



Appeal Decision

Inquiry Held on 22 May 2018

Site visit made on 22 May 2018

by Simon Hand MA

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

Decision date: 31 May 2018

Appeal Ref: APP/P0240/C/17/3181398

Land to the rear of Grange Nurseries, The Green, Beeston, Sandy, SG19 1PG

- 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 Bulldog Steel Ltd against an enforcement notice issued by Central Bedfordshire Council.
 - The enforcement notice, numbered CB/ENC/16/0331, was issued on 3 July 2017.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the Land from agriculture to a use for the parking and storage of military vehicles, trailers, containers, structures, associated paraphernalia and the installation of a septic tank.
 - The requirements of the notice are (i) Cease the use of the Land for the parking and storage of military vehicles, trailers, containers and associated paraphernalia; (ii) Remove all military vehicles, trailers, containers, structures and associated paraphernalia from the Land; (iii) Remove the septic tank from the Land.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is corrected by deleting the allegation and replacing it with "without planning permission the material change of use of the Land from agriculture to a mixed use for agriculture and the parking and storage of military equipment (vehicles, trailers, containers, structures and associated paraphernalia) and the installation of a septic tank". Otherwise the appeal is allowed on ground (g) and the notice varied by the deletion of 1 month and the substitution of 6 months as the period for compliance. Subject to this correction and variation the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. At the Inquiry the Council confirmed that the allegation in the notice was directed solely against military vehicles and military equipment etc. It was also agreed that the enforcement notice site therefore had changed to a mixed use for storage and agriculture. As I saw on my site visit apart from the military equipment there also appeared to be storage in association with the neighbouring steel yard and various pieces of agricultural equipment. These

items were not included in the scope of the notice, so it was agreed the allegation should be corrected to a "*material change of use to a mixed use for agriculture and the parking and storage of military equipment (vehicles, trailers, containers, structures and associated paraphernalia) and the installation of a septic tank*". On that basis the appellant withdrew the grounds (b) and (d) appeals. The appeal proceeded solely on grounds (a) and (g).

3. At the site visit it was noticed the red line on the plan provided by the appellant to delineate the part of the field for which planning permission for the ground (a) appeal was being sought had been drawn in the wrong place. A new plan was substituted at the Inquiry, showing a slightly smaller red line area, which coincided with the new bund and hedge that had been created by the appellant. The Council did not object to this and I have determined the appeal on that basis.

The Appeal on Ground (a)

Background

4. The enforcement notice site includes a field which lies between Bulldog Steel, to the south and the A1 to the north. To the west is open countryside and to the east a series of dwellings, one of which, The Grange is listed. Bulldog Steel occupies a yard that lies behind The Grange and the field extends beyond, adjacent to three dwellings that back onto the land and front onto Grange Gardens. The red line area begins level with the northern boundary of The Grange and is adjacent to the back garden of No 3 Grange Gardens. The appellant appears to have two interlinked hobbies, one of which is collecting landrovers, the other military vehicles and equipment. Some of the landrovers are also ex-military and therefore would be caught by the allegation. The storage of these items, along with the tractors and steel yard overspill has spread into the field, but, following some tidying up by the appellant, is now limited to the red line area and is accessed from the back of the steel yard. A section of hedge that formerly denoted the boundary between the steel yard and the field has been removed to facilitate the access. The storage use is intensive, with a large number of vehicles, trailers, containers and piles of junk and several temporary curved canvas shelters covering some of the military vehicles. A number of such vehicles that belong to friends of the appellant are also stored on the land.
5. The appellant described the activities that took place on the red line area as storage of vehicles. There was also some maintenance carried out, and the military vehicles were taken to shows and also to a nearby field where they were driven. In order to do this they are either driven directly from the site to the field, or put on low loaders and driven through the steel yard access. Although there have been complaints that the military vehicles are driven around the field itself, it would seem that this has now ceased, and in any event could be controlled by conditions if this appeal were to be allowed. One of the main problems this activity causes is the starting up and warming of the engines of the military vehicles, which is a noisy and lengthy process that also emits diesel smoke and, according to Mr Shoba the occupier of The Grange, who gave evidence at the Inquiry, renders it impossible for him to use his back garden during those times. Inevitably as this is a hobby use, the activities associated with the hobby take place in the evenings and at weekends. Although the allegation is directed against parking and storage, the noisome

activities are an inevitable by-product of the storage.

