



Appeal Decision

Site visit made on 3 December 2019

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th December 2019

Appeal Ref: APP/N4720/C/19/3229108

Land adjacent to Unit F, Hollin Park Court, Calverley, Pudsey LS28 5QE

- 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 Mark Richardson, Holly Park Caravan Storage Limited, against an enforcement notice issued by Leeds City Council.
- The enforcement notice was issued on 10 May 2019.
- The breach of planning control as alleged in the notice is Without planning permission the material change of use of land from parking of motor vehicles to storage of caravans (B8 use).
- The requirements of the notice are 1) Cease the use of the land for the parking and storage of caravans or any other vehicles; 2) Remove from the land all parked caravans, motor vehicles and ancillary parts from the land.
- The period for compliance with the requirements is 1) above - within 28 days; 2) above - within 2 months.
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and a variation.

Preliminary Matters

1. It became apparent during the appeal proceedings that the appellant had not been informed of my visit to the site, due to an administrative error. Notwithstanding this, I was able to carry out a visit, unaccompanied by the parties, and view part of the site from the gated entrance and also the surrounding area. I am satisfied that I am able to reach a decision on the matters before me on this basis.
2. One of the objectors to the development has suggested that the lawful use of the site is within the B1 Business Use Class¹. The Council has referred, in its officer report, to planning permissions being granted in 1996 and 2001 for light industrial units on the site, but that the permissions in question were not implemented. The Council considers the previous use of the site as a car park to be 'sui generis', therefore falling outside any specific Use Class.
3. In the absence of compelling evidence to the contrary, I am not persuaded that the lawful use of the site is within the B1 Use Class and I have no reason to doubt the appellant's understanding of the previous use of the site as an employee's car park associated with a car leasing company. This is consistent with the description of the previous use of the land given by the Council, in the

¹ as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended)

enforcement notice, as “parking of motor vehicles”. It is in relation to this previous use of the land that I have assessed the alleged breach of planning control.

4. The appellant has stated that he wishes to make an application for costs against the Council, in the event that his appeal succeeds. Because this appeal has not been successful, I have therefore taken no further action in this regard.

The appeal on ground (b)

5. The ground of appeal is that the breach of planning control alleged in the enforcement notice has not occurred. The alleged breach is one of change of use of land to storage of caravans. Whilst I note that the parties dispute whether a material change of use has occurred, discussed later in my decision, this is not germane to whether the alleged unlawful use of the land has actually occurred as a matter of fact, in the context of a ground (b) appeal.
6. There is no dispute that the property is currently, and was at the time the notice was issued, being used for the storage of caravans. From the information before me and my visit, I am satisfied that the property is being used for such purposes and that accordingly the allegation of the current use is correct. Accordingly the appeal on ground (b) must fail.

The appeal on ground (c)

7. For clarification there is no appeal on ground (a) before me, that is that planning permission should be granted. Accordingly I am not considering the merits of the land use in this case.
8. The ground (c) appeal is that the matters alleged do not constitute a breach of planning control, in this case a material change in the use of the land. To assess this I need to consider the character of the new land use and how differently it is likely to be experienced in the surrounding area compared to the previous use.
9. According to the appellant, storage on the site is limited to 30 caravans. The appellant’s case is that the current caravan storage use is tantamount to the staff vehicle parking use that has historically taken place there, associated with company employees. However, it seems to me that vehicle parking and caravan storage may each give rise to very distinct patterns of activity. The storage of individual caravans might reasonably be expected to take place over longer periods, without the same frequency of comings and goings associated with day to day parking of individual vehicles. There is no information before me to suggest that a storage use was continuing on the site prior to the appellant’s interest in the land commencing in August 2018.
10. I have no reason to dispute the general differences in vehicle movement patterns between the previous and current land uses, as identified within the third-party representations. I consider that the comings and goings of caravan clientele would be less predictable and more likely to be spread over a larger part of the day and week, when compared with staff car parking, as caravan related activity would not tend to reflect the peak traffic movements associated with the beginning and ending of work shifts and the working week. Greater seasonal variation in the use of the site would also be expected.

