ of the unroofed remnants of the former stable building, which have been incorporated, the building has a wider and longer footprint. The high dual pitched roof encloses a much greater volume such that the new building will have inevitably caused a reduction in the spatial openness of the Green Belt.
23. Furthermore, the larger height and mass of the building compared to the former walls will have caused the building to be more visually prominent from the nearby houses and Duxhurst Lane. Accordingly, I find a modest adverse effect on the visual openness of the locality has also resulted. As a building designed to last tens of years, those effects on openness will have a high degree of permanence.
24. For those reasons, I find the development causes additional harm to the Green Belt, in addition to that caused by reason of being inappropriate development, because it conflicts with the aforesaid aims of the Green Belt.

Other considerations

25. The appellant asserts that the use of the barn by his father to store hay used in association with horses kept on his holding, or sold to others, provides a well-designed, secure facility suited to the storage of hay and other items. I heard that such a resource has an attendant social and economic benefit to him and customers in the locality.
26. On the appellant's contention that the building should be restricted to agricultural storage, those benefits could not accrue. Irrespective, as the site is not used for agriculture, it would be unreasonable for me to grant planning permission for the development subject to a condition limiting its use to agriculture or agricultural storage.
27. As a storage facility, the building could support economic activity and equine uses elsewhere in the area, however, the extent of that benefit was not quantified in evidence. Furthermore, the appellant's father advised the Inquiry that he has, as recently as September 2023, erected a large new agricultural storage shed on his own land. Although this was shared with a neighbouring

³ Drainage plan accompanying application 16/00807/DET04

farmer, I saw that it has significant storage capacity just a few weeks after the annual hay harvesting period.

28. The new farm building is not subject to the same natural surveillance as the appeal building, which is located close to three dwellinghouses. However, the appellant accepted at the Inquiry that his father's building is secure by virtue of its modern design and materials. Furthermore, the appellant's father has an extant permission option for an additional barn close to his farmhouse. In this situation, I give just moderate weight to the benefits of the appeal building.
29. In support of the development, the appellant refers me to appeal decision Ref. APP/Z3825/W/23/3316563 where a replacement stable building was conditioned to limit its use for equine purposes to permit its retention in a protected area. However, in that case, equine uses were taking place on the site where the building was located. The case circumstances were therefore distinct.
30. The appellant asserts that the remnant elements of the building were of sufficient historic significance to merit consideration in the planning decision. However, the appellant's assessment⁴ does not argue or conclude that the walls warrant non-designated heritage asset (NDHA) status. It merely accepts that there was sufficient left to identify a former use as part of a stable building and that the development has preserved the original remains.
31. Although the locality has some historic interest, that is mainly demonstrated by early mapping and historic record research. The mapping shows significant variations to the former building's footprint over time and that it ceased to be a consolidated building decades ago.
32. Furthermore, even if I were to find the dilapidated remnants had historic significance worthy of consideration, this has rather been undone by the recent works to them before the historic assessment took place. Despite the appellant's time and cost investments to preserve the walls, features including original external and internal openings (visible in the Manorwood assessment), some linking walls, and a tall feature chimney have been removed. The extents of the original building have been increased to substantially enclose walls, which have been either reduced in height to provide for a first floor, or unsympathetically extended. Moreover, little evidence of the appearance of the former building was provided to the Inquiry, or detail of how the new building's design may have, in any way, reflected it.
33. Accordingly, I find the report's conclusion of 'preservation' is overstated and the historic significance of the altered walls is minimal. As a matter of balanced judgement, any benefit of the retention of the walls is therefore a matter of limited weight. Equally, any requirement to remove the remnant walls is also a matter of limited weight.
34. The re-use of existing structures in the construction of the new building will have improved its environmental performance by limiting the requirements for production and transportation of new materials. This is consistent with Policy CS10 of the CS and therefore a matter in favour of the development. However, as a limited part of a single building, that benefit is limited.

⁴ Historic Building Assessment by Manorwood February 2023

35. The design of the building to reflect other traditional rural buildings in the locality is consistent with local and national policies seeking sympathetic design. Notwithstanding, as a requirement of new development, this is also a matter of limited weight.

Very special circumstances and the planning balance

36. The notice refers to Policies NHE5 and NHE6 of the Reigate and Banstead Development Management Plan 2019. Those policies do not explicitly cover the erection of new buildings, but that makes no difference to my decision.
37. By virtue of its storage use, the building is inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. The building also causes harm to the openness of the Green Belt, which is one of its essential characteristics.
38. Taken singularly or together, I find that the considerations presented by the appellant, including the benefits of the storage use, of retaining the building for its historic interest and of the environmental performance of the building, do not clearly outweigh the totality of the harm identified.
39. I conclude that the very special circumstances necessary to justify granting planning permission do not exist and the development is contrary to the local development plan policies and the Framework when read as a whole. It follows that planning permission should be refused for the erection of the storage building.

Conclusion

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

R Hitchcock

INSPECTOR

APPEARANCES:

FOR THE APPELLANT

Stephen Whale	Counsel
Phil Rowe	Planning Consultant, Prowe Planning Solutions
Darryn Beasley	Appellant
Dennis Beasley	Darryn Beasley's father

FOR THE COUNCIL

Jack Smyth	Counsel
Andrew Benson	Head of Planning and Regulatory Services, Reigate and Banstead Borough Council

DOCUMENTS SUBMITTED TO THE INQUIRY:

1. Meeting sign-in sheet
2. Policy NHE7 Rural Surrounds of Horley
3. Policy CS5 Valued People and Economic Development
4. Appellant's Opening Statement
5. Council's Closing Statement
6. Appellant's Closing Statement
7. Appellant's Response to Costs Application