



Appeal Decision

Site visit made on 3 December 2024

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

Appeal Ref: APP/C3620/C/23/3316950

The land known as Berry Farm, Blanks Lane, Newdigate, Dorking, Surrey

- 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 Mrs Purity Hrisca against an enforcement notice issued by Mole Valley District Council.
 - The enforcement notice was issued on 31 January 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a wooden platform and two wooden sheds.
 - The requirements of the notice are: (1) To remove completely from the Site the wooden platform and two wooden sheds along with any associated bases, fixtures and fittings and any resultant debris. (2) To restore the Site to its former condition before the breach took place.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Summary of Decision

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

Preliminary Matters

2. The appellant has also raised matters that are pertinent to a ground (c) appeal. I do not consider that injustice to the parties then arises from my consideration of this ground of appeal.
3. Since the enforcement notice was issued the Council has adopted a new development plan for its administrative area. The Mole Valley Local Plan 2020-2039, adopted October 2024 (the LP), therefore forms the development plan for the area and supersedes the local plan policies cited in the notice. The Council has then provided a list of the relevant adopted policies and the appellant has been provided with an opportunity to respond. Injustice to the parties therefore does not arise.
4. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. It however does not raise new material planning considerations for the purposes of my assessment and therefore injustice to the parties does not arise.
5. Since the enforcement notice was issued, the appellant has removed the sheds and wooden platform. Nevertheless, I will determine the appeal on the basis of

the evidence before me, which includes photos and plans of the sheds, as well as from my site visit.

The ground (c) appeal

6. For the appeal to succeed on ground (c) the onus is on the appellant to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. This could be because the matters alleged do not constitute development, planning permission has already been granted for the matters alleged in the enforcement notice or they are permitted development.
7. The appellant contends the two sheds do not constitute a breach of planning control. The evidence is they are then each of a reasonably small size. I however have little evidence to persuade me that they were erected purely on a temporary basis, even though I recognise they have since been removed. They therefore had significance in a planning context and on the balance of probabilities sufficient permanence given the evidence is they appear to have been situated at the site for over two years. I also have little verifiable evidence to demonstrate on the balance of probabilities that they were not physically attached to the ground.
8. On the balance of probabilities, they are therefore buildings and thus development for the purposes of Section 55 of the Act. There is then little evidence that the sheds are a form of permitted development, noting also the small size of the appellant's land holding, or that planning permission has been granted.
9. The appeal on ground (c) therefore fails.

The ground (a) appeal

Main Issues

10. The main issues are:

- whether or not the development constitutes inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
- the effect of the development on the character and appearance of the area;
- the effect of the development on highway safety; 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

11. The site relates to a small parcel of agricultural land. The deemed planning application and therefore development relates to the erection of two wooden sheds with a wooden platform to the front.

Whether inappropriate development in the Green Belt

12. The site is located in the Metropolitan Green Belt.

13. 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. Paragraph 142 of the Framework states that the Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development. Paragraph 143 then specifies the five purposes which the Green Belt serves, including to assist in safeguarding the countryside from encroachment.
14. The appellant owns a small parcel of land and contends that the buildings are for agricultural purposes, namely to store tools. The Council does not dispute this. There is then evidence of some agricultural activity taking place on the land, and I have very limited evidence that there have been unauthorised uses taking place which the buildings facilitate.
15. Paragraph 154 of the Framework then lists exceptions to inappropriate development in the Green Belt, which includes buildings for agriculture and forestry. The construction of new buildings for agriculture is accordingly not inappropriate development. I also note that when a planning application¹ to retain the buildings was refused, inappropriate development was not raised as a reason.
16. Policy S1 of the LP is then concerned with the overall strategy for the pattern and scale of development in the District and to make sufficient provision for various land uses. It is therefore not directly relevant to my assessment of inappropriate development in the Green Belt for the purposes of this appeal.
17. I therefore conclude the development is not inappropriate development and so by definition is not harmful or contrary to national policy to protect the Green Belt. Accordingly, I do not need to consider whether there are any very special circumstances necessary to justify the development. The absence of this planning harm therefore attracts neutral weight.

Character and appearance

18. The area is largely rural and characterised by open fields and woodlands. The appeal site forms a small part of land that has been the subject of various developments, most of which I am aware have been unauthorised.
19. The site itself is located at the edge of that land and borders a large agricultural field. At the time of my site visit both the appeal site and bordering field were largely set to pasture.
20. The buildings and platform were reasonably small. I also appreciate the site is not within an AONB and the structures were painted brown, with a green roof and would have been largely shielded from the road by a hedge.
21. They are however the type of structures that would routinely be found in a small domestic garden. They were accordingly conspicuous in nature owing to their size and design, which is also at-odds with the prevailing and intrinsic rural and open character of the area. They would therefore not blend in.

¹ MO/2022/0046/PLA

22. The structures were therefore not sensitive to their landscape context or of high-quality design that makes a positive contribution to local character.
23. I conclude the development is unacceptably harmful to the character and appearance of the area in contravention of Policies EN8, EN4 and EC6 of the LP. These policies, amongst other things, require development to be sensitive to their landscape context, of high-quality design that makes a positive contribution to its local character and sited and designed in a manner which minimises harm to the intrinsic character and beauty of the countryside. This is a planning harm to which I attach considerable weight.

Highway safety

24. The existing vehicular access point from the highway is also shared by the owners of other land/plots. This does not allow for the simultaneous entry and exit of vehicles.
25. The appellant will however no doubt wish to access their land, with or without the sheds and platform. I am consequently not persuaded that the presence of the sheds and platform in themselves would lead to an increased level of trip generation or manoeuvrability issues that would be severe or result in an otherwise unacceptable impact to highway safety.
26. I conclude the development is not harmful to highway safety and so accords with Policy INF1 of the LP, which seeks, amongst things, for development to not have an unacceptable impact on highway safety. For the same reasons the development accords with the highway safety objectives of the Framework. The absence of this planning harm attracts neutral weight.

Other Considerations

27. I appreciate the sheds are not for the purposes of habitation. The appellant also contends that they are temporary in nature and re-used, however I have no further details in this regard and no request to consider a temporary planning permission. In any event, such a permission would not address the harm I have identified.
28. Other planning permissions have been brought to my attention. However, I only have very limited details of these before me and so I can afford them only very limited weight.

Planning Balance

29. The two wooden sheds with a wooden platform to the front for agricultural purposes do not constitute inappropriate development. The absence of such harm attracts neutral weight, as does the absence of an unacceptable impact to highway safety. There is however unacceptable harm to the character and appearance of the area, which attracts considerable weight, and which is not outweighed by other considerations.

Conclusion

30. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) fails.

Overall Conclusion

31. 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 deemed application.

Formal Decision

32. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Paul T Hocking

INSPECTOR