

Appeal Decision

Site visit made on 30 May 2017

by Pete Drew BSc (Hons) DipTP (Dist) MRTPI

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

Decision date: 8 June 2017

Appeals A & B Ref: APP/R5510/C/16/3163200 & 3163365

Land at Rainbow Industrial Estate, Trout Road, West Drayton UB7 7XT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 [hereinafter "the Act"] as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Peter Sharma, World Trade 2000 Limited, and Mr Peter Murphy, Troutbourne LLP, respectively, against an enforcement notice issued by the Council of the London Borough of Hillingdon.
 - The enforcement notice, numbered VA/ENF/10341, was issued on 17 October 2016.
 - The breach of planning control as alleged in the notice is: Without planning permission the use of the Land for car parking (Sui generis Use Class on Land at Rainbow Industrial Estate, Trout Road, West Drayton UB7 7XT ("the breach")).
 - The requirements of the notice are: (i) cease the use of the Land for car parking; (ii) cease the use of the mobile cabin in connection with the use of the Land for car parking and remove same structure from the Land; (iii) Remove from the Land all vehicles and all fixtures and fittings that facilitate the use of the Land for car parking.
 - The period for compliance with the requirements is one (1) calendar month.
 - Appeal A is proceeding on the grounds set out in section 174(2) (a), (b) and (g) of the Act and Appeal B is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.
-

Both appeals: Decision

1. The ground (a) appeals are allowed and the enforcement notice is quashed. Planning permission is granted on the applications deemed to have been made under section 177(5) of the Act for the use of the land for car parking on land at Rainbow Industrial Estate, Trout Road, West Drayton UB7 7XT, subject to the conditions in the *Schedule of Planning Conditions* appended to this decision.

Initial procedural matters

2. At the date of my inspection it was agreed that the "*mobile cabin structure*", as described on the face of the notice and shown in the photograph dated 6 April 2016 within the Council's appeal statement, had been removed. However no case has been made that the structure was not sited on the land edged red on the notice plan on the date the notice was issued and so it would not be appropriate to delete reference to the structure from the face of the notice. Crucially the allegation informs the terms of the deemed planning application and this relates solely to the use of land. For this reason this material change of circumstances does not alter the ambit of the deemed application, but it does mean reason f) in section 4 of the notice does not fall to be considered.
3. It was also evident during my inspection that what I shall call a container was stationed broadly within the centre of the land edged red on the notice plan on that date. The container is affixed with security lights and I was told it was the control point for a system of CCTV, and so it follows that it is connected to the electricity supply. On the limited evidence before me it is unclear whether it was stationed on the land on the date of issue of the notice as, amongst other

things, it is not evident in the Council's photograph dated 6 April 2016. Since there is no express reference to it on the face of the notice I would exceed my jurisdiction if I were to express a view on whether it comprises a structure or a use of land. It is clear that the container is not "*the mobile cabin*" referred to in requirement (ii) as that relates to the structure referred to in reason 4.f) of the notice and in the Council's photograph. In these circumstances, since the container would not appear to be within the scope of the notice, perhaps because it was stationed on the land after 17 October 2016, I shall approach the deemed application on the basis that it does not include the container. In those circumstances it becomes a matter for the parties which, conceivably, might require a separate notice or grant of planning permission depending on the view that is taken as to whether it has involved a building operation.

Appeal A: Ground (b)

