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## Appeal Decision

Hearing held on 4 November 2014

Site visit made on 4 November 2014

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 2<sup>nd</sup> December 2014**

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**Appeal Ref: APP/Y3615/A/14/2225445**  
**'Manyuema' Pirbright, Woking, GU24 ODN.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr G Humphreys against the decision of Guildford Borough Council.
  - The application Ref. 14/P/00967, dated 30 April 2014, was refused by notice dated 25 July 2014.
  - The development proposed is the erection of a barn for storage and animal feed and machinery necessary for maintaining the estate.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a barn for storage and animal feed and machinery necessary for maintaining the estate at 'Manyuema' Pirbright, Woking, GU24 ODN, in accordance with the terms of the application, Ref. 14/P/00967, dated 30 April 2014, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### Application for Costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate decision.

### Main Issues

3. The main issues are:
  - Whether the proposal constitutes 'inappropriate development' in the Green Belt;
  - The effect on the openness of the Green Belt;
  - The effect on the setting of 'Manyuema';
  - The effect on the general character and appearance of the area;
  - If inappropriate development, 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

### *Background*

4. The appeal site lies in a rural area generally to the west of Pirbright and which is characterised by extensive areas of woodland and enclosed fields, together with areas of open heathland. The land owned by the appellant extends to about 5.3ha, of which 2ha is woodland and about 3.3ha is grass pasture. To the east of the site lies 'Furzehill Place', a listed building, and it is understood that 'Manyuema' (named after an African Tribe) was the pavilion of that property, which I will describe in more detail under the third issue. At the time of my visit, the pavilion building was being extended and converted into a dwelling following the grant of planning permission. There is also planning permission for the erection of a small block of stables and these were under construction at the time of my visit.
5. It is proposed to erect a barn with a footprint of about 25m by 6m and 6.2m high. The submitted plans of the building are sketchy and at the hearing the appellant clarified that the building was proposed to have external walls of timber boarding sitting on a brick plinth with concrete block inner walls and a timber frame construction supporting a tiled roof. The barn is proposed to house hay and wood chippings and provide a secure store for 'estate' vehicles and machinery, such as a small tractor, quad bike and trailer, and accommodate a small workshop area.

### *Whether Inappropriate Development*

6. As the site lies in the Green Belt, saved Policy RE2 of the Guildford Borough Local Plan (2003) applies. This sets out that a new building will be deemed inappropriate in the Green Belt unless it is for one of the stated exceptions and the one relevant to this appeal is "1. Agriculture and forestry".
7. At the hearing there was a debate about whether this policy was in accordance with the National Planning Policy Framework (the Framework) and in particular the exceptions to 'inappropriate development' set out in the bullet points in paragraph 89. Although there is some difference between the other bullet points and the policy, the parties agreed that the relevant part of the policy is consistent and I concur. The policy should therefore be afforded due weight.
8. Within this first issue, the critical test is whether the proposed barn is reasonably required for agricultural or forestry purposes as set out in the development plan policy and the Framework.
9. The appellant says that the barn is needed to accommodate hay cut from the now improved pasture land and woodchip and as a store for vehicles and equipment as there are no other buildings on this small estate to accommodate that produce and the vehicles and facilities that are essential to the running of the agricultural operation.
10. The Council queries the extent of the agricultural need given the limited extent of the 'estate' or holding and while the Council accepts that the grazing of horses is an agricultural use, facilities required for a recreational equestrian use would not be. The Council also queries the design of the barn and the appropriateness of a large amount of hay being stored in an enclosed

space and the design of the building not being designed for ease of use even by the vehicles depicted on the plan.

