The Planning Inspectorate

# Appeal Decisions

Site visit made on 5 November 2019

**by Roy Merrett Bsc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 November 2019**

## Appeal A: APP/P4415/C/19/3230223
## Land at The Pitches Sports Club, Wickersley Road, Broom

- 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 Hotel Van Dyk Ltd against an enforcement notice issued by Rotherham Metropolitan Borough Council.
- The enforcement notice was issued on 8 May 2019.
- The breach of planning control as alleged in the notice is Without planning permission, the unauthorised use of land for siting of temporary offices and storage containers, as identified shaded red on the attached plan.
- The requirements of the notice are Remove the temporary offices and storage containers from the land.
- The period for compliance with the requirements is within 28 days from the date on which this notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.**

## Appeal B: APP/P4415/W/19/3230210
## The Pitches Sports Club, Wickersley Road, Rotherham S60 3PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Hotel Van Dyk Ltd against the decision of Rotherham Metropolitan Borough Council.
- The application Ref RB2019/0119, dated 16 January 2019, was refused by notice dated 26 April 2019.
- The development proposed is "Retrospective application for temporary offices to be retained on site at The Pitches Sports Club for a period of 12 months."

**Summary of Decision: The appeal is allowed and planning permission is granted subject to a condition set out below in the Formal Decision.**

## Main Issue

1. The main issue with respect to both appeals is the effect of the development on the availability of 'Green Space'.

## Reasons

2. Policy SP 38 of the Rotherham Sites and Policies Local Plan 2018 (LP) sets out that Green Space including open space, sports and recreational land should not be built on unless amongst other things, and subject to further conditions,

there is evidence that the land is surplus to requirements or that replacement land, of at least equivalent quantity and quality, can be provided.

3. It is undisputed that the appeal site, which includes an access road and an ancillary car parking and hardstanding area, is part of a former Sports Club that is currently vacant. I have no reason to doubt that the site is covered by Policy SP 38. Furthermore, from my visit it was evident that despite the current vacant status of the site, the hardstanding area where the development has taken place would potentially have an important ancillary role in supporting the use of the open space and recreational facilities. I have been provided with no evidence that the land in question is surplus to requirements or of any replacement provision. Accordingly I conclude that the development has resulted in harm to the availability of Green Space and that as such there is conflict with Policy SP 38 of the LP.

4. The appellant explains that the development is to provide office and ancillary storage space, on a temporary basis only. The need for the development has apparently arisen, following the redevelopment of previous facilities and at a time when intended replacement permanent facilities are not yet available for occupation.

5. When the planning application was submitted in January 2019, the appellant requested a 12-month temporary planning permission. In the event that the appeal is allowed, the Council says that a six-month permission would be more appropriate, given the time that has now elapsed since then.

6. I am mindful that it is undisputed that the site has been vacant for a relatively lengthy period, since 2015, and there is no evidence before me to suggest that the development is resulting in any immediate prejudice to the resumption of a sports and recreational use of the site. I acknowledge the apparent status of the site as an Asset of Community Value (ACV). However the primary purpose of ACV listing is to afford the community an opportunity to purchase the property, not to prevent otherwise acceptable development. In this context, whilst for the above reasons the development could not be justified on a permanent basis, I consider that a temporary planning permission, not exceeding six months, would allow for the continuity of the business and would be a proportionate and reasonable response when taking into account the circumstances of the site. I conclude that, on this basis, the conflict with development plan policy would be outweighed.

*Other Matters*

7. There have been a number of further objections to the development raised by local residents which I have duly taken into consideration. The development, though not prominent from the public domain is visible from the rear of several nearby dwellings. I concur with the view that the functional design and appearance of the office building and storage containers would not be acceptable on a permanent basis and would only be acceptable for a strictly limited time period.

8. There is no evidence before me to indicate that the development would establish a precedent that would make any future housing development on the site more likely. Each proposal would need to be considered on its own individual merits.

9. Having regard to the nature and limited scale of the development, the likelihood of relatively few associated traffic movements and from my observations at the site visit, I am not persuaded that it results in harm to highway or pedestrian safety or noise disturbance to local residents. I am also mindful that the Council has raised no objections on these specific grounds. Nor am I persuaded from the information before me that there would be any material increased fire risk or harm to air quality.

10. The office building is in relatively close proximity to the rear boundaries of adjacent dwellings on Wickersley Road and Stag Willow Close. Whilst some overlooking of the rear gardens of Nos 122 and 124 Wickersley Road would be possible, this would be at an oblique angle, with significant separation retained from the rear elevation of those dwellings. Notwithstanding this any impact would only be for a temporary period, therefore not leading to unacceptable harm to privacy. From my visit it was evident that other properties are generally well screened by fencing and boundary planting.

11. Whilst concerns have been expressed regarding tree removal on the site and resultant harm to wildlife, I have not been provided with evidence that the trees in question were formally protected or that any protected species have been harmed. The concern that residents have been denied access to the site would be a private matter between the landowner and the parties in question and is not for my deliberations in this case. Neither does the erection of perimeter fencing or security lighting on the site form part of the planning applications before me.

12. Whilst it has been suggested that the developer should use other temporary accommodation, I need to consider the proposal that is before me.

**Conclusion**

Appeal A

13. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Appeal B

14. For the reasons given above I conclude that the appeal should be allowed, subject to a condition.

**Formal Decisions**

**Appeal A**

15. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land for siting of temporary offices and storage containers, as identified shaded red on the plan attached to the notice, at The Pitches Sports Club, Wickersley Road, Broom, subject to the condition below.

**Appeal B**

16. The appeal is allowed and planning permission is granted for Retrospective application for temporary offices to be retained on site at The Pitches Sports Club, Wickersley Road, Rotherham S60 3PR in accordance with the terms of the

application, Ref RB2019/0119, dated 16 January 2019 and the plans submitted with it, subject to the condition below.

*Roy Merrett*

INSPECTOR

**SCHEDULE OF CONDITIONS**

1) The use hereby permitted shall be for a limited period, being the period of six months from the date of this decision. The use hereby permitted shall be discontinued and the associated temporary offices building and storage containers shall be removed and the land restored to its former condition on or before the date six months from the date of this decision.

**END OF SCHEDULE OF CONDITIONS**