



Appeal decision

hearing held on 16 February 1999

by C H Johnson FRICS

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
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16 MAR 1999

T/APP/L3625/C/98/1010285

- 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.
- The appeal is brought by Mr M Townson against Reigate and Banstead Borough Council.
- The site is located at Fairholme Farm, 14 Croydon Lane, Banstead, Surrey.
- The Council's reference is DES/DC/DW/E01/387.
- The notice was issued on 22 June 1998.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a corrugated-iron clad building length 6.4 metres x width 4.7 metres x height 3.5 metres ("the building") in the approximate position shown hatched black on the plan attached to the notice.
- The requirements of the notice are :
 - (i) Demolish the building and remove all resultant materials from the land.
 - (ii) Restore the land to its former state and condition.
- The period for compliance with the requirements is 3 months.
- The appeal was made on the ground set out in section 174(2)(a) of the 1990 Act.

Decision: The appeal is allowed and I direct that the enforcement notice be quashed. I hereby grant planning permission on the application deemed to have been made under S177(5) of the amended Act for the development already carried out, namely the erection of a corrugated-iron clad building length 6.4 metres x width 4.7 metres x height 3.5 metres on land at Fairholme Farm, 14 Croydon Lane, Banstead, Surrey subject to the following conditions:

- 1 The building hereby permitted shall be removed and the land restored to its former condition within a period of three years from the date of this decision.
- 2 The building hereby permitted shall not be used except for the purposes of agriculture or horticulture at Fairholme Farm.
- 3 Within 3 months of the date of this decision the building shall be painted a dark grey colour.

The main issue

1. The main issue is the effect of the building on the character and function of this part of the Metropolitan Green Belt and, if that effect is harmful, whether there are very special circumstances for making an exception to development plan policies.

Inspector's reasons

The Site

2. The site comprises a DIY livery yard for about 30 horses, with substantial buildings including stables, indoor school, large car parking area and grazing. The building which is the subject of the notice is at the southern end of the site close to the indoor school and sand school. It is partially screened from Croydon Lane by boundary hedges. The bungalow "Fairholme Farm" has been excluded from the planning unit for the purposes of the enforcement notice. The site lies within the Metropolitan Green Belt.

The Development Plan

3. The development plan for the area comprises the Surrey Structure Plan 1995 and the Reigate and Banstead Borough Local Plan adopted in July 1994. The Structure Plan is being reviewed and is at a formative stage. Attention has been drawn to extant Structure Plan policy PE2 and Local Plan policy Co1 which both deal with development in the Green Belt, as well as policy SE2 from the emerging Structure Plan review. Policy PE2 states that development in the Green Belt, outside settlements, which would conflict with its open character will not be permitted, except in very special circumstances. Subject to that, development will not normally be permitted except for uses appropriate to the Green Belt, including the essential requirements of, among others, agriculture and outdoor recreation. Policy Co1 of the Local Plan sets out a similar presumption against development in the Green Belt, except for the essential requirements of agriculture or forestry, and any permissions granted will include conditions designed to restrict the use to the purpose for which it was granted. Development such as outdoor recreational facilities may be appropriate or necessary in the Green Belt but will not be considered acceptable development as of right. Policy SE2 of the Structure Plan First Alteration is consistent with Policy PE2. Attention has also been drawn to Government guidance in the form of PPG2 dealing with Green Belts and PPG 7 dealing with the countryside.

Planning History

4. The Council told me about a number of complaints they had received about unauthorised activities at the site which have been investigated and remedied over the years. The Council first became aware of the unauthorised shed in March 1997, after complaints about a welding business. There was an exchange of correspondence between them and Mr Townson and his mother, the result of which was that the shed was vacated. Mr Townson sought to retain the shed for agricultural purposes. An initial planning application to retain it was invalid and was followed by a second in August 1998, which was refused on 16 November 1998.

The Green Belt Issue

5. Mr Townson told me that he moved to the farm about 2 years ago after some time learning about organic growing. It was at about this time that the shed was first vacated. There were areas of land on the farm which were not being used and it occurred to him that this was an opportunity to embark on an organic growing enterprise. He had earlier started a small garden near the bungalow, but he wanted to expand and to involve more people. He approached the Bentley Day Centre in Banstead, who were enthusiastic and almost immediately sent a group of adults with learning difficulties. These groups of some 8 to 12

people come regularly to the farm for a whole day, once a week to work on the project, which is known as the Fairholme and Bentley Community Project (FAB).