11. I understand these concerns about the agricultural need and the nature of the large barn proposed as it does not appear to me to have been designed wholly with agricultural use in mind. However, the Council sought independent advice from an agricultural expert (Chesterton Humberts) similar to previous notifications and while it appears that a decision was made on the application in advance of the response, the agricultural expert has not concluded that the proposed building is not reasonably required for agricultural purposes. The report concludes that "the proposed design will meet the requirements to store hay, feed and machinery and the timber and steel frame construction is typically utilised for such buildings" (Para. 9.3) and "the applicant has scaled back the machinery to be stored to the most basic and reasonable requirements for the land...".
12. Taking the independent 'Agricultural Appraisal' into account as a whole, and my observations at my site visit of the improved pasture land; the extent of woodland; and the lack of other storage buildings, I consider that there is sufficient evidence to demonstrate that the barn is reasonably required for agricultural purposes on the land and the scale of the building is justified by the existing and proposed agricultural operations. The Council also supported in principle the external materials of timber cladding and a tile roof as being appropriate for the site. I also saw that the new outbuilding erected close to the pavilion was finished in similar materials.
13. Overall, I find that the proposed barn is reasonably required for agricultural/forestry purposes and as such falls within the exceptional categories for such development in the Green Belt set out in policy RE2 and the first bullet point in paragraph 89 of the Framework and does not constitute *inappropriate development*.
14. Given this conclusion and the terms of the exceptional provisions applying to agricultural and forestry buildings in the policy and the Framework, I do not need to consider a specific test of the buildings effect on the openness of the Green Belt.

#### *Effect on listed building*

15. The Council describe the historic circumstance of the site, where 'Furzehill Place' was at one time owned by the Stanley family. Sir Henry Morton Stanley was famous as an explorer in Victorian times particularly as the one commissioned to go to the Nile region in Africa and find Dr Livingston. The Council says that the pavilion known as 'Manyuema' within the appeal site but on the other side of the lane is recognised as forming part of 'Furzehill Place' where the main house and the remainder of the estate was added to the statutory list in 1984. The Council goes on to advise that the main house was predominately listed for its occupation and close historical association with Sir Henry Morton Stanley and that the curtilage building was historically part of the estate and was planned and actively used by Stanley, and should be treated as a curtilage listed building. It was also said that the status of the pavilion as a curtilage listed building was also a critical factor in the Council allowing its extension and conversion to residential use.

16. At my site visit I looked at the setting of 'Manyuema' and the relationship with 'Furzehill Place' in some detail. Although I suspect the character of the land has changed in more recent times with largely self set woodland, and there is now no evidence of the tennis court it has been dumped on, there was evidence of mature trees on the site consistent with the parkland of the main house. I also observed the railings with unusual detailing along part of the appeal site northern boundary which were consistent with others around the recognised estate and main building.
17. Given the physical and historical associations, I find that 'Manyuema' contributes to the significance of the listed building and should be regarded as having the status of being a curtilage listed building. However, in terms of the effect of the proposed building on the setting of 'Manyuema', I do not consider that the relationship would be a harmful one as the Council allege. There is a substantial distance between the existing and proposed buildings and the intervening space is woodland and the disused space of the tennis court. Further, although the proposed building is large, the timber clad walls and the tiled roof would not appear out of context with the current woodland setting of 'Manyuema', particularly as this is in the process of being greatly extended to accommodate the residential use allowed by the Council.
18. Overall, I conclude on this issue that while paying special regard to the desirability of preserving the setting of 'Manyuema', the building proposed would not adversely affect the setting of either 'Manyuema' or 'FurzeHill Place' and so the proposal does not conflict with saved policy HE4 of the Local Plan.

*Effect on general character*

19. In terms of the effect on the general character of the area, the Council agreed that a building clad in timber with a tiled roof would not in itself be harmful to the rural character of the area; the concern was about the height and scale of the building.
20. At my site visit I noted that the proposed site of the building was away from the public realm and that there was an area of woodland, and other land enclosed by trees outside of the site, before reaching the B3012 to the north. The proposed building would therefore not be prominent to public view or exposed in the landscape. I also noted other examples locally of fairly large scale buildings used for agricultural or forestry purposes and where a relatively high entrance door is required for use by farming or other large machinery.
21. On balance, as a matter of judgement, I do not consider that the proposed building, with the design and materials proposed, would have a harmful impact of the character of the surrounding area and its scale, proportions and form would reasonably accord with the requirements of saved Policy G5 of the Local Plan, given the agricultural justification put forward for the building.