4. Under this ground of appeal the Appellant [singular in Appeal A] needs to show that: "*...the breach of control alleged in the enforcement notice has not occurred as a matter of fact*" [as per section E. (b) of the appeal form]. The Planning Practice Guidance [*'the Guidance'*] makes clear¹ that in enforcement appeals the onus of proof in respect of matters of fact is on the Appellant.
5. The grounds of appeal admit: "*The boundaries of the site are clearly marked and identifiable*". However it is said that, at the time of "*serving*" the notice the land was in mixed use for: "*...the parking of cars and use of land in connection for construction purposes in connection with a residential development on an adjoining site*". Given what I say below there would appear to be a degree of tension between those respective arguments.
6. The first point is that the date of issue and date of service might not be the same. There is no evidence as to what use[s] were taking place on the appeal site on the date of issue of the notice. Even if that might be a pedantic point, there is simply no evidence, distinct from assertion, to support the contention that the land was in mixed use on the date the notice was issued. It is admitted that the use of the land for the parking of cars was taking place and in the absence of evidence as to any other use subsisting on the date of issue the ground (b) must fail because the onus of proof has not been discharged.
7. In reaching this view I record that at the time of my site inspection a relatively small portion of the land edged red on the notice plan, adjacent to the building under construction to the north of the appeal site, was fenced off as part of the building site. It follows that this area was not solely in use for car parking on that date. The boundary of the land currently used by the Appellant is clearly defined on the ground but that does not correspond to the land edged red. Although I have considered whether this small area should be excluded from the land edged red, by correcting the notice and substituting a revised plan, on the limited evidence before me I cannot be satisfied that this was the position on the date the notice was issued. As such I decline to correct the notice and shall consider the deemed application in relation to the original area edged red.

Consequential procedural matter

8. At final comments stage² the Appellant in Appeal A³ has said they are unaware as to whether the "*owners*" of the land that is fenced off as part of the building

¹ See for example paragraph: 053, Reference ID: 16-053-20140306.

² Note: these final comments were submitted on the Bank Holiday Monday and hence I did not see them until after the site visit had been convened.

site, as described above, have been served with a copy of the notice by the Council. However the Appellant in Appeal B is the owner of the land⁴ and so I can be satisfied that the owner was served. No ground (e) appeal has been lodged by the owner to suggest that the notice was not properly served on everyone with an interest in the land. Accordingly, whilst I have considered the possibility that an occupier, such as the building company, should have been served with a copy of the notice, since no such claim has even been advanced by either Appellant, I have no basis on which to make such a finding.

Both appeals: Ground (a), planning merits

Background

9. The Design and Access Statement that was submitted in support of a planning application for the use of the land that presently subsists, which the Council did not register, says the occupier operates an airport related meet and greet valet parking service, together with hotel overflow parking. It is said the parking activity operates on the basis that customers drive to Heathrow where they are met by a valet who takes their car to the car park for the duration of their trip. On the customer's return to Heathrow their car is delivered by the valet to the terminal. The capacity of the site is approximately 500 car parking spaces⁵ and it is reported that there is a maximum of 70 (35 in and 35 out) vehicular movements per day during busy holiday periods, such as during the month of August. In a non-busy period, the expected maximum vehicular movement per day is 20 (10 vehicles in and 10 out of the site)⁶. Nothing that I saw during the hour that I observed the entrance would lead me to challenge these claims and it is significant that the Council has not provided any evidence to dispute them.
10. No case is made that a permanent planning permission is sought for the alleged use. Paragraph 2.26 of the Appellant's statement in Appeal A says: *"The appeal proposal primarily seeks planning permission for a temporary change of use of the land for a 12-month period for the storage/parking of cars"*. Paragraph 5.2.18 of the Appellant's statement in Appeal B confirms: *"...planning permission could be granted and reasonably conditioned for a temporary 12 month period only"*. I shall approach ground (a) on this basis whilst making clear that the allegation is one of car parking and not storage.

Main issues

11. There are 4 main issues that fall to be determined in the ground (a) appeals. The first is whether the use would result in an unacceptable increase in vehicular movements or traffic congestion in the area. The second is the effect of the development on air quality. The third is the susceptibility of the development to flood risk. The fourth is the effect of the development on the character and appearance of the area, including the Grand Union Canal.

Planning policy

12. The Development Plan [DP] includes the London Plan [LP], Hillingdon Local Plan: Part 1 – Strategic Policies [SP] and the Unitary Development Plan [UDP],

³ Section D of the appeal form, received on 15/11/2016 at 14:20 hours, confirms this Appellant is a tenant.

⁴ As confirmed by section D of the appeal form, which was received on 16/11/2016 at 17:39 hours.