The policy context

6. The Council rely on three policies from the Central Bedfordshire Core Strategies and Development Policies (2009) document, DM3, DM4 and DM13. DM3 is a general policy that seeks to encourage high quality development and is clearly relevant as it requires, amongst other things, for proposals to be appropriate in scale and design, to contribute positively to a sense of place, to respect neighbours amenities and to respect the setting of listed buildings.
7. DM4 is titled '*development within and beyond settlement boundaries*'. Settlement envelopes have been drawn around certain communities where development is to be encouraged. Beeston does not have an envelope and so is considered to be countryside in policy terms. There are five sections to the policy itself, four of which deal with development within settlement envelopes and the fifth refers to beyond the settlement envelopes, where limited extensions to gardens are allowed. However, this is not the sole development that is allowed in the countryside, as the explanation to the policy says that outside of settlements new development will be permitted in accordance with national guidance and it specifically refers to PPS7, the East of England plan and to residential exceptions allowed elsewhere in the core strategy.
8. The appellant argues that this policy is more restrictive than the NPPF and so is out of date. He also argues that PPS7 is no longer a valid policy document and again this makes DM4 out of date. In my view, although rather oddly written, when the policy is read in conjunction with the explanation it is possible to understand what it means. Development is directed towards settlements with defined envelopes but elsewhere, it is governed by a mix of other policies in the Core Strategy, the garden clause in DM4 itself and national policy. As PPS7 and the East of England plan have now been replaced by the NPPF, then it is too the NPPF, as national policy, that we have to look. Thus it seems to me the policy is consistent with the NPPF and so is not out of date. However, although the NPPF has certainly relaxed the protection of the countryside for its own sake, there are no policies specifically relating to hobby uses in the countryside. DM4 therefore seems to me to be irrelevant.
9. DM13 deals with heritage matters. It says that proposals "*relating to listed buildings and registered parks and gardens will pay particular attention to the conservation of locally distinctive features and uses*". As far as listed buildings are concerned I can't really give this any sensible meaning, but in any case the storage use affects the setting of The Grange, and setting is protected in DM3. It seems to me therefore that DM3 is the only policy relevant to the appeal and that is up to date. It follows that the development plan is not silent, absent or out of date and so the tilted balance in paragraph 14 of the NPPF is not engaged.

Main issues

10. The main issues are therefore whether there is harm to the setting of The Grange, to the character and appearance of the area and to the amenity of local residents.

The setting of the listed building

11. Section 12 of the NPPF deals with listed buildings. It was agreed at the Inquiry that the harm was either so negligible as to not register or was less than substantial. If there was harm it was to the setting of the listed building. The Grange is listed Grade II and fronts onto Beeston Green. Clearly this is the most important aspect of the building as far as its setting is concerned. It would once, presumably have had open fields to its rear, but now it abuts the steel yard with its buildings and lawful open storage. The Grange is separated from the yard by a wall and a range of outbuildings that are curtilage listed, but the plot of the listed building is not large and is tightly bound by the steel yard and the fields behind.
12. The storage on the red line land begins at the end of the boundary of The Grange, but the dwelling is placed diagonally in its plot and so the rear faces directly towards the red line land open storage. While the significance of the setting is mainly directed towards Beeston Green, the uses directly behind it have an impact on the experience and the setting of the listed building too. I agree that the setting of the rear of The Grange is already degraded by the steel yard, but otherwise it would still look over open fields. This view is now dominated by the storage use on the red line land. While there would still be some storage uses on the land even if the notice were upheld, the majority of the uses and their sprawling nature are mostly linked to the military hobby storage and this clearly has a harmful impact on the setting of the listed building. This impact is at the lesser end of less than substantial, and paragraph 134 of the NPPF makes it clear this should be weighed against the public benefits of the proposal.
13. The only possible benefits to the public that the appellant could find would be trickle-down effect of the maintenance of the vehicles for the local economy. Clearly the vehicles have to be maintained, although there is no reason why they have to be stored here in order for that to happen. Wherever the vehicles are stored they will have to be maintained, but it does not have to be within the setting of a listed building. This benefit is therefore very minor and does not outweigh the harm identified. The proposal is thus contrary to DM3 and this will need to be weighed against the proposal.

