



Appeal Decision

Site visit made on 21 July 2014

by M A Champion BSc CEng FICE FIMStructE FCIHT FHKIE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 July 2014

Appeal ref: APP/J1915/C/14/2214867

The garage at Longcroft, Monks Green Farm, Mangrove Lane, Hertford, SG13 8QL.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by East Hertfordshire District Council.
- The appeal is made by Mr William Ashley.
- The Council's reference is E/14/0009/B.
- The notice was issued on 27 February 2014.
- The breach of planning control as alleged in the notice is failure to comply with condition No 3 of a planning permission, ref: 3/06/0604/FP, granted on 28 June 2006.
- The development to which the permission relates is a combined garage/car port/lock up storage for garden equipment including lawn mowers. The condition in question is No 3 which states that: "The building hereby permitted shall only be used for the housing of private vehicles and for purposes incidental to the enjoyment of the dwelling house and not for any living accommodation or commercial activity without the prior written consent of the local planning authority." The notice alleges that the condition has not been complied with in that the upper floor of the garage building is currently being used as commercial office accommodation.
- The requirements of the notice are to cease the use of the garage for commercial purposes.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary of decision: The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (a) and the deemed application

Main Issues

1. I consider that the main issues in this appeal are:
 - (i) whether the development is inappropriate in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
 - (ii) the effect of the development on the rural character of the area; and
 - (iii) if the proposed 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.

Policies

2. Policies GBC1, GBC9, TR2, TR7 and ENV1 of the East Hertfordshire Local Plan Second Review 2007 deal with the Green Belt, re-use of rural buildings, access, car parking, and design. I have also been referred to Policy ENV16 which addresses protected species, but this does not appear to be directly relevant in the current appeal.
3. Paragraphs 79-92 of the National Planning Policy Framework (NPPF) address development in the Green Belt.
4. The content of the planning guidance launched nationally by the Government on 6 March 2014 has been considered, but in the light of the facts in this case the guidance does not alter my conclusions.

Reasons

Green Belt

5. The appeal site lies in the Metropolitan Green Belt towards the western edge of a complex of buildings centred on Monks Green Farm to the south of Mangrove Lane. It comprises the garage/storage building associated with the dwelling known as Longcroft.
6. National policy, supported by local policy, seeks to protect Green Belts by prohibiting development except in a few defined cases. The exceptions are set out in NPPF paras 89 and 90. These include (para 89) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and (para 90) the re-use of buildings provided that the buildings are of permanent and substantial construction, and provided that the development preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.
7. There have been no physical alterations to the building, but only a change of use. The development thus falls to be considered against NPPF para 90. At the time of my site visit the use had ceased, but I must consider the breach alleged in the notice.
8. The building is of timber framed construction on a brick plinth with a tiled roof. I consider this to be permanent and substantial construction. As there have been no alterations to the building the development preserves the openness of the Green Belt. In both these respects, therefore, the development complies with NPPF para 90.
9. However, the change of use has resulted in the establishment of a new commercial enterprise in the countryside. As such it fails to safeguard the countryside from encroachment, which is one of the five purposes served by Green Belts.
10. While the local highway authority does not object to the traffic generated, the development attracts business and traffic to the site away from the urban area, thus potentially failing to assist in urban regeneration by encouraging the recycling of urban land, which is also one of the five purposes.

11. The development thus fails to satisfy the exceptions allowed by NPPF para 90. It is therefore inappropriate in the Green Belt, and, by definition, harmful to it. I attach substantial weight to this harm.

Effect on rural character

12. The introduction of a commercial use leads to an increase in activity on the site. Such use results in increased traffic to and from the site and also additional parking nearby (the appeal site comprises the building only, not any adjoining land).
13. Such uses are unsympathetic to rural surroundings and harmful to their character. However, in view of the existing businesses at Monks Green Farm and the size of the appeal building, I attach only moderate weight to this harm.

Very special circumstances

14. Much of the appellant's evidence relates to a different appeal (subsequently withdrawn in May 2014), his legal proceedings against the former tenant of the site, or to the conduct of the Council. While I acknowledge that these matters are of importance to the appellant, they are not material planning considerations in the appeal before me.
15. The appellant presents no evidence in support of very special circumstances.
16. I therefore consider that there are no other considerations that clearly outweigh the harm by reason of inappropriateness and harm to the character of the rural area so as to amount to the very special circumstances necessary to justify the development.

Conclusion

17. I conclude that the unauthorised development is inappropriate in the Green Belt, contrary to the policies cited above. No considerations have been presented that are sufficient to amount to very special circumstances.
18. The appeal on ground (a) and the deemed application fail.

The appeal on ground (g)

19. This ground of appeal is that the period specified in the notice falls short of what should reasonably be allowed. The appellant does not suggest an alternative period for compliance.
20. In my opinion three months is adequate for the unauthorised use to cease.
21. The appeal on ground (g) fails.

Conclusions

22. 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

Appeal ref: APP/J1915/C/14/2214867

23. 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.

M A Champion

INSPECTOR