⁵ This is the Appellants' evidence and so should be preferred to the Council's estimate of just 200 vehicles but given this candid admission, which could have been used to defeat the objective to secure a temporary planning permission, this might be said to indicate that the estimate of vehicular movements is an honest assessment.

⁶ The source for this information is the tenant's email dated 9 August 2016 which, amongst other things, says the vehicular movements in and out are focussed between the hours of 1000-1200, 1330-1500 and 2100-0030.

which were adopted in March 2016, November 2012 and September 1998, respectively. The Appellant in Appeal B says LP Policies 3C.1, 3C.6 and 3C.23, which are referred to on the face of the notice, have been superseded by LP Policies 6.1, 6.6 and 6.13. Paragraph 2.10 of the Council's statement admits these were cited in error, but whereas it says the reference to LP Policy 5.12 was also an error the Appellant in Appeal B says that policy remains extant. I note however that the Council continues to rely on LP Policy 5.12 at paragraph 2.28 of its statement. As such I intend to proceed on the basis that it is agreed that LP Policy 5.12 remains extant and relevant to the deemed application.

13. The UDP pre-dates the National Planning Policy Framework ["the Framework"] and so relevant policies including AM2, AM7 and OE1 fall to be assessed against paragraph 215 of the Framework. Whilst no party has given reasons why these policies are inconsistent with the Framework I note that UDP Policy OE1 says planning permission will not normally be granted. In my view that negative wording does not reflect the presumption in favour of sustainable development and on that basis I attach this policy, which was adopted over 18 years ago in a different national policy context, only moderate weight.
14. The Council's statement says the emerging Hillingdon Local Plan: Part 2 is scheduled for adoption in 2017. However the Council has not referred to any relevant policies and in these circumstances I am unable to attach anything but very little weight to the limited contents of the emerging plan before me.
15. The face of the notice alleges no conflict with the Supplementary Planning Guidance [SPG] entitled "*Air Quality*", but the Council's statement introduces such a conflict. The supporting text to UDP Policy OE1, in paragraphs 6.1-6.4, contains no cross-reference to the SPG and whilst I have noted the passing reference to the UDP Policy in paragraph 4.2 of the SPG the emphasis in this paragraph is on UDP Policy OE6, which is not a saved policy. Amongst other things paragraph 1.6 of the SPG refers to a range of national guidance which pre-dates that listed in Annex 3 of the Framework, which comprises a list of national policy documents that was revoked and replaced by the Framework. It is material that Annex 2 of the Framework does not define SPG, all of which underlines, particularly in the context of my concern about the wording of UDP Policy OE1 itself, that it is appropriate to attach very limited weight to the SPG.

Reasons

(i) Highway impact

16. The Appellant in Appeal A says the baseline position for assessing the appeal is the lawful use of the site against which the planning permission granted on 23 July 2014⁷ was assessed. I disagree because, following the clearance of the buildings on the site, there must be considerable doubt as to whether the site has a lawful use. Any historic use of the land⁸ would appear to have been lost with the demolition of the buildings and no Lawful Development Certificate [LDC] has been drawn to my attention to substantiate a claim to a lawful use. This finding is without prejudice to any LDC application that might be made but, for this reason, it is appropriate to make comparison to the permitted use.

⁷ Outline planning permission 38058/APP/2013/1756 which, whilst not implemented and on the balance of probability not capable of being implemented within 3-years of the grant, is the subject of a reserved matters application [No 380584/APP/2017/1340] that might engage the second limb of condition 1 of the permission.

⁸ Edged red on the plan attached to the notice and hence this analysis does not seek to dispute the lawfulness of the remaining buildings that stand within the larger site that is the subject of the outline planning permission.

