The Planning Inspectorate

Appeal Decision

Site visit made on 11 October 2016

by Aidan McCooey BA MSc MRTPI

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

Decision date: 11 January 2017

Appeal Ref: APP/C3430/C/16/3152208
Fish Ponds Caravan Site, New Road, Featherstone, WV10 7NR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Billy Joe Timmins against an enforcement notice issued by South Staffordshire Council.
- 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 Council's reference is 16/00141/UNDEV.
- The notice was issued on 16 May 2016.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised development of land for a hardstanding on paddock land adjacent to the Fish Ponds Caravan Site, New Road, Featherstone.
- The requirements of the notice are
  1. remove the hard surfacing from the paddock area (edged in blue on the attached plan).
  2. remove all waste and material from the site generated from the removal of the hard surfacing.
  3. dispose of the rubbish removed from the site in the correct manner.
- The period for compliance with the requirements is three months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a hardstanding on paddock land adjacent to the Fish Ponds Caravan Site, New Road, Featherstone referred to in the notice, subject to the following condition:

    1. The hardstanding area hereby permitted shall be removed and all resulting materials shall be removed within 3 months of the date of failure to meet the requirements set out below:

       Within 3 months of the date of this decision the scheme for the proposed reduction of the hardstanding on the site shall have been carried out and completed in accordance with Plan 15_743A_002, dated 27/07/2016.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Application for costs

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

Procedural Matters and Background

3. The appeal is on ground (a) only. The Council's statement wrongly addresses ground (c), which is that planning permission is not required. The appeal form and the appellant's written representations clearly state that the appeal is made on ground (a) and then contains 25 pages of evidence in support of that ground. The appellant's statement and final comments have been sent to the Council. Despite this evidence, no case specifically addressing the grounds of appeal has been made by the Council.

4. The overall site is separated from the road by high hedging. An electric close-boarded gate affords access to the caravan site and associated land. The hardstanding area enforced against is within a paddock separated from the caravan site by high hedging and a gate. The paddock is enclosed by extensive vegetation and hedging on all sides. The hardstanding is adjacent to a stable building and was partly in use for the storage of horse boxes and carts.

Main Issue

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy, particularly having regard to the effect on openness and the purposes of the Green Belt.
- If the development is inappropriate in the Green Belt, 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

6. Policy GB1 of the Council's adopted Core Strategy Development Plan (CSDP) allows for certain types of development to be approved within the Green Belt. The list of acceptable types of development does not align with the NPPF. It does not set out the test for development in the Green Belt within paragraph 87 of the NPPF in terms of inappropriate development and the approach to very special circumstances. I therefore conclude that Policy GB1 is inconsistent with the NPPF and should be attributed less weight in the consideration of this appeal.

7. The appellant argues that the hardstanding area constitutes a building by virtue of the definition of a building within Section 336 of the Act, and Section 55 of the Act, which defines building operations to include other operations undertaken by a person carrying on business as a builder. I do not agree that an area of hardstanding can be considered to be a structure or a building. Nor can it be construed to be a necessary part of a building. The exceptions listed in paragraph 89 of the NPPF do not therefore apply.

8. The hardstanding is rather an engineering operation. Paragraph 90 of the NPPF states that this type of development is not inappropriate provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within the Green Belt.

9. The hardstanding and associated storage of horse boxes and carts has a detrimental effect on the openness of the Green Belt and represents encroachment into the countryside contrary to the purposes of the Green Belt. The same issues arise even if the extent of the hardstanding were to be reduced. The hardstanding is therefore inappropriate development in the Green Belt.

10. I must now consider whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The development is associated with existing stables. The lawful planning status of these stables has not been challenged by the Council. The existence of the stables and the close relationship of the hardstanding with them is an important factor. The hardstanding provides access to the stables. It is to be expected that access and some storage of horse boxes, etc. would be associated with stables. However, the degree of hardstanding exceeds that which could be legitimately claimed to be normally necessary for stables of this size. The appellant has put forward a plan to reduce the hardstanding to the area between the access and the stables. It is stated that this reduced area would enable a vehicle and horse box to enter the site and turn around so as to exit safely. This appears to be a reasonable arrangement to serve the stables, which has not been disputed by the Council. I consider that these factors outweigh the limited harm caused by the development so as to amount to the very special circumstances necessary to justify the development.

11. The visual impact of the development is minimal due to the fact that the site is screened from view. The hardstanding therefore has little impact on the character and appearance of the area. This is an additional factor in favour of allowing the scheme.

12. The Council did not identify any harm caused by the development in its submissions. There is reference to an existing injunction on the land preventing the creation of hard surfacing on the land. This does not prevent the granting of planning permission for an area of hardstanding following due consideration of an application. The reasons for issuing the EN also refer to the site's location in a Green Belt and conflict with Policy GB1. Paragraph f) of that policy contains a similar test for engineering or other operations to that set out in paragraph 90 of the NPPF. The development would therefore comply with category f) of Policy GB1 for the reasons set out above. There is no other identified harm as a result of the development.

13. A condition is necessary to require the appellant to comply with a strict timetable for dealing with the reduction in the area of hardstanding which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the implementation of the reduction in the area of hardstanding because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the reduction in the area of hardstanding is not then implemented in accordance with the approved timetable. Should the requirements of the condition not be met in line with the strict timetable I have imposed, then the planning permission falls away. The details of the reduced area have been provided and the Council has not raised any issues with the submitted plan. I therefore see no need for the submission of any further details for approval.

Conclusion

14. For the reasons given, I conclude that the development is inappropriate development because it fails the tests set out in paragraph 90 of the NPPF, which is the relevant paragraph. I consider that the reduction of the area of hardstanding and the fact that it is necessary to serve the existing stables outweighs the harm caused by the development so as to amount to the very special circumstances necessary to justify its approval. Having considered all the matters raised, I quash the EN, allow the appeal and grant planning permission subject to a condition requiring the area of hardstanding to be reduced as discussed above.

A L McCooey

Inspector