
Appeal Decision

Hearing Held on 25 July 2017

Site visit made on 25 July 2017

by Paul Dignan MSc PhD

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

Decision date: 14 August 2017

Appeal Ref: APP/W0340/X/17/3167986

Former GAMA site, Greenham Common, Basingstoke Road, Thatcham, Berkshire, RG14 7HQ.

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Flying A Services Ltd against the decision of West Berkshire Council.
 - The application (Ref. 15/01369/CERTE), dated 18 May 2015, was refused in part by the Council by notice dated 25 July 2016.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is Use of the property for internal storage within class B8.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Application for costs

2. At the Hearing an application for costs was made by Flying A Services Ltd against West Berkshire Council. This application is the subject of a separate Decision.

Reasons

3. The application and appeal site was formerly part of the Greenham Common Air Base. The Ground Launched Cruise Missile Alert and Maintenance Area (GAMA) was a secured area by the western end of the runway used for the storage and maintenance of armourments, including nuclear warhead armed cruise missiles. It comprises extensive open areas and numerous buildings, including 6 specialised cruise missile storage bunkers and 5 large general munitions storage buildings (known as Igloo Bomb Stores), along with large garage and maintenance buildings and a number of smaller buildings such as guard posts and a fire station. There are extensive areas of open hardstanding, some of which have temporary (10 year) permissions for open car storage. Due to its role in the Cold War and its wider cultural significance as a focus of mass protest, the site, which closed in 1992, has been designated as a scheduled monument¹.

¹ Ancient Monuments and Archaeological Areas Act 1979

4. The appellant company manages and has had the use of the site since it was purchased by a parent company² in October 2003. It is involved in the collection and refurbishment of old aircraft, parts and equipment, mainly military, and battlefield vehicles. Up until 2003 a related company, Wizzard Investments Ltd, now dissolved, was based at North Weald Airfield where it rented hangar space for its collection of aircraft, parts and equipment. An August 2003 quarterly invoice³ for hangar rental was annotated as "Last payment". In October 2003, Wizzard Investments entered into an agreement with the appellant company to rent the appeal site and "Not to use it for any purpose except one falling within Class B8". Later in 2003 Wizzard Investments moved all of its stock and related equipment to the appeal site using shipping containers. Apparently the intention was to set up a museum on the site. Order confirmations and invoices for moving numerous containers from North Weald Airfield to the site were submitted with the application. These cover the period December 2003 to February 2004. Most of the items delivered in that period, along with the various containers and packing crates, have remained on the site, and other items have been brought onto the site since then, either to add to the collection or building materials potentially useable in the proposed museum. None of this is disputed.
5. Only 3 of the larger buildings on the site are secure, one of the Igloo Bomb Stores, the former maintenance shed and the former storage shed, and these buildings are where the more valuable items on the site are kept. The Council was satisfied on the evidence provided and the observations of its officers over the years that the former maintenance building, referred to as building 714, had been in continuous use for storage purposes for at least 10 years prior to the application date, so it granted the LDC in respect of that building alone. For the rest, the Council accepts that each of the larger buildings has been used at one time or another for storage purposes, but it is not satisfied that there is sufficient evidence to show that any of these buildings have been used for 10 years continuously for storage purposes, and on this basis it considers that the LDC cannot be granted on the basis applied for, the burden of proof being on the appellant.
6. Amongst the evidence relied upon by the Council is a YouTube video purportedly dating from 2007 which shows footage of some of the cruise missile bunkers, clearly empty at that time. Mr Arnold maintains that what is in the bunkers now, including shipping containers, metal presses, aircraft paint, engine and equipment boxes and miscellaneous building materials, has largely been there since the 2003/04 move, but points to a period in about 2005 when the northern row of bunkers were cleared in order to close the blast doors facing the old runway portion of the common for security purposes. The bunker doors were winched up from the inside using a Centurion tank based recovery vehicle. He points to the fact that the footage shows 2 bunker doors closed and 1 open as evidence that the video was made while that operation was in progress. The timings do not match, but that seems to me to be a plausible explanation for the absence of items in the bunkers. The Council accepted that at the hearing. The video is not in any case determinative. It shows a bunker as empty, but the appellant does not claim that all of the buildings had items stored in them at all times over a 10 year period prior to the date of application, rather the buildings on the site as a whole have been used

² Puffin Properties Ltd

³ Submitted at the hearing – Document 1.