*Planning Balance*

22. Bringing together my conclusions on the main issues, I have found that, on the specific and expert evidence available, the building is reasonably required for agricultural purposes on site and as such falls within a category of exceptional development in the Green Belt as set out in development plan

policy and the Framework and therefore does not constitute 'inappropriate development'.

23. I have also found that the proposal would not adversely affect the setting of either the curtilage listed building of 'Manyuema' or the main building of 'Furzehill Place'. As such the proposal would preserve these heritage assets. I have also found that the scale, proportions and form of the building would not be harmful to the general rural character of the area.
24. Given all these factors, I conclude that the erection of the building would accord with the exceptional case for agricultural development in the Green Belt set out in the development plan and the Framework. As the issue of 'inappropriate development' does not arise I do not need to consider whether there are 'very special circumstances' in this case.

### *Conditions*

25. In terms of conditions, the Council request that if the appeal is allowed conditions be imposed that define the plans approved in the interests of clarity, and also one to restrict the display of external lighting on the building. The Council also recommend a condition that the barn is demolished and the materials and foundations removed from the site, within a period of 6 months of the ceasing of agricultural operations on the site.
26. Dealing with the latter condition first, there was a discussion over this at the hearing and including the similar condition related to agricultural permitted development set out in A.2(5) of Part 6 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended. The appellant's agent submitted that such a condition was not relevant to this case as the GPDO one involved different legislative circumstances, and as the issue was not addressed in the Framework, the condition was not necessary in this case. However, it appears to me that the barn is put forward on the basis of agricultural need and the proper management of the holding/estate. If this need did not continue to arise in the long term, the building would cease to be an exceptional case and would be 'inappropriate development' in the Green Belt where the large building would also harm the openness of the area. This would be wholly at odds with the twin fundamental characteristics of a Green Belt – openness and permanence - as set out in paragraph 79 of the Framework. Therefore in order to avoid any exploitation of the 'agricultural exception' in the long term, it is reasonable and necessary that a condition is imposed to ensure that if the building is no longer necessary for agricultural purposes it must be removed from the land. I will therefore impose such a condition and I am satisfied that it meets the tests of conditions set out in paragraph 206 of the Framework, given the circumstances of the case.
27. In relation to the other conditions, I will impose a condition specifying the approved plans submitted with the application as this is reasonable and necessary in the interests of clarity. I will also impose one requiring samples and details of the external materials to be submitted to and agreed by the Council in order to maintain the character and appearance of the area, and the development shall be undertaken in accordance with these details.
28. Finally, the Council request a condition stating that no external lighting shall be fixed to the building. Nevertheless, given the relatively remote position of

the barn on the site and the relationship with other buildings I do not consider that a blanket restriction on all forms of external lighting is reasonable or necessary. I consider that some form of appropriate external lighting could be agreed between the appellant and the Council and I will impose a condition requiring the submission, agreement and implementation of a suitable scheme.

### **Conclusions**

29. For the reasons given above I conclude that the appeal should be allowed with the conditions that I have described.

*David Murray*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr G Humpreys

Appellant

Mr C Leigh

Planning Consultant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Harding,

Planning Officer, Guildford Borough Council.

Ms B Mogford

Conservation Officer, Guildford Borough Council.

### INTERESTED PERSONS:

Cllr. G Jackson

Local Councillor, Guildford Borough Council.

### DOCUMENTS

1 Sale particulars for Furzehill Place (CL)

## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location and block plan 04-01 Rev B; Proposed plans and elevations of the barn 04-02 Rev a.
- 3) The development shall not begin until a scheme for the provision of external lighting has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the scheme and thereafter no other lighting shall be fixed to the exterior of the barn hereby approved.
- 4) Should the agricultural use of the site permanently cease, the building hereby permitted shall be demolished in full, including the removal of its foundations and resultant materials. The demolition works shall be carried out within a period of six months from the agricultural use and operations ceasing.