17. Table 2 of the PBA Technical Note dated August 2016 says that over a 17-hour day [0700-2400 hours] that the level of vehicular movements generated by the permitted proposal is estimated to be over 350 trips, including 46 in the morning peak hour and 45 in the evening peak hour. The Note acknowledges that this level of movements applies to an area larger than the appeal site⁹, but the land edged red on the notice plan comprises almost 60 % of the permitted area¹⁰. Simple maths determines that the maximum level of daily movements is only 20 % of those permitted and the number of vehicular movements is noticeably less in the morning and evening peaks. Thus, even making some allowance for the activities that still operate from the buildings within the residual 0.9 ha, it is clear the level of vehicular movements is significantly less than that likely to be generated by the permitted use.
18. In light of the above, whilst the Council might be technically correct to suggest that the unauthorised use has resulted in an increase in vehicular movements when compared to a nil use, following the demolition of the buildings, the level of increase appears to be well below that which the Council has permitted. In that context the Council has not explained why this level of increase would result in traffic congestion in the local area. The PBA Technical Note says junction capacity assessments conducted at 5 nearby junctions indicate that they operate efficiently and within practical capacity in all scenarios. The Council has provided no evidence to dispute this. So whilst I acknowledge that the parking associated with the permitted scheme is designed to serve the mixed use development, that does not alter my conclusion that the level of movements is less than that which the Council has previously found to be acceptable, such that it would not compromise the operation of the network.
19. In the circumstances I find no conflict with UDP Policy AM2 because the level of traffic generation and impact on the highway network is less than that which the Council has already permitted. I also find compliance with UDP Policy AM7 because the level of traffic generation is acceptable and the activity would not unacceptably increase the use of junctions at or near capacity, or prejudice the free flow of traffic or conditions of highway or pedestrian safety. With regard to the latter I note that the Council has put forward a suggested condition to deal with pedestrian visibility, which the Appellant in Appeal B has accepted.
20. With regard to LP Policies 6.1, 6.6 and 6.13, my starting point is that no conflict was alleged with these policies on the face of the notice. Paragraph 2.24 of the Council's statement appears to draw out the salient point to be that they seek to encourage development that is less reliant on access by private cars; I agree. However I find no basis to conclude that these policies preclude the provision of car parking on a temporary basis as is now proposed. Pending completion of works to the Elizabeth Line and the consequential improvements to train services to Heathrow, these policies provide no basis to support a zero tolerance approach to off-airport parking. Whilst the Council might not go that far, its statement does not clearly explain why it has found a conflict with LP Policies 6.1, 6.6 and 6.13 in the circumstances that prevail here.
21. On the first main issue I conclude the use would not result in an unacceptable increase in vehicular movements or unacceptable traffic congestion in the area

⁹ The sentence refers just to Table 1 and not Table 2, which I rely on for the reason identified previously, but there is no reason to find that this rationale does not equally apply to Table 2.

¹⁰ The appeal site is 1.25 ha whereas the permitted site extends to around 2.15 ha.

and for the reasons identified at length above I find no conflict with pertinent DP Policies.

