The Planning Inspectorate

Appeal Decision

Site visit made on 12 January 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/Z4718/C/20/3257926
Cockley Wood, Liley Lane, Grange Moor WF4 4EN

- 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 Steven Michael Smith against an enforcement notice issued by Kirklees Metropolitan Borough Council.
- The enforcement notice was issued on 8 July 2020.
- The breach of planning control as alleged in the notice is the material change of use of the land for the permanent use of the site as a wedding/events venue and the associated siting of a tee-pee, shepherd-style huts with attached decking skirts (used as a bar and DJ Booth), portable toilets, firepit and seating area, children's play area, blessing area, pathways through the woodland and other wedding venue paraphernalia such as canopies, signage, benches, seating, tables and festoon style lighting and the associated laying of a hard surface areas for access and for car parking to facilitate the use.
- The requirements of the notice are:
  a. Cease the use of the site for weddings and events.
  b. Remove from the land all items associated with the wedding/events venue such as, but not exclusive of, teepee, DJ Booth and bar (in shepherd hut style buildings attached with decking skirt) portable toilets, fire pit, seating area, children's play area, blessing area, roped pathways through the woodland and other wedding venue paraphernalia such as canopies, signage, benches, seating, tables and festoon style lighting.
  c. Remove the hard surfaced areas (annotated as "Parking – crushed stone surface", "crushed stone surface" and "crushed stone access track") as shown on attached plan 121 (0-) 01A.
- The period for compliance with the requirements is:
  1. To complete step 5(a) above – within 30 days.
  2. To complete step 5(b) above – within 30 days.
  3. To complete step 5(c) above – within 60 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

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

Preliminary matters

1. There appears to be a typographical error in paragraph 3 of the notice, the last but one line of which refers to "a hard surface areas". The word "a" is redundant and can be deleted without causing injustice to either main party.

2. My attention has been drawn to the recent planning history of the site, including enforcement action and planning applications. I am aware of the appellant's frustrations at the manner in which the Local Planning Authority has

dealt with him but I have determined the current appeal on its own merits in the light of the evidence presented to me.

3. Since the appeal was lodged, I am aware that under reference 2020/62/92579/E the Council has refused planning permission for a change of use from woodland to outdoor wedding venue with associated development at the appeal site. The reasons for refusal related to the principle of the development in the Green Belt, harm to the openness of the Green Belt and that very special circumstances would not clearly outweigh the harm to the openness of the Green Belt, the effect on the large area of woodland protected by Tree Preservation Order, effect on biodiversity and the effect on the safe and efficient movement of highway users. In determining the current appeal I have taken account of this decision and associated evidence to which my attention has been drawn.

4. The appellant has stated that the red line plan associated with the enforcement notice covers all of Cockley Wood, but the area of the development covers only a small part of the overall woodland. It is also contended that the site layout plan attached to the enforcement notice does not reflect the development and therefore the alleged breach of planning control as set out in the enforcement notice. Power to correct an enforcement notice extends to the substitution of the plan, whereby any errors in respect of what area is identified as the site may be remedied so long as the matter is canvassed with parties and the amendments would cause no injustice. S173(2) says that a Notice complies with s173(1)(a) if it enables any person on whom a copy of it is served to know what those matters are, being the matters alleged to constitute a breach and what he must do to remedy it. The plans attached to the Notice show the wider area of land on which the breach has occurred and all matters which appear to constitute a breach of planning control have occurred within that red line area.

5. The Notice enables the appellant to know precisely what those matters, being the alleged breach, are and the requirements set out clearly what is required to be done in order to remedy the breach. Therefore, I do not find reasons to modify the enforcement notice in this respect.

The appeal on ground (b)

6. The ground of appeal is that the breach of planning control alleged in the enforcement notice has not occurred. In order to succeed on this ground it would need to be demonstrated that the alleged breach of planning control as described in paragraph 3 of the enforcement notice has not taken place as a matter of fact.

