



Appeal Decisions

Site visit made on 17 December 2019

by Mr A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2020

Appeal A Ref: APP/C/19/3226736

Land known as former Greenhills Garden Centre, Cauldwell Road, Sutton-in-Ashfield, Nottinghamshire NG17 5LB

- 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 Act].
- The appeal is made by Mr Gareth Hunt against an enforcement notice issued by Ashfield District Council.
- The enforcement notice was issued on 21 March 2019.
- The breach of planning control as alleged in the notice is without planning permission: (1) the material change of use of the land from a use as a car park ancillary to a former garden centre to a use for the storage of vehicles and, (2) the erection of wooden gates across the entrance to the land in the position shown by the photograph marked ADC1 attached to the issued notice.
- The requirements of the notice are to: (1) Cease the use of the land for the storage of vehicles, (2) remove all vehicles stored on the land associated with the unauthorised use, (3) remove the wooden gates that are sited across the entrance to the land as shown on photograph ADC1, and (4) remove all resulting debris from the land.
- The period for compliance with the requirements is 2 months.
- 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.

Summary of Decision: The appeal succeeds in part on ground (g) and the enforcement notice is upheld with a variation as set out in the formal decision below.

Appeal B Ref: APP/W/19/3225049

Land at Greenhills House, Cauldwell Road, Sutton-in-Ashfield, Nottinghamshire NG17 5LB

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by Mr G Hunt against the decision of Ashfield District Council.
- The application Ref V/2018/0724, dated 8 November 2018, was refused by notice dated 4 January 2019.
- The development proposed is use of land for the storage of up to thirty motorhomes and retention of existing gate (to be stained dark brown) (retrospective application) revised scheme of V/2018/0349.

Summary of Decision: The appeal is allowed, and planning permission is granted subject to conditions as set out in the formal decision below.

Appeal A and B – ground (a) and s78 appeal

1. The enforcement notice relates to an area of land outlined in red on the plan attached to the notice [the 'notice land']. This area is the same as the application site in Appeal B. In Appeal A, the terms of the deemed application are circumscribed by the allegation. Planning permission is sought for the use of the notice land for the storage of vehicles and the erection of wooden gates. In Appeal

B planning permission is sought for the storage of up to 30 motorhomes and retention of existing gate. The development subject of Appeal B is yet to be completed and is part retrospective and follows a previous refusal of planning permission by the Council (ref: V/2018/0349).

2. Against all that background, the common main issue is the effect of the development upon the character and appearance of the site and surrounding area.
3. Relevant Policy ENV2 of the Ashfield Local Plan Review 2002 (LP) relates to proposals in the countryside. It states that planning permission will only be granted for appropriate development in the countryside. The development in Appeal A and B does not fall into any of the listed categories. Policy ST1 states that development will be permitted where, amongst other things, it will not conflict with other policies in the LP and it will not adversely affect the character, quality, amenity or safety of the environment. Policy ST4 relates to proposals outside the main urban areas and named settlements.
4. While the terminology is not the same as that used in the National Planning Policy Framework 2019 (NPPF), the latter indicates that policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. I find the relevant local planning policies broadly consistent with the NPPF.
5. The appeal site was, in part, used as a car park ancillary to Greenhills Garden Centre. It is accessed from Cauldwell Road, which is a cul-de-sac and characterised as a rural road; it serves a handful of properties. The surrounding area is characterised by rolling countryside but in long-distant views the site is not directly noticeable given the area's topography and existing vegetation.
6. The ancillary car park was probably limited in scale and the parking of vehicles was confined to defined areas. Compared to the previous car park use, the notice land could, in theory at least, result in the use of the entire site for purposes of storing motorised vehicles. While a condition could be imposed limiting the number of vehicles kept at the depository, the storage operations are likely to result into a wide spread of vehicles. I consider that the nature and scale of this type of activity would significantly change the physical appearance and layout of the site.
7. The site is well screened by existing vegetation and trees. Nevertheless, I saw that the site is noticeable from Cauldwell Road and vehicles are likely to be seen from the access gate. During the winter months, vehicles stored on the notice land are more likely to be visible, due to the deciduous nature of the vegetation and the potential wide spread of vehicles. In short to medium views, the extent and spread of the vehicle storage over the entire site is likely to have an urbanising effect on this part of the countryside. The storage of vehicles has the potential to have a significant adverse visual effect. I consider the open-air storage of vehicles in this location is out-of-keeping with the rural quality of the site and area. In terms of Appeal A, there is therefore conflict with LP Policies ENV2, ST1 and ST4.
8. In Appeal B, drawing no. SI17/1067/1, shows the proposed site layout in its complete form. Motorhomes would be parked in bays and laid out in a regimented manner; parking would be confined to defined bays surrounded by additional landscaping. Furthermore, there would be 30 motorhomes kept at the site. There would be improved circulation areas. In comparison to the previous proposal, there would be no caravans stored at the site. I consider that if limitations are imposed on the number of motorhomes stored and a restriction on caravans then, in

principle, this kind of change in the use of the site would be acceptable in land-use terms.

