
Appeal Decision

Site visit made on 26 March 2018

by D E Morden MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2018

Appeal Ref: APP/M1900/C/17/3179263

Fillets Farm, Stanstead Road, Ware, Hertfordshire, SG12 8QA

- 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 Hunsdon Skip Hire Limited against an enforcement notice issued by Hertfordshire County Council.
- The enforcement notice, ref SPEU/RE/0576, was issued on 6 June 2017.
- The breach of planning control as alleged in the notice is the material change of use from use for the import, storage, cutting and distribution of wood and the storage of machinery to use for waste transfer.
- The requirements of the notice are to (1) cease and do not resume the importation and deposit of all waste materials at the land and (2) remove all waste materials, the weighbridge, the office, all skips and bins and all plant and machinery associated with the waste transfer, from the land.
- The period for compliance with requirement (1) is 5 days and (2) is two (2) months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision: The appeal is dismissed as set out in the Formal Decision at paragraph 11 below and the enforcement notice, subject to a variation, is upheld.

The appeal on Ground (b)

1. Two separate Lawful Development Certificates (LDCs) exist which cover the appeal site and an adjoining site from which it is not physically separated. The western part of the land has an LDC, granted by the County Council, for use as a waste transfer station and the larger, eastern part has an LDC, granted by the District Council, for use for the import, storage, cutting and distribution of wood and the storage of machinery. The allegation in this case is that the use for waste transfer has spread to the entirety of the land (i.e., the area covered by both LDCs).
2. The appellant stated that the LDC for the appeal site (the eastern part) permitted the siting and use of plant, machinery and equipment ancillary to the wood yard business and this was not disputed by the Council. The Council accepted that unauthorised encroachment of waste transfer business activities into the wood yard site in 2011 were cleared by the appellants when told that such uses were not allowed. Since then, however, it claimed that there have been a number of occasions when activities have again spread over on to the wood yard site.
3. In addition the Council stated that the portakabin office was being used as ancillary office to both operations not just for the wood yard business. It was

clearly being used during my site visit and obviously for the waste transfer business as, on the appellant's own representations, the wood yard business has been dormant for some time (about June 2016) whilst the licence is sorted out with the Environment Agency. There were people on site and someone in the office and more than one computer was switched on and in use.

4. On more than one occasion lorries going to and/or from the waste transfer business have been parked on or using the weighbridge on the appeal site and skips with waste in them (including on one occasion, tyres) have been noted on the appeal site. I acknowledge the Council's claim that there were many skips stacked on the wood yard site but these could as claimed by the appellant be used in connection with that business rather than the waste transfer business. Both green waste and demolition waste have also been seen in containers on the wood yard site.
5. The appellant stated that the weighbridge must have been used in error by a driver without the permission of the site manager as skip drivers are not authorised to use the weighbridge. It was further stated that the appellant had taken steps to remedy any incursions into the wood yard site by the waste transfer operation as quickly as possible. It was also claimed that the skip business basically operated via a Hitchin call centre and over the internet and an office use was not needed on site.
6. I appreciate, having visited the site that without any physical boundary on the land it is difficult to stop incursions by one of the uses into the other site. Taking the number of times that things have occurred during the last two years or thereabouts whilst the wood yard use has been dormant, and, in particular what seems to me to be the obvious use of the office, I conclude that the material change of use has occurred on the appeal site as a matter of fact. The appeal on ground (b) accordingly fails and I shall uphold the notice.

The appeal on Ground (f)

7. On this ground, the appellant claimed that the office, weighbridge, some equipment and the skips/bins that were on the appeal site were all used in connection with the wood yard operation and it was unreasonable to require their removal; they would be used again in connection with that business once the licence had been renewed. Whilst the County Council stated that it 'did not believe' that these were used in connection with the wood yard business there was simply that assertion and nothing to gainsay the appellant's argument that they were indeed all used for that business. There was nothing the Council put forward as evidence to show that what it claimed was indeed the case.
8. In these circumstances I agree that the requirements are unreasonable and all that should be required is that the waste transfer use and any activities forming part of that use or ancillary to it should not take place on the appeal site. I will, therefore, vary the requirements to reflect this conclusion and to that very limited extent the appeal succeeds.

The appeal on Ground (g)

9. On this ground, bearing in mind the varied requirements I have outlined above, I consider that the times set out are reasonable. The appellant argued that the requirements left insufficient time for any dialogue between the parties concerning which items were to be removed as it was considered that the

notice was unclear in this matter. The varied requirements are clear and that 'problem' does not exist. The appeal on this ground accordingly fails.

Conclusion

10. I have taken account of all other matters raised in the representations, including those submitted on behalf of Hunsdon Parish Council, but I have found nothing of such significance as to outweigh the material planning considerations that have led to my conclusions on this appeal.

Formal Decision

11. I hereby direct that the enforcement notice be varied by deleting in paragraph 5 (ii) the words 'the weighbridge, the office, all skips and bins, and all plant and machinery associated with waste transfer,' and substitute therefor the words 'and any plant, equipment and machinery used solely in connection with the waste transfer operation,'

Subject to this variation the appeal is dismissed and the enforcement notice is upheld.

D E Morden

INSPECTOR