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## Costs Decision

Hearing held on 4 November 2014

Site visit made on 4 November 2014

**by David Murray BA (Hons) DMS MRTPI**

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

**Decision date: 2<sup>nd</sup> December 2014**

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### **Costs application in relation to Appeal Ref: APP/Y3615/A/14/2225445 'Manyuema' Pirbright, Woking, GU24 0DN.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr G Humphreys for a full award of costs against Guildford Borough Council.
  - The hearing was in connection with an appeal against the refusal of an application for planning permission for the erection of a barn for storage and animal feed and machinery necessary for maintaining the estate.
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### **Decision**

1. The application for an award of costs is allowed on a partial basis in the terms set out below.

### **The submissions for the appellant**

2. It was said on behalf of the appellant that the Council had acted unreasonably, contrary to the guidance in the national Planning Practice Guidance, in that it had failed to provide evidence to substantiate each reason for refusal and in particular has made general assertions about the lack of agricultural justification which were not supported by objective analysis. Further, it had commissioned an agricultural assessment of the proposal but that it was not used in the decision.
3. The appellant said that the lack of dialogue with the Council over the proposal with no discussion, feedback or advice in this case was frustrating in terms of achieving a successful outcome, and that while the current case was decided quickly in weeks, previous proposals had taken months to be considered.

### **The response from the Council**

4. The Council had not been notified of the application for costs beforehand and were given time in the Hearing to form a response.
5. The Council said that the current proposal was materially different to previous proposals but the appellant had not sought pre-application discussions before submitting the scheme for the barn. There were delays in the previous application for a residential conversion and extension of the pavilion because of the uniqueness of the site and its historic heritage.
6. Although the agricultural advice sought came through after the application was considered the Council were still entitled to make a planning judgement on the

agricultural circumstance of the proposal on its stated merits and of the planning history of the site. Further, there was a clear concern about the effect of this large building on the Green Belt and the setting of what was considered to be a curtilage listed building. Given these fundamental planning problems, the Council decided it was not necessary to open negotiations on the proposal as discussions were unlikely to overcome the concerns.

## **Reasons**

7. The national Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
8. In this case, planning permission was refused for the erection of the barn on three grounds: – the lack of agricultural justification for the erection of a large new building in the Green Belt which resulted in the building being ‘inappropriate development; harm to the setting of a historic building which should be treated as a curtilage listed building; and harm to the general rural character and appearance of the area.
9. Given the written and oral evidence at the Hearing, together with the discussion at the site visit and my observations there, I am satisfied that the Council were able to substantiate the second and third reasons for refusal, even though I reached a different conclusion on these aspects in the planning balance. Both of these issues required a planning judgement to be made and the Council put forward expert and professional opinion to support the judgements made. I therefore find that the Council therefore did not act unreasonably in forming the views that it did.
10. However, in terms of the agricultural justification, clearly this also involved a professional judgement and the Council could reasonably take into account some of the officers’ knowledge of the nature of previous agricultural activity and assessments relating to the land, but these assessments may not have been wholly up to date. Having commissioned an independent expert appraisal on the agricultural justification for the barn and also of its size and layout, there was an onus on the Council to take the advice sought into account in concluding on this basic issue. Further, given that the appellant was likely to refer at appeal to this Council commissioned appraisal, the Council should have been able to substantiate the reason for their rejection of the agricultural case with clear evidence of a specialist nature.
11. Overall, I find that the Council has failed to produce sufficient evidence to substantiate this first reason for refusal that the proposal constituted ‘inappropriate development’ in the Green Belt, contrary to the Planning Practice Guidance, and that in this respect the appellant has been put to unnecessary costs in addressing this reason for refusal.

## **Conclusions**

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

**Costs Order**

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Guildford Borough Council shall pay to Mr Gary Humphreys the partial costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in dealing with the first reason for refusal as set out in the planning decision notice.
14. The applicant is now invited to submit to Guildford Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*David Murray*

INSPECTOR