



Appeal Decision

Site visit made on 9 September 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2019

Appeal Ref: APP/L3815/C/18/3214325

Land at Southend Farm, Selsey Road, Donnington, Chichester, West Sussex PO20 7PS

- 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 William Fleming against an enforcement notice issued by Chichester District Council.
 - The enforcement notice was issued on: 26 September 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission, change of use of the Land to a mixed use for agriculture and the storage and repair of modular buildings, portable site office cabins, portable toilet blocks, mobile welfare units and metal storage containers.
 - The requirements of the notice are: (i) Discontinue use of the Land for the storage and repair of modular buildings, portable site office cabins, portable toilet blocks, mobile welfare units and metal storage containers; and (ii) Remove from the Land all the items mentioned in (i) above together with all related waste, tools and equipment.
 - The period for compliance with the requirements is: three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Summary of Decision

1. The appeal is dismissed and the enforcement notice is upheld with corrections and a variation.

The Enforcement Notice

2. The alleged breach of planning control does not identify a material change of use of the land although it is clear from the Enforcement Notice that the Council considers this to be the case. I do not consider that an injustice arises from making this correction. Similarly, a typographical error in requirement 5. (ii) can be corrected. I shall therefore set-out these corrections in my formal decision.

The ground (a) appeal

3. The main issues are:
 - i. whether or not there is an essential, small-scale, and local need for the use in a countryside location; and,
 - ii. the effect of the use on the character and appearance of the area.

Reasons

4. The site relates to Southend Farm which is located in rural surroundings. It is accessed via a track from the B2201. The site where the change of use operates is situated between two agricultural buildings and is predominantly set to an informal hardstanding.

Location

5. The site is located outside of any settlement boundary as defined by the Chichester Local Plan: Key Policies 2014-2029 (the LP) and is therefore within the countryside. The appellant accepts that the change of use does not meet an essential need associated with activities undertaken wholly within the countryside.
6. During my site visit there were a significant number of modular buildings, storage containers and associated structures present at the site. The operational area of the site amounts to approximately 4700sqm. Given the size of the site and number of modular buildings and structures present, the use is not in my view small scale.
7. Whilst I accept that the business makes a contribution to the local economy, I am not persuaded on the evidence before me that the storage and repair use is intended to solely serve local needs, given also its size, or tangibly relates to a farm diversification scheme or enterprise.
8. I also have little in the way of evidence to convince me that any local need that the use may cater for cannot be met within or immediately adjacent to existing settlements. I appreciate the type of business means it has a particular demand for space, but I do not consider that this amounts to special or overriding circumstances to justify its particular location.
9. The scale of activities are therefore not entirely appropriate to its rural location and whilst I do not consider the site to be isolated, it nevertheless remains some distance from defined settlements and is disconnected from local infrastructure.
10. I conclude that there is not an essential, small-scale, and local need for the use in a countryside location and it is therefore contrary to Policies 1, 2 and 45 of the LP. These policies require, amongst other things, for development outside settlement boundaries to require a countryside location and meet the essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements, unless material considerations indicate otherwise.

Character and appearance

11. The character of the area is rural and surrounding the site are large open agricultural fields, as well as two reservoirs.
12. The change of use operates from a part of the site where there are limited public vantage points. It is partially enclosed by two existing agricultural buildings as well as hedgerows, although the modular buildings can still be seen in some wider views. The change of use has therefore resulted in a significant number of structures present at the site, notwithstanding that they are brought to the site and then removed depending on the needs of the business.

13. The open storage of these structures is therefore at-odds with the surrounding open and largely undeveloped landscape character of Southend Farm. I have also not been convinced on the evidence before me how the use sensitively contributes to its setting or respects or enhances the landscape character of the surrounding area or natural environment. Whilst there are limited public views, it remains important to protect the intrinsic rural qualities of the area and avoid encroachment into the countryside.
14. The use of the site for open storage therefore gives rise to an industrial appearance. In this regard it is not well related to the existing farm buildings. Furthermore, given its scale, the use does not in my view amount to a low-key operation as it has the potential to generate levels of commercial activity, in terms of vehicle movements along the track accessing the site, to the detriment of this otherwise rural and consequently more tranquil area. This would likely far exceed that associated with the agricultural use of the farm.
15. I conclude that the use is harmful to the character and appearance of the area and conflicts with Policy 48 of the LP. This policy, amongst other things, requires development to have no adverse impact on the tranquil and rural character of the area and to respect and enhance the landscape character of the surrounding area. For the same reasons the development is contrary to the achieving well-designed places objectives of the National Planning Policy Framework.

Other matters

16. I appreciate that part of the wider farm holding is used as a wedding venue as means of a diversification scheme. However, this use is substantially different to that enforced against and so offers little to support the appellant's case, having particular regard to the main issues in this appeal. Similarly, a nearby site, referred to as Jury Lane, is a designated industrial site for businesses.
17. Whilst I have found harm to the character and appearance of the area arising from the level of activity associated with the use, I am not persuaded on the evidence before me that the change of use has resulted in transport, accessibility and parking harms such that conflict with Policy 39 of the LP arises.

Planning balance

18. I appreciate the change of use has enabled a business to successfully expand and develop on an otherwise disused and not economically active area of agricultural land. This has resulted in some limited rural economy and sustainable development benefits as well as employment opportunities. I have however found that there is not an essential need for a countryside location and that the open storage is harmful to the character and appearance of the area, particularly given its scale. There are no compelling circumstances before me, or indeed the absence of other planning harms, such as highway safety, pollution impacts or the loss of the best or most versatile agricultural land, which outweighs the harm I have identified.

Conclusion

19. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) fails.

The ground (g) appeal

20. I am mindful that there should be opportunity given to relocate the business, which also provides some local employment. Complying with the enforcement notice will require the removal of a significant number of modular buildings and storage containers, which will take time to arrange. A period of three months would therefore be insufficient. A period of nine months has however been suggested by the appellant, which I consider to be adequate and which would not be tantamount to the grant of a temporary planning permission.

21. Accordingly, the appeal on ground (g) succeeds.

Overall Conclusion

22. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the deemed application.

Formal Decision

23. It is directed that the enforcement notice be corrected and varied by:

- deletion of the words '*Without planning permission, change of use of the Land to a mixed use for agriculture and the storage and repair of modular buildings, portable site office cabins, portable toilet blocks, mobile welfare units and metal storage containers.*' and their replacement with the words '*Without planning permission, the material change of use of the Land to a mixed use for agriculture and the storage and repair of modular buildings, portable site office cabins, portable toilet blocks, mobile welfare units and metal storage containers.*'
- deletion of the words '*Remove from the Land all the items mentioned in (i) above together with all related waste, tools and equipment.*' and their replacement with the words '*Remove from the Land all the items mentioned in (i) above together with all related waste, tools and equipment.*'
- substituting "Nine calendar months" as the period for compliance.

24. Subject to these corrections and variation the appeal is dismissed and 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.

Paul T Hocking

INSPECTOR