9. The Council has concerns about the storage of motorhomes in the open-air however the scheme in Appeal B would have a limited urbanising effect as the proposed landscaping would soften the visual impact of parked vehicles. The storage operations would be confined to parking bays. This kind of activity would not have an incongruous effect due to the layout of the parking spaces and the number of motorhomes stored on the site. I consider that the impact of the storage activity would be localised and in medium to long-distant views the development would have very little, if any, visual effect given the area's topography, the proposed site layout and landscaping. Subject to the imposition of suitably worded conditions, which I will return to later, I find that the scale of development proposed in Appeal B would not have a materially harmful effect upon the intrinsic natural beauty of the countryside.
10. The gates are a standalone feature located at the entrance to the site. The materials used on the entrance gates are appropriate in this rural location. I am however concerned because, while the wooden gates are set back from the highway, they form a prominent feature within the rural street scene. The colour and texture draw the naked eye. In their current form, the gates are unacceptable. The visual prominence would be greatly reduced if the gates were treated with a suitable finish. The dark staining would make the development acceptable in planning terms but would require a condition to be imposed on the grant of planning permission. If a condition could not be imposed, the planning permission for the gates would need to be refused.
11. The Council argue that the former garden centre ceased in around 2010 and the buildings were demolished, and the 2016 aerial imagery shows the former car park had largely been overgrown by vegetation. However, there are considerable amounts of hard-surfaced areas and remnants of structures associated with the garden centre. In my assessment, the remains of the permanent structures and fixed surface structures have not significantly blended into the landscape.
12. The Council and interested party are concerned about the frequency and level of activity. The argument is that alternative sites have not been considered and there are various employment sites in more urban and suitable or sustainable locations. However, I am not aware of any local plan policy setting out a site selection criterion for the use of the site as a depository. In any event, the evidence presented shows that the site is leased and used by a local motorhome business. Employees collect and/or deliver motorhomes to and from the site and there are no customer visitations. I am not persuaded that the number of motorhomes stored on the site would significantly increase comings and goings to and from the site. In addition, conditions could be imposed to prohibit customer visits or sales of motorhomes.
13. The NPPF indicates that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. There is nothing to make less than credible the appellant's claim that the motorhome supplier has greatly benefitted and expanded the business given the distance to the storage facility from its base in Mansfield. The appellant states that the company has found it difficult to locate and secure an alternative and suitable site. Given my findings elsewhere, the Appeal B scheme would be sensitive to its surroundings while

enabling growth and potential expansion of the motorhome enterprise. I consider that this scheme would, in particular, meet with the NPPF's aims and objectives of supporting a prosperous rural economy.

Planning balance

14. Drawing all the above points together, on the main issue, the development in Appeal A, which is subject of the notice, has a significant adverse visual effect upon the site and its surroundings. Conditions alone would not overcome my concerns. In Appeal B, however, the proposed development, subject to imposition of conditions, would not have a significant adverse visual effect on the site and its surroundings and any localised impact would be mitigated by soft landscaping.
15. On the other side of the scales, the land is previously developed to which I attach substantial weight. I note alternative employment sites in the District may well be available, but this site is close to an established Motorhome enterprise and there is benefit to the rural economy as the development in Appeal B would assist a rural business to expand and develop. This factor weighs heavily in favour of grant of planning permission. I find that the other considerations advanced are factors in favour and together are enough to outweigh concerns about the Appeal B development's perceived harm to the character and appearance of the site and surrounding area and conflict with LP policies.

Conditions - Appeal B

16. The application sought planning permission for development that is, in part, prospective. It's necessary to ensure the development, in its complete form, accords with site location plan vehicle storage area drawing no. SI17/1067/1 and proposed gates all received 9 November 2018.
17. Notwithstanding the details shown therein, it is necessary to ensure soft and hard landscaping is implemented in accordance with a scheme to be agreed with the authority. The schematics show the timber access gates finished in light oak whereas the Council advocate a dark oak wood stain, which would reduce the visual effect of the timber gates. I agree with the Council and the appellant would be willing to comply by this proposition. The proposed gates plan also refers to the storage of motor vehicles and caravans, which is incorrect. In the interest of safeguarding the character of the area, a condition requiring details of the treatment should be submitted to the Council for the authority's approval within 3 months from the date of this decision. Approved details should be implemented in accordance with a timetable unless otherwise agreed with the Council, due to the current public health emergency.
18. It is necessary and reasonable to impose a condition to define the permitted use for clarity's sake and prohibit caravan storage. In addition, the evidence is that customers do not view the motorhomes at the site and this needs to be controlled by a condition. In the interest of visual amenity, it is important to limit the number of motorhomes and operating days and times. This will also address concerns expressed by an interested party about car storage and/or sales.