- primarily for storage purposes since 2003/04, notwithstanding that some individual buildings have been vacant at various times or for extended periods during the relevant 10 year period.
7. This is the crux of the difference between the Council and the appellant. Both parties agree that the appropriate planning unit for the purposes of assessing whether there has been a change of use of the land is the overall former GAMA site, by reference to the tests proposed in the case of *Burdle*⁴. And both parties agree that the site has been used since 2003/04 for the internal storage of most of the items moved to the site in 2003/04, and that some other items have been brought on or left since. However, it is the Council's case that it should only grant the certificate applied for in whole if it considers that there is sufficient evidence to show, on the balance of probabilities, that each of the individual buildings within the planning unit has been used for the purpose specified for the 10 years continuously prior to the application date.
 8. However, the use of the planning unit must be assessed as a whole, and it is common ground that the individual buildings should not be considered to be planning units in themselves. There is considerable evidence that the primary use of the planning unit comprising the site since late 2003 has been for keeping the majority of the large number of items moved there from North Weald Airfield, along with other items which have been brought onto the site to be kept for a period. The more valuable items have been kept in the secure buildings, with the less valuable items or those less susceptible to theft or damage kept in the more open buildings. Not all of the more open buildings have been in constant use, and items have been moved from building to building as needs be. There is not specific evidence before me of the frequency or intensity of the use of individual buildings or groups of buildings. Certainly some of the buildings appear to have had fairly limited use for storage purposes, particularly the less secure Igloo buildings furthest from the former maintenance shed which appears to be the focus of operations on the site.
 9. Nonetheless, the pattern of use that emerges from the evidence provided and elaborated upon at the hearing appears to me to be most appropriately described as a use of the overall site for internal storage uses. That appears to have been the purpose of the purchase of the site, and all of the larger buildings have been used for storage at some stage. When vacant, buildings appear to have been kept available for storage and not used for other purposes. The items being kept in the buildings have been put there with a view to subsequent re-use or for safe-keeping. These are storage uses. A use for storage falls within Class B8 of Schedule 1 of the Use Classes Order⁵. I consider that the evidence provided is sufficient to establish, on the balance of probability, and as a matter of fact and degree, that this has been the primary use of the planning unit for over 10 years prior to the LDC application date. As such the use, being a material change of use of the land from what appears to have been a nil use following abandonment of the previous use as a military facility, is immune from enforcement by virtue of section 171B(3) of the 1990 Act. It follows that it has become lawful by reference to section 191(2)(a).
 10. For these reasons I consider that the Council's refusal in part to grant an LDC for use of the property for internal storage within class B8 was not well

⁴ *Burdle v. Secretary of State for the Environment* [1972] 3 All ER 240

⁵ Town and Country Planning (Use Classes) Order 1987

founded. The appeal succeeds accordingly and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Paul Dignan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Arnold	The Appellant
Rob McLennan	McLennan Planning
Ben Garbett	Keystone Law
Tim Cable	Operations Manager, GAMA site

FOR THE LOCAL PLANNING AUTHORITY:

Derek Carnegie	The Appellant Planning Agent
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DOCUMENTS

- 1 Invoice for North Weald Airfield storage, dated 27 August 2003, annotated as "Last payment".

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 18 May 2015 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The use is immune from enforcement by virtue of section 171B(3) of the 1990 Act.

Signed

Paul Dignan

Inspector

Date: 14 August 2017

Reference: **APP/W0340/X/17/3167986**

First Schedule

Use of the property for internal storage within class B8.

Second Schedule

Land at Former GAMA site, Greenham Common, Basingstoke Road, Thatcham, Berkshire, RG14 7HQ.

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 14 August 2017

by Paul Dignan MSc PhD

Land at: Former GAMA site, Greenham Common, Basingstoke Road, Thatcham, Berkshire, RG14 7HQ.

Reference: APP/W0340/X/17/3167986

Scale: Not to scale