6. The landowner, Mr Townson's mother, has allowed the project to use about 3 acres of the site free of charge. Progress has been made towards growing organic vegetables and a full range is to be grown this year. Most produce is given to clients to take home, some to Mr Townson and his mother and some to the Bentley Centre. There is an organic fruit garden with over 20 varieties of fruit. There are ponds and natural areas to encourage biodiversity and create havens for wildlife. Staff of the Bentley Centre and parents of clients are so impressed that 2 more groups will join in 1999 and Surrey County Council are funding tools and seeds.
7. In addition to the horticulture, horse manure is composted to produce a rich organic soil conditioner, which it is hoped to sell locally to produce further funds. This diverts many tons of organic waste from landfill sites, produces an environmentally friendly alternative to peat based products, creates employment and reduces traffic, because all orders will be delivered to customers' premises. There are also osier beds. There are current preparations to plant an area of willow to provide material for craft products to be hand-made in the Centre's workshops. To this end 2000 willow trees were ordered the week before the hearing. It is hoped that the local community will become more involved. Local businesses are already helping by providing waste cardboard for mulching.
8. The shed was claimed to be essential to the project for storing tools and valuable plant stock, as a changing room, for refreshments, shelter and for teaching/discussion. It was said to be the only building which was separate and unused by the livery business. It was denied that there are other buildings on the site which could be used.
9. Mr Townson sought to show how the project's activities conform to the definition of agriculture in both the main Planning Act and the Town and Country Planning (General Permitted Development) Order 1995. He said that the harm alleged by the Council to be caused by the shed is not quantified and questioned why the building is claimed to be inappropriate. In this context he quoted Structure Plan policy PE2, Local Plan policy Co1 and policy SE2 of the Structure Plan First Alteration and argued that the shed does constitute appropriate development because it is an essential element of the agricultural activities at Fairholme Farm. He drew attention to the purposes of including land in Green Belts, as set out in PPG 2, and maintained that the shed fulfils all of those objectives. Accordingly his appeal should be allowed.
10. Firstly, I consider that it is necessary to define the basis on which this decision is to be approached. The deemed application for planning permission is to retain the building. It is evident that the building was first constructed and used in connection with an industrial use, as a welder's workshop. PPG 2 at paragraph 3.4 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for one of a number of purposes, which do not include industrial uses. Hence the building was inappropriate development at the time it was built. Paragraphs 3.1 and 3.2 state that there is a presumption against inappropriate development within Green Belts and that such development is by definition harmful to them. Such developments should not be approved except in very special circumstances.
11. However, the application of policies to a deemed application to retain an unlawful building should in my view be similar to their application to a proposal for a new building. The use of the building is not the subject of the deemed application, but that use is a material

consideration in the context of assessing whether or not this is inappropriate development. Agriculture, forestry and horticulture are appropriate activities in Green Belts, as are outdoor sport and outdoor recreation. The question at the heart of the main issue is whether this unlawful building in the Green Belt should be permitted because the activities of the FAB project amount to a purpose for which, if it were a new building, the provision of this shed would be appropriate development. If not then the question arises as to whether the activities of the project create an essential need for the building which comprises the sort of very special circumstances which would justify its retention.

12. The Council argued that those activities are not on a scale or of a nature which would fall within the definition of horticulture as set out at Section 336 of the Act. I am satisfied that they do fall within that definition, which is not qualified by any limits of scale. Moreover the interpretation of the term "agricultural land" in the GPDO, quoted by the Council, with its requirement that the agriculture be on a business or trade footing, does not in my view apply to the recognition of what is agriculture or horticulture for planning policy purposes. My understanding is that the GPDO definition only applies where a question of permitted development under Schedule 2, Part 6 of the GPDO is being considered, which does not arise in this case.
13. It seems to me that the FAB project is a very commendable and worthwhile venture, providing both training for those with learning difficulties and pursuing a horticultural regime which is in tune with such initiatives on environmental sustainability as Local Agenda 21. However, it is apparent that the project is at a very early stage, having completed only one full season. The growing areas are limited in size and extend to little more than two typical allotment plots, whilst the bulk of the 3 acres is still used for horse grazing, and the osier beds have yet to materialise. The composting enterprise is not yet fully in place, but in any event that does not in my view fall within the definition of agriculture, and I attach no weight to it for the purposes of this appeal.
14. I accept that it is in the nature of the project that some form of shelter, storage and changing accommodation is needed if it is to continue and grow and that this building is suitable for those purposes. The project itself is unusual in that it comprises a mixture of elements, including horticulture, recreation and education, of which I consider that the last two are ancillary to the first. Having regard to Policies PE2 and Co1, a new building for agriculture or to provide facilities for outdoor recreation, such as this, would not be inappropriate in the Green Belt provided it could be shown to be essential for this type of use. The Council suggested that there would be spare capacity within the many other buildings on the farm, which could equally well meet the need. At my site visit, to which the hearing was adjourned, I was shown a number of these buildings, each of which is already put to some form of equestrian related use. The most suitable candidate appeared to be a former chicken shed, which is currently a meeting room and refreshment room for livery customers. Mr Townson's main objection to this, as with most of the other suggested alternatives, was that it is too remote from the growing areas; that it would involve handicapped people crossing areas of the yard, where horses could pose a threat to safety, and that any element of dual use would lead to conflicts with the livery business and loss of security for tools and stock. In my view these are valid concerns and I accept that the several alternatives examined are not suitable for the purpose.
15. On this basis, the appeal building is the only satisfactory standing structure on the site capable of meeting the need, and I find that its retention is not inappropriate development in the circumstances of this case. Accordingly it is not necessary to examine the question of