(ii) Air quality

22. The appeal site is within the Hillingdon Air Quality Management Area [AQMA] and proximate to the West Drayton/Yiewsley Hillingdon Focus Area; indeed the eastern corner of the site appears to fall within that area, assuming that the plan provided at final comments stage is not indicative. It would also appear to be the case that vehicular access to the site is obtained past properties where public exposure is equal to or above 36ug/m³ NO₂ [nitrogen dioxide].
23. The Council says vehicle movements result in an adverse cumulative impact from vehicle emissions but, for the reasons outlined above, trip generation is likely to be significantly less than that which the Council has already permitted. The planning permission was granted in 2014, which is after the release of the LAEI data in 2013 and it is unclear what the update in April 2017 was. Whilst it is claimed that at outline stage there was not enough detailed information to undertake a full air quality assessment, that is the planning permission. Unless the issue was reserved by condition there is no scope to revisit air quality.
24. The reserved matters required by condition 2 are appearance and landscaping. The conditions that relate to air pollution include Nos 21 and 25, which require a scheme to be agreed to protect the proposed accommodation from air pollution, and Nos 22 and 23, which relate to energy provision. There is no condition to require a travel plan beyond condition No 24, which relates to the construction phase. On this basis any air quality restrictions that the Council seeks to impose at reserved matters stage are unlikely to relate to vehicles.
25. My view is confirmed by the terms of the "*Air Quality Assessment*", which was submitted with the outline planning application. Table 7 and paragraph 6.11 thereof confirms that the predicted maximum increase in NO₂ concentrations as a result of traffic associated with what is now the permitted development would be "*imperceptible*". This leads to the conclusion, at paragraph 7.3, that such emissions would "*...have an insignificant impact on local air quality*". It follows that the reason this aspect of pollution was not reserved by condition is that the matter was satisfactorily addressed at the outline application stage.
26. In the circumstances, since I have already found that the trip generation from the unauthorised use would be materially less than that which the Council has permitted, I am unable to find a policy conflict. In the context of the evidence base that led the Council to permit the redevelopment of the site, the Council has not explained why it has reached a different conclusion in respect of a use that generates fewer trips, when tested against the same policy framework.
27. The Council's assertion that that the level of trip generation would produce additional vehicle emissions compared to a comparable public car park is not based on evidence, whether from the TRICS database or otherwise. Given the relatively long-term nature of the stays, when customers go abroad on holiday, the claim appears to be intuitively false. In any event, whilst this point is made in the context of air quality I have given reasons to prefer the Appellants' evidence on trip generation which this assertion does not cause me to revisit.
28. The Appellant in Appeal A says that the Council's comments with regard to the local economy are bewildering and difficult to fathom. Whilst the operator's drivers might need to drive to and from their homes to the site, this would be

no different than for any other employment generating activity. I have no reason to doubt the employees live and work locally but, with the multiplier effect, that appears to be a positive advantage to be weighed in the planning balance, rather than a negative factor. Even if the employee trip generation is on top of the previously quoted figures that would not alter my earlier findings.

29. On the second main issue, since NO₂ emissions would be below those which the Council has permitted on the site, the use would not be detrimental to the character of surrounding properties or the area, and so I conclude that the use would not have a harmful effect on air quality or conflict with UDP Policy OE1.

(iii) Flood risk

30. The reason given by the Council for not registering the retrospective planning application that was submitted to the Council in August 2016 is that it was not accompanied by a Flood Risk Assessment [FRA]. That omission has now been remedied in the sense that an FRA has been submitted to support the deemed planning application. It concludes that the use of the site as a temporary car park is appropriate in Flood Zone 1; having regard to the Guidance, I agree.
31. The Council has given me no basis to dispute the FRA's broad conclusion that the use would be at negligible risk of flooding, but at final comments stage it has focussed on the issue of surface water drainage. I accept, on the basis of the basis of the excerpt from the long-term flood risk map and the related aerial photograph, that there are areas within the site that are susceptible to ponding. However the FRA identifies this issue in reaching its overall finding.
32. Although the demolition of the buildings could alter the extent of such ponding, there is no evidence to support the assertion that this might cause flooding to nearby properties. The area of medium susceptibility appears to be focussed around two sides of a now demolished building¹¹ and hence the new area that is most likely to be affected is the footprint of that building, within the site. By definition ponding is a static area of water and hence I reject the suggestion that the demolition of buildings would alter the flow of water across the site.
33. The Council states the FRA contains no information on previous and existing levels, but paragraph 2.2.1 of the FRA identifies what are said to be "*current*" ground levels. Whilst, given their source¹², there is a degree of ambiguity as to whether they take account of any works of demolition, my inspection confirmed that the water level in the canal was higher than areas of the appeal site¹³. On this basis the ground levels do not appear to have materially changed.
34. The Council says that there are no details of the existing methods for managing surface water, but paragraph 2.5.1 of the FRA provides some details of existing discharge arrangements; there are also cross-references to the Ramboll report. The appeal site is previously-developed land and there has been no increase in the amount of hard surfaced area. There might not have been betterment, but the existing drainage arrangements do not appear to have changed. There is no evidence the works of demolition caused blockages, but I consider checks would be part of sensible ongoing management of the land in any event. This is not therefore a sound reason to refuse planning permission for this use.

¹¹ See legend and detail on Map 2 in the Council's final comments.