11. Irrespective of other types of vehicle that may lawfully be using the access road to the site, it seems to me for the above reasons that caravan storage has the potential to result in less predictable disturbances to residents on Hollin Park Court, living in very close proximity to the access road serving the site, when compared with the previous use of the site. It also seems likely to me to result in more pronounced disturbances to those residents, due to the greater potential for activity associated with the use occurring at times when residents might reasonably expect to enjoy the peace and quiet of their homes. Accordingly the use has the potential to result in greater harm to the living conditions of residents, in comparison to the previous car parking use.
12. In addition, whilst there may be no highway safety implications, the towing and manoeuvring of caravans to and from the site does at least give rise to a need to assess the effect of this on local highway traffic, in the context of the previous use and other vehicles using the industrial estate and nearby residential roads. From the Council's officer report, I understand that the Highway Authority are considering the introduction of parking restrictions on Upper Carr Lane, in response to concerns about the difficulties experienced towing caravans. It seems to me that this is a further consequence distinguishing the existing and previous uses of the site.
13. Furthermore it is important to consider any potential change to the appearance of the site. Whilst there is some boundary planting in place, it was evident from my visit that parts of the site are visible through gaps, from Upper Carr Lane to the north. I consider that from this perspective the generally white reflective appearance of caravans would be readily distinguishable from vehicles in a car park.
14. Drawing the above considerations together, I therefore conclude that in the circumstances of this case, vehicle parking and caravan storage are materially different uses of land that would be experienced differently within the surrounding area. It is important to re-emphasise that this finding does not imply acceptability or otherwise of the use in question, including the potential to exercise control through the imposition of planning conditions, which would necessarily be a matter for consideration via a planning application.
15. Accordingly, I find that the caravan storage use has resulted in a material change of use of land, for which planning permission would have been required. I would not have concluded differently had I been persuaded that the lawful use of the land was within Use Class B1. The ground (c) appeal therefore fails.

The appeal on ground (f)

16. The ground of appeal is that the steps required by the notice to be taken are excessive. The objective of the notice is to secure the discontinuance of the use of the land. It follows that the purpose of the notice is to remedy the breach. Given that the purpose of the notice is to remedy the breach of planning control, this can only be achieved by the alleged use being discontinued. To require that much does not, therefore, exceed what is necessary.
17. However the Council has set out the alleged breach of planning control in the enforcement notice as the material change of use to the storage of caravans. The allegation does not refer to the storage of other

vehicles. However the requirements of the notice include ceasing use of the land for the storage of other vehicles. Because the notice is not alleging the unauthorised storage of other vehicles it is only necessary to cease the use for storage of caravans in order to remedy the breach.

18. The requirements of the notice therefore go beyond what is necessary to remedy the breach as described. Accordingly the notice needs to be corrected and I am satisfied that this can be done without resulting in injustice. The ground (f) appeal therefore succeeds to this limited extent.
19. The appellant has referred to taking various steps such as restricted opening hours, the installation of CCTV and additional locks and the requirement for advanced notification of comings and goings with a view to controlling and moderating movements to and from the site. However these are matters that would be for consideration under a ground (a) appeal, that is that planning permission should be granted, which is not currently before me.

Conclusion

20. For the reasons given above I consider that the appeal on grounds (b) and (c) should not succeed.
21. Whilst there has been no appeal on ground (g), it seems to me that the requirement to cease using the land for caravan storage cannot be met without also removing the caravans from the land. I have therefore extended the time limit for compliance with the requirement in Section 5 paragraph 1) of the notice, so as to be compatible with the requirement in Section 5 paragraph 2). I am satisfied that this relatively minor change would not result in injustice to the parties.

Formal Decision

22. It is directed that the enforcement notice be corrected by deleting the following wording in Section 5 paragraph 1) of the notice: "or any other vehicles"; and by deleting the following wording in Section 5 paragraph 2) of the notice: ",motor vehicles".
23. It is directed that the enforcement notice be varied by deleting the words "28 days" in Section 5 paragraph 1) of the notice and substituting the words "2 months" instead.
24. Subject to these corrections and variation the appeal is dismissed and the enforcement notice is upheld.

Roy Merrett

INSPECTOR