The Planning Inspectorate

Appeal Decision

Site visit made on 8 October 2019

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Appeal Ref: APP/R4408/C/19/3223416
Land off Sandybridge Lane, Shafton, Barnsley, South Yorkshire

- 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 Luke Westmoreland against an enforcement notice issued by Barnsley Metropolitan Borough Council.
- The enforcement notice was issued on 25 January 2019.
- The breach of planning control as alleged in the notice is: without planning permission, the material change of use of the land to use for the residential occupation of caravans and/or the storage of caravans and vehicles relating to a recovery business, the laying of hardstandings and services for the caravans.
- The requirements of the notice are (i) Cease using the land for the residential occupation of caravans and/or for the storage of caravans. (ii) Remove from the land the caravans, hardstanding and services and all other materials and paraphernalia associated with the unauthorised use. (iii) Remove from the land all vehicles and equipment and materials brought on to the land for the purpose of the above use. (iv) Restore the land to its previous condition prior to the breach described in paragraph 3 above.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Decision

1. It is directed that the enforcement notice be amended by:

   a) The deletion of the text of the allegation, and its substitution with the text: *'without planning permission, the material change of use of the land to use for the stationing of a chalet for residential occupation, the storage of a caravan and vehicles relating to a recovery business, and the laying of hardstandings and services for the caravan and chalet.'*

   b) The deletion of requirements (i) and (ii), and their substitution with the text: *'(i) Cease using the land for the residential occupation of the chalet and the storage of the caravan and vehicles. (ii) Remove from the land the chalet and caravan, hardstanding and services and all other materials and paraphernalia associated with the unauthorised use.'*

   c) The deletion from the requirements of the text *'in paragraph 3'*.

   d) The deletion of the text '*one month*' from the period for compliance, and its substitution with the text '*three months*'.

2. Subject to these amendments, the appeal is dismissed and the enforcement notice is upheld.

The enforcement notice

3. Although the enforcement notice refers to 'caravans', the appellant contends that there is only one caravan on the site, which was present when he acquired the land. However, he confirms that a chalet has been placed on the site, and it appears from the information he gives that the chalet is there for residential purposes. For clarity, therefore, the enforcement notice should be amended to reflect this situation. The use of the caravan is unclear, and so the term 'storage' is apt in this case.

4. Turning to the requirements, I have directed that the text be changed to reflect the changes to the allegation, and also to include a requirement to cease the use of the land for the storage of vehicles, which is referred to in the allegation. The reference to 'paragraph 3' in the final phrase of the requirements should also be deleted, as it refers to part of the enforcement notice, which is unclear in the context of the banner details above.

The appeal on ground (a) and the deemed planning application

Main Issues

5. The main issues are:

   - Whether the development amounts to inappropriate development in the Green Belt;
   - The effect on the openness, visual amenity, and purposes of the Green Belt; and
   - If harm arises from there being inappropriate development in the Green Belt, and any other harm, whether this is clearly outweighed by other considerations so as to amount to the very special circumstances.

Reasons

The appeal site

6. The area in which the appeal site is located is open countryside, and is predominantly agricultural in character. The nearest settlement is Shafton. The appellant states that the appeal site was used in the past for dumping land fill material, and that planning permission was granted for this use. Prior to his acquisition of the site, the land was untidy, with large amounts of dumped material. In addition, a caravan had been left at the rear of the site.

7. The appellant confirms that a chalet has been placed on the site where it appears he now lives. His intention is to create a small-holding of approximately three acres, and he argues that the residential use is essential for the care of livestock. In addition, the appellant confirms that he operates a vehicle recovery business. This is predominantly for collecting cars that have broken down, been involved in an accident, or which need to be collected or delivered from one place to another. He states that, occasionally, vehicles relating to this business are parked on the site.

Whether or not inappropriate development

8. Section 13 of the National Planning Policy Framework (NPPF) attaches great importance to Green Belts, the essential characteristics of which are their openness and permanence. New buildings are generally found to be inappropriate in the Green Belt, although paragraph 145 of the NPPF sets out a number of exceptions. Policy GB1 of the Barnsley Local Plan (BLP) states that the Green Belt will be protected from inappropriate development in accordance with national planning policy.

9. The change of use of the land for the siting of a chalet for residential use, and the use of the land for the storage of a caravan/vehicles do not fall within the uses listed as not inappropriate in the NPPF. They therefore amount to inappropriate development which is, by definition, harmful.

The effect of the development

10. The presence of the development is apparent from the provision of a gated access point from Sandybridge Lane. On my site visit, I saw that the roof of the chalet was visible from the public footpath that runs along the boundary of the site. These factors alone have a detrimental impact on the openness and visual amenity of the countryside, and are out of keeping with the open, agricultural character of the surrounding area.