Appeals A and B - overall conclusions

19. For the above reasons, appeal on ground (a) and the deemed planning application fail. The appeal on ground (f) and (g) are considered below. Having regard to all other matters raised, I conclude that Appeal B should be allowed subject to the conditions below.

Appeal A – ground (f)

20. It is necessary to consider whether the steps required to comply with the notice are excessive. The notice requires the cessation of the unauthorised vehicle storage use and the removal of all vehicles stored on the land, the wooden gates which are sited across the entrance to the land as shown on photograph ADC1 and all resulting debris from the land. The notice seeks to remedy the breach of planning control by restoring the land to its condition before the breach occurred; squarely derived from section 173(4)(a) of the Act.
21. In Appeal B planning permission is granted for an alternative scheme. The timber gates, as erected, have a stark appearance and are unacceptable. In Appeal B, a condition can be imposed to require suitable staining of the gates. The argument is that step (2) should be varied to require painting of the gates but that kind of under-enforcement would not achieve the purpose behind the notice, which can only be achieved by full compliance.
22. The steps required are not excessive. Ground (f) fails.

Appeal A - ground (g)

23. The challenge is that the period specified in the notice falls short of what should reasonably be allowed. The steps required by the notice as corrected require the cessation of the unauthorised use and removal of wooden gates. All of these will require some planning and building work.
24. I invited additional comment given the current public emergency and the response by the Government including travel restrictions. I am grateful for all these comments. I consider that a compliance period of 6 months is reasonable given the nature of the work required by the notice. The Act permits the Council to waive or relax any requirement of a notice and may extend any period specified in accordance with s173(9). These powers are discretionary and purely within the Council's gift.
25. For all the above reasons, I find that the compliance period of 2 months as set out on the notice falls short of what is reasonable, and 6 months would be a reasonable period of compliance; consequently, I shall vary the notice. The appeal on ground (g) succeed.

Appeal A and B - Overall conclusions

26. Having regard to all other matters, I conclude that the notice will remain extant as varied on ground (g). To the extent that the planning permission granted by virtue of the s78 (Appeal B) is inconsistent with the terms of the notice, section 180 of the Act¹ will ensure that the former prevails.

Formal decisions - Appeal A

27. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion the number and text "2 months" and substitution therefor by the following: "6 months". Subject to this variation, the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

¹ Where a planning permission is subsequently granted for the same development, or for some part of it, the permission overrides the Notice to the extent that its requirements are inconsistent with the planning permission, but the Notice does not cease to have effect altogether.

Appeal B

28. The appeal is allowed and planning permission is granted for the storage of up to thirty motorhomes and retention of existing gate (to be stained dark brown) (retrospective application) revised scheme of V/2018/0349 at land at Greenhills House, Cauldwell Road, Sutton-in-Ashfield, Nottinghamshire NG17 5LB in accordance with the terms of the application, ref V/2018/0724, dated 8 November 2018 and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan, existing site layout SPC/MSE/3776, proposed site layout SI17/1067/1, elevation gates except in respect of the light oak finish shown on plan elevation gates plan.
- 2) Notwithstanding condition (1) above, details of soft and hard surface landscaping and treatment of the timber access gates (wood stain detail) together with a timetable for implementation shall be submitted to the local planning authority within 3 months of the date of this decision for its written approval. The approved details shall thereafter be implemented in accordance with the approved timetable unless otherwise agreed in writing by the local planning authority.
- 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) No more than 30 (thirty) motorhomes shall be stored on the site at any time. The site shall only be used for the storage of up to 30 (thirty) motorhomes and there shall be no caravans (as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended) stored or kept on the land whatsoever. There shall be no sale of motorhomes or the storage or sale of any motorised vehicle on the land at any time.
- 5) Customers shall not be permitted on the site whatsoever at any time.
- 6) Collection and drop-offs in association with the use of the site for motorhome storage shall take place between the following hours: Monday to Fridays 0900 to 1700. The site shall not operate on Saturday, Sundays, Bank Holidays and Public Holidays.

A U Ghafoor

Inspector