¹² The report prepared by Ramboll, the date of which is not definitively stated.

¹³ See paragraph 2.4 of the Ramboll report.

35. Although it is claimed that the use of those parts of the site that are vulnerable to ponding may be inappropriate for car parking, as paragraph 1.5.2 of the FRA infers, that is ultimately a matter for the business and its insurer. Paragraph 3.2.4 of the FRA suggests that depths are unlikely to exceed 300 mm and whereas a source of flooding such as a river might be unpredictable, surface water ponding might be more capable of being anticipated or monitored, for example by the onsite security staff, to allow for vehicles to be moved.
36. Paragraph 3.2.6 of the FRA indicates that the Council's own Preliminary Flood Risk Assessment, dated May 2011, indicates that there are no recorded incidents of surface water flooding in the vicinity of the site. This claim has not been challenged. In the circumstances, whilst I have no reason to doubt that a significant rainfall event has occurred in the Borough at least once a year over the last 3-years, the Council's objection on the grounds of flooding appears to be overstated. In my view it is highly material that only a one year temporary planning permission is sought and does justify not doing further works.
37. In that context it would be disproportionate to require a sustainable drainage system [SuDS]. In reaching this view I have taken account of the House of Commons Written Statement [HCWS161] made on 18 Dec 2014. The distinction I draw for not applying it, in the absence of it having been demonstrated that a SuDS would be inappropriate, is that it would not be reasonable to impose a condition to require a SuDS on what is expressly sought to be a one year temporary permission. To impose such a condition would therefore be contrary to the policy in paragraph 206 of the Framework. Indeed it is noticeable that the Council has not even suggested that a SuDS condition should be imposed, despite the absolute terms of SP Policy EM6 and the absence of an assessment to demonstrate that it would not be viable. This material consideration therefore outweighs the breach of the policy.
38. On the third main issue I conclude that the use is appropriate in Flood Zone 1 and that vehicles would be at negligible risk of flooding from surface water or other sources. As such I find no conflict with LP Policy 5.12, SP Policy EM6¹⁴, the Framework or the Guidance.

(iv) Character and appearance

39. SP Policy EM3 seeks the positive enhancement of strategic canal corridors such as the Grand Union Canal, which runs along the south-west boundary of the appeal site; it seeks to enhance local character and achieve sustainable access. It is acknowledged that the deemed application offers nothing to achieve these positive objectives, but the realistic alternative is a vacant site, over the next 12 months or so, whilst the reserved matters are considered and the various conditions are discharged. In that context an active use is certainly no worse and in some senses better than an empty, derelict site. Use of the site for car parking appears to be in line with some of the car related activities that exist in the area, for example on Trout Road. In character terms this is a mixed use area in transition and I find no basis to conclude that the use is unacceptable. The vehicles are not prominent when viewed from public vantage-points around the perimeter of the site and so such a commercial use would not harm the appearance of the area, particularly in view of its historic employment use.
40. On the fourth main issue I conclude that a temporary endorsement of the use would not harm the character and appearance of the area, including the Grand

¹⁴ Note: this relates to the broader issue of flooding distinct from the SuDS issue addressed separately.

Union Canal. The use would not enhance, as required by SP Policy EM3, but the temporary nature of the permission and the realistic fallback are material considerations that outweigh the policy conflict in this instance.

Other matters

41. There is a dispute between the parties with regard to car parking standards, but this is academic in the circumstances of the deemed applications because what is significant, and what I have focussed on, is trip generation.
42. For completeness, given the indication that vehicular movements to and from the site are focussed in the period up to 0030 hours, I have considered the effect of such movements on neighbours' living conditions. However it is material that this is not a matter that has been raised by the Council in its statement. Moreover, despite notifying neighbours about the appeal, no correspondence has been received raising concerns about these movements. Given the relatively modest total number of vehicular movements likely to be involved and the broader noise climate, including the nearby main railway line and sources of traffic noise in the area, there is no evidence to show that such movements would harm neighbours' living conditions, still less disturb sleep.