Character and appearance

14. The site is an open field, roughly a quarter of which is now occupied by the open storage described above. The sprawling piles of military junk and vehicles are unsightly and this is clearly harmful to the character and appearance of the area. The site can be viewed from gardens and the dwellings of Grange Gardens and from the upper floor of The Grange. There is some tree screening along this boundary, but views would still seem to be possible, particularly from No 3, the nearest of the Grange Gardens dwellings and The Grange. The northern end of the field is bounded by the A1, which, although completely open, provides only glimpses as the traffic is generally fast moving, but there is a pavement which pedestrians use to access Sandy, the nearest town only a kilometre away. At present, therefore, the site is clearly visible from a number of public vantage points and from the houses nearby and is clearly an eyesore.
15. The appellant proposes a landscaping scheme that could be secured by condition, and has already undertaken considerable planting. A small bund

marks the northern edge of half the red line area, and this has been planted with shrubs, while conifers have been planted along the roadside at the top of the field. Clearly further planting along the boundary with the dwellings would also help screen the use. However, the Council point out that much of the planting is evergreen, non-native species, which in themselves are harmful to the character and appearance of the area. If deciduous shrubs and trees were used they would be much slower growing and only provide screening for part of the year. Landscaping would be at best a partial solution and the harm to the character and appearance of the area, although not serious, is contrary to DM3 and further counts against the proposal.

Residential amenity

16. I have dealt above with the impact of the storage use on views, but it would seem the main amenity issue is noise and disturbance from the running of engines. It seems to me this is an inevitable by-product of the hobby storage. There would be little point in having the vehicles there if they could not be driven and shown to the public from time to time. Even if this is done entirely off-site, the vehicles still have to be moved to the location of the show or where they are going to be driven and this is bound to cause noise and disturbance to neighbours as the storage is right on the boundary of the nearby dwellings. Various conditions were suggested, including preventing the running of engines other than for the purposes of moving the vehicles, but this would not only be difficult to enforce, but would not really solve the problem. Another suggestion was not to use the vehicles at weekends. Although the appellant agreed to this, it would seem to undermine the rationale for the hobby use in the first place. The appellant would then only be able use the vehicles in the evenings in the summer and this would not only make showing them difficult, but also would be likely to increase activity in those evenings, which would also be harmful. Again, I do not think conditions can overcome the harm and this is also contrary to DM3 and so weighs against the proposal.

Conclusion

17. None of the harms I have identified above are significant on their own, but cumulatively they represent a clear finding against the proposal, which is contrary to the Council's policy and to the NPPF. There are only the most minor countervailing benefits to weigh in the balance and the appeal on ground (a) therefore fails. Even if I had reached a different conclusion on the relevance of the development plan and decided that the paragraph 14 tilted balance did apply, because of the lack of benefits they are outweighed significantly and demonstrably by the harm. Quite simply this is the wrong place for a use that is both scruffy and noisy.

The Appeal on Ground (g)

18. The Council argue that the vehicles are easily transportable and so 1 month is plenty of time to remove them, the associated storage and the septic tank. They also argue the appellant has had months since the notice was issued to find an alternative location. However, the appellant is entitled to assume he will win the appeal, and the compliance period is supposed to be a reasonable period from when the notice comes into force to enable the appellant to comply with the requirements.
19. The appellant has already sought planning permission for a storage unit on

other land he owns which has been refused, which suggests to me it will not be that straightforward to find alternative accommodation for the military vehicles and equipment. I agree that a longer period than 1 month is required to find and if necessary secure planning permission for a new location and I shall extend the period to 6 months as requested.

Simon Hand

Inspector

APPEARANCES

FOR THE APPELLANT:

Christian Hawley of counsel
He called
Seth Williams - DLP
Terry Dennis - appellant

FOR THE LOCAL PLANNING AUTHORITY:

Freddie Humphreys of counsel
He called
Mike Duffett – Central Beds DC

INTERESTED PERSONS:

Julian Shuba – The Grange

DOCUMENTS

- 1 Appellant's revised plan
- 2 Appellant's openings
- 3 Suggested conditions