11. With regard to the vehicle recovery business, the appellant states that it has only been on rare occasions that one of those vehicles has been parked within the security of the appeal site. As a general rule, all vehicles that are collected for customers are delivered straight to the customers own property or to a garage if they are in need of repair.

12. Conversely, the photographs of the appeal site show several motor vehicles parked on hardstanding close to the chalet. The provision of the hardstanding and presence of such vehicles have contributed to the urbanisation of the site, thus representing a greater encroachment into the countryside than previously existed.

13. Drawing these factors together, I am satisfied that the development harms the openness and visual amenity of the Green Belt, and has a greater impact on the purpose of including land within it than the previous condition of the appeal site. It thus conflicts with the NPPF and with BLP Policy GB1.

The planning balance

14. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF directs that substantial weight is to be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

15. In view of the proximity of the site to Shafton, the appellant contends that the development is a sustainable form of diversification of the site. However, little substantive evidence has been produced relating to either the smallholding or the vehicle recovery business. I am not therefore able to quantify the contribution they make to the local economy, which limits the weight I can give to any such benefit. I have taken into account the support of BLP Policy E6 for

the development of the rural economy, but this has not led me to a different conclusion on the main issues.

16. I have no doubt that the appellant has invested time and money into the development of the site. He states that he has removed a significant amount of the previously dumped material, restored the rear part of the site for grazing, and replaced a boundary fence to the north of the site with a blockwork wall. Improvements have been made in terms access to and egress from the site. The appellant also contends that the site is extremely poor in terms of its quality as agricultural land. However, none of these factors outweigh the harm I have identified.

17. In the absence of compelling evidence to the contrary, I conclude that the 'very special circumstances' necessary to justify the approval of inappropriate development have not been demonstrated. The appeal on ground (a), and the deemed application for planning permission, must therefore fail.

The appeal on ground (f)

18. The appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

19. The appellant contends that the caravan has been on site for some time with no enforcement issues being raised by the Council, and that it should be allowed to remain in place. However, he has produced little evidence to show that the caravan either has planning permission, or that it does not need planning permission due to the length of time that it has been in place. That being the case, its removal is necessary to comply with the requirements of the notice.

20. The appeal site may have been in an unattractive state when the appellant obtained it. However, as I have found unjustified harm to the openness and visual amenity of the Green Belt, it remains necessary for the breach to be remedied.

21. Turning to the matter of the hardstanding, the request for this element to remain is, effectively, a request for planning permission for just one of a number of components of the unauthorised development attacked by the notice. I do have the power, under s177 of the 1990 Act, to grant permission for the whole or any part of the matters constituting the alleged breach of planning control.

22. I accept that the hardstanding is beneficial to anybody wishing to access and park on the site, and may well serve to prevent mud being taken onto the highway. I also accept that it is set at ground level, and so has a more limited effect on openness. However, the hardstanding is part and parcel of the unauthorised development, and thus contributes to the encroachment into the open countryside that is contrary to the purposes of the Green Belt designation. In any case, even if the hardstanding could be deemed to be acceptable in itself, there is no agreed detailed scheme before me which could be substituted as a requirement of the enforcement notice.

23. The appellant suggests that the external appearance of the chalet could be revised in accordance with a scheme to be submitted to and agreed with the Council. Again, no such scheme is before me for consideration, and crucially,

the issues at hand go beyond the outward appearance of the structure. Such a change would not adequately address the harmful effect of the development on the Green Belt.

24. The Council's purpose in issuing the enforcement notice was to remedy the breach of planning control that has taken place. Since the breach of planning control is the material change of use of the land and associated works, no steps short of those given would remedy the breach.

The appeal on ground (g)

25. The appeal on ground (g) is that the time given to comply with the notice is too short.

26. First of all, I am mindful that were I to uphold the one month period sought by the Council, this would now coincide with the period leading up to Christmas. The appellant is now living on the site, and this would not be an optimal time for him to begin to seek new accommodation. Similarly, it is likely to be a difficult time to engage third parties and to agree a schedule for them to carry out the works. Furthermore, there is the possibility of adverse winter weather, which could pose extra difficulties. The appellant suggests three months as the shortest time that would suffice, and I agree that that period is more reasonable.

27. Three months should also give the appellant scope to dispose of the structures as he sees fit. The appellant refers to the costs that have been incurred in relation to the development. However, these can have little bearing on my consideration, as he effectively incurred these himself by carrying out the development without planning permission.

28. To that extent, the appeal succeeds on ground (g).

Conclusion

29. Subject to the variations outlined above, the enforcement notice is upheld.

Elaine Gray

INSPECTOR