
Appeal Decision

Site visit made on 4 July 2017

by **D H Brier BA MA MRTPI**

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

Decision date: 17 July 2017

Appeal Ref: APP/J1860/C/16/3168230

Land on the east side of Tewkesbury Road, Upton-upon-Severn, Worcester WR8 0PW

- 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 appeal is made by Mr M Southall against an enforcement notice issued by Malvern Hills District Council.
- The enforcement notice was issued on 22 November 2016.
- The breach of planning control as alleged in the notice is the laying of a hardstanding and the change of use of the land from agriculture to a mixed use of agriculture and use for the parking of vehicles.
- The requirements of the notice are:
 1. Cease the use of the land for the parking of vehicles.
 2. Remove the hardstanding from the land and reinstate the land to its former condition before the breach took place as grassed agricultural land.
 3. Remove lawfully all resultant materials from the land.
- The period for compliance with the requirements is 2 months.

The appeal is proceeding on the grounds set out in section 174(2) (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the notice is upheld with a variation.

Appeal on Ground (f)

1. No issue is taken with first requirement; the appellant's case focuses upon the stipulation that the hardstanding be removed, something that, it is contended, is "onerous and excessive".
2. The appellant's assertion that the lawful use of the land is agricultural, and that the rest of the area, apart from the hardstanding (indicated in green on the enforcement notice plan), is used for that purpose, has not been called into question.
3. Hardstandings associated with agriculture are by no means unusual, but in my experience, they are generally linked to larger holdings than the appeal site. In this instance, no indication has been given as to whether the appeal site forms part of a larger farm holding as opposed to, as the appellant puts it, "the field" which, as I saw, is currently down to grass.
4. It is not claimed that the apparent absence of an agricultural hardstanding has impaired the operation or efficiency of the agricultural enterprise here. Nor has anything that points to a pressing need on the part of the appellant to find somewhere to store the items referred to, namely agricultural implements and associated "essentials", been put forward. The very fact that the hardstanding

appears to have been provided for, and is being used for, a purpose wholly unrelated to agriculture strongly suggests otherwise.

5. I accept that, as a flat hard surfaced piece of land, the hardstanding in question has the potential to be used in association for agriculture. However, the circumstances of this case are such that neither this, nor the other points raised by the appellant, are matters to which I attach a great deal of weight.
6. In the light of the foregoing, I find the requirements of the notice represent a reasonable response to the breach of planning control alleged therein. I do not find them excessive. Accordingly, therefore, the appeal on ground (f) fails.

Appeal on Ground (g)

7. The hardstanding effectively provides overspill parking for the businesses based at Grove House Yard nearby. The contention that parking for staff and visitors there is severely limited has not been challenged. Having visited Grove House Yard during my site inspection, this appeared to me to be a genuine issue.
8. The appellant has endeavoured to address this, but although I have been acquainted with his attempt to obtain planning permission for an extension to the yard which includes provision for additional parking spaces, this has not proved successful to date¹. I am also mindful that section 78 appeal concerning the disputed hardstanding was dismissed in November 2016².
9. The dilemma faced by the appellant could have implications for the functioning of Grove House Yard and some, at least, of the businesses located there. This is not a matter I set aside lightly. Be that as it may, extending the compliance period to 18 months, as sought by the appellant would, in my view, be tantamount to granting a temporary planning permission. In the light of the reasons why the notice was issued, I do not consider this would be appropriate here.
10. On the other hand, while it seems to me that the 2 month compliance period is sufficient insofar as undertaking the physical works required is concerned, it does not give much time for the appellant to make alternative arrangements, especially if this necessitates seeking and obtaining planning permission. Taking all this into account, I consider the 2 month compliance period is unreasonably short - a 6 month period would be more appropriate to assist the appellant with his endeavours. I appreciate that this is a good deal less than the 18 month period sought by the appellant, but I am mindful that section 173A (1) (b) gives the Council the discretion to extent the compliance period if need be.
11. The appeal on ground (g) therefore succeeds to the limited extent described. The notice will be varied accordingly.

Formal Decision

12. I direct that the notice be varied in section 6 by the deletion of "2 calendar months" as the period for compliance and its substitution by "6 months".

¹ An appeal against Worcestershire County Council's refusal to grant planning permission for an extension of yard associated with an existing waste transfer station, reference APP/E1855/W/16/3164484, was dismissed on 25 May 2017. This decision is currently the subject of a section 288 challenge.

² Appeal decision APP/J1860/W/16/3145698 dated 8 November 2016.

Subject to this variation, I dismiss the appeal and uphold the enforcement notice as varied.

D H Brier

Inspector