very special circumstances. My remaining doubt about the essential need for the building in the longer term is the extent to which the project is likely to be sustained. As I have said, it is at a very early stage and a permanent grant of permission may result in a building in the Green Belt which would remain long after the need for it has ceased to exist, if the project does not thrive. In order to avoid that, I consider it necessary to grant permission for a temporary period of three years, to enable a longer trial period for the project to show that it is capable of realising its potential. I appreciate that Mr Townson did not favour such an approach but the alternative would be dismissal of the appeal. I am also aware that granting temporary permission for a building, which is intended to be permanent, is contrary to advice in Circular 11/95. However, these are unusual circumstances, where a building originally provided for an inappropriate use in the Green Belt is being retained for an appropriate purpose and I consider that an exception to the advice is justified in these circumstances.

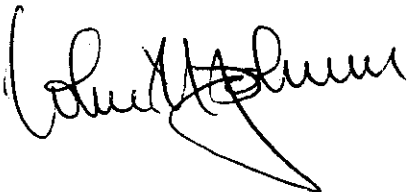
16. Having concluded that the retention of the building would not be harmful to the Green Belt by definition, it is necessary to consider whether any other harm is caused. The building is located at the edge of a large complex of existing buildings. To the extent that it can be seen from Croydon Lane, which is a limited view because of the boundary hedge along that road, the building is seen against the long blank elevation of an indoor riding school. It consequently has very little visual impact on its surroundings. Moreover, Mr Townson's intention to plant the willow trees on the south east side of the building would further screen it from view. The relationship of the shed to the existing range of buildings is such that there is no perceptible, additional encroachment into the countryside. Provided the building was also painted in a neutral colour, as suggested by the Council, I conclude that there would be no adverse effect on the open character of the Green Belt nor on the appearance or rural character of the area. My preference is for a dark shade of grey, which would tone with the adjoining indoor school building. As the reason for permitting the retention of this building in the Green Belt is for an appropriate agricultural use, I consider it essential to impose a condition restricting the use to agriculture along the lines discussed at the hearing, and as required by Policy Co1. This would not prevent its use for shelter, refreshment or teaching, provided such activities were ancillary to the main horticultural use.

Other Matters

17. I have taken account of all the other matters raised. However, none of these matters is of sufficient weight to affect the considerations which have led to my decision.

Conclusions

18. For the reasons given above I consider that the appeal should succeed on ground (a). I shall exercise the powers transferred to me accordingly and planning permission will be granted.



APPEARANCES

FOR THE APPELLANT:

Mr Milton Townson

Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms Dee Woods

Planning Officer with Reigate and Banstead Borough Council

DOCUMENTS

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| Document | 1 | List of persons present at the inquiry |
| Document | 2 | Council's letter notifying interested persons of the inquiry with circulation list. |
| Document | 3 | Letter from an interested person. |
| Document | 4 | Letter from Surrey Organic Gardening Group. |
| Document | 5 | Bentley Resource Centre Staff and Vehicle Timetables. |
| Document | 6 | Statement from Bentley Resource Centre.. |
| Document | 7 | Leaflet advertising compost. |
| Document | 8 | Surrey County Council note about Employability Scheme and Andrew Brazier. |
| Document | 9 | Employability scheme statement. |
| Document | 10 | Bentley Newsletter January 1999. |