Conditions

43. The Council has suggested 4 conditions, which I have tested against the policy in paragraph 206 of the Framework. The first is a condition precedent that seeks a scheme for the control of noise emanating from the site, but given that the use subsists this form of condition is inappropriate. I have considered whether a condition should be imposed to deal with the substantive issue of noise, but as the permitted use would be parking the likely sources of noise arise as a direct consequence of what is permitted. Thus, by way of example, noise might arise from vehicles being manoeuvred on site or taken to and from the site, but that is inherent to the permitted use and, as I have noted, there has been no complaint on the grounds of harm to neighbours' living conditions. In the circumstances, taking account of the temporary nature of the planning permission that will be granted, which would mean that substantive works such as a noise barrier would be unreasonable, I decline to impose such a condition.
44. The second is again in the form of a condition precedent and hence my earlier comments apply. The substance of the suggested condition seeks details of traffic arrangements including, bizarrely, disabled parking. The Council could have alleged that the sight lines at the access were substandard but it has not done so. Noting that both Appellants object to this condition the one point that does appear to be reasonable and necessary is to ensure that there is provision on the site for vehicles to turn and enter the highway in forward gear. Given the transient nature of the parking, which would not be confined to marked spaces, I see no need for details of the turning area to be agreed with the Council and so I shall merely impose a condition to ensure that a turning area is available at all times within the site boundary to enable vehicles to turn. In my view such a condition meets the tests in the Framework and would not be onerous on the Appellants because it is probably done in practice already.
45. As I have already noted the Appellant in Appeal B has agreed to a condition with regard to visibility splays for pedestrians and I have noted the policy basis for its imposition. Whilst I acknowledge the final comments submitted by the Appellant in Appeal A, I therefore intend to impose the suggested condition.

46. The fourth suggestion relates to floodlighting and I note that the Appellant in Appeal B has agreed to its imposition. It is part of the use of land and so it is relevant to planning and the development to be permitted, and for these reasons I do not agree with the arguments that have been made against its imposition. However given what I observed during my inspection the condition needs to be refocussed so that details of the floodlighting that exist are reviewed and potentially revised prior to any agreement that might be reached.
47. Finally a condition is necessary to limit the duration of the planning permission in line with what both Appellants seek and I shall adapt the model condition in Annex A to Circular 11/95 "*Use of conditions in planning permission*" for that purpose.

Both appeals Ground (a): Overall conclusion

48. For the reasons given, and having regard to all other matters raised, I conclude that the ground (a) appeals should be allowed, subject to the conditions that I have identified.

Appeal B Ground (f) and both Appeals Ground (g)

49. Given my findings on the deemed applications, since the enforcement notice will be quashed these grounds do not fall to be determined.

Both appeals: Conclusion

50. For the reasons given, and having regard to all other matters raised, I conclude that the appeals should be allowed and the enforcement notice quashed. I shall grant planning permission on the applications deemed to have been made under section 177(5) of the Act.

Pete Drew
INSPECTOR

Schedule of Planning Conditions

1. The use hereby permitted shall be for a limited period of 12 months from the date of this decision. The use hereby permitted shall be discontinued and the land restored to a condition to be agreed with the Local Planning Authority on or before the expiration of the period of 12 months from the date of this decision, in accordance with a scheme of work that shall first have been submitted to and approved in writing by the Local Planning Authority.
2. The use shall at all times be operated to enable vehicles to turn within the site boundaries so that they may enter and leave the site in forward gear.
3. The access from St Stephen's Road shall be provided with those parts of 2.4m x 2.4m pedestrian visibility splays which can be accommodated within the site in both directions and shall be maintained free of all obstacles to the visibility between heights of 0.6m and 2.0m above the level of the adjoining highway.
4. Within one month of the date of this decision details of the floodlighting and other sources of external lighting that have been installed on the site shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, height, type and direction of light sources and the intensity of the illumination. The approved scheme shall be implemented within one month of the date of its approval and, where necessary, any external lighting that is not so approved shall be removed within that timeframe. Any lighting that is approved shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance which does not change its details.