7. The appellant argues that the land has not been and is not being used permanently as a wedding and events venue, but instead it has been operating under Class B (temporary uses of land) of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). Whether or not that is the case will be discussed under ground (c). The enforcement notice clearly distinguishes between a permanent material change of use rather than a temporary material change of use. The works have taken place have materially changed the character and use of the land in question to the extent that those cannot be reasonably described as temporary. It is also my understanding that the items associated with the use have been in situ since around June 2019. There have been no reversion times

that I am aware of and all the physical infrastructure has remained on site since it was first installed.

8. The appellant's own evidence before me, including statutory declarations, is that crushed stone and other surfacing has been laid on parts of the site. Therefore, irrespective of whether or not there were hard surfaces on parts of the site previously, materials have been imported onto the site and laid out for the purposes of facilitating the material change of use alleged in the enforcement notice. As such hard surface areas have been laid as a matter of fact.

9. Therefore, given the material change of use that has occurred and the permanent nature of the works that have been carried out in order to facilitate that material change of use, based on the evidence before me the alleged breach of planning control has occurred as a matter of fact and the appeal on ground (b) must fail.

The appeal on ground (c)

10. The ground of appeal is that the matter alleged does not constitute a breach of planning control. In addition to the argument regarding temporary use advanced under ground (b), the appellant does not seem to argue that the material change of use alleged in the enforcement notice has not actually occurred, but rather it is contended that the various items identified in the notice do not themselves constitute development under s55 of the Act.

11. Firstly, the appellant contends that the site has been operating under permitted development rights provided by Class B of Part 4 of Schedule 2 of the GPDO. Furthermore, due to Covid-19 restrictions the site has not been able to operate and as such there is no basis for the Council's position that the site is being used permanently for weddings and events.

12. The fact that the items listed in the enforcement notice have remained on site since they were put there and there has been no reversion of the use to my knowledge lead me to the conclusion that the land has undergone a permanent material change of use. I understand that the site has not operated on a daily basis and that Covid-19 restrictions have limited its use during the past few months, but that does not mean that for planning purposes the use of the land has ceased or indeed has ceased to be permanent. The physical characteristics of the material change of use remain on site and for the purposes of planning law, a use does not cease merely because a particular activity stops. The fact that no weddings or events have taken place on site for a period of time does not therefore invalidate the Council's allegation of a permanent material change of use.

13. Therefore, the site does not operate under the terms of the GPDO since there has not been any time between weddings or other events when the site has reverted to its previous use and furthermore, the physical infrastructure required to facilitate the use as set out in the enforcement notice have remained on site since they were first moved there around June 2019.

14. It is clear to me that the enforcement notice attacks the material change of use of the land rather than operational development. The various items listed in paragraph 3 of the notice are set out to describe the range of items that are on

the site and are there only to facilitate the material change of use that has occurred and are an integral part of that change of use.

15. Case law[1] has established the principle that an enforcement notice directed at a material change of use can require the removal of ancillary operational development within the ten year immunity period applying to a material change of use, even if the four year limit has passed, if the works were intended to facilitate the unlawful use. Furthermore, the case of *Somak*[2] established the principle that an enforcement can require the removal of items which are not in themselves development, because they facilitate a change of use. These well-established principles have subsequently been endorsed by the case of *Kestrel Hydro*[3] where the judgment upheld the cases of *Murfitt* and *Somak* as 'good law'. Therefore, it is largely irrelevant whether some of the structures, items and hard surfaces are not development within the meaning of s55 of the Act. They facilitate the unauthorised material change of use and as such are correctly targeted by the Notice.

16. Furthermore, the hard surfaces do themselves constitute an engineering operation for which planning permission is required and the extensive works to the trees, including felling, the removal of top soil and other minor works go beyond what may reasonably be described as upkeep and maintenance (as described by the appellant). Case law[4] indicates to me that some of the timber structures that have been erected across the site possess a degree of permanence since their erection has required some assembly. As such, they also constitute buildings under the terms of s55 of the Act for which planning permission is required.

17. Therefore, I conclude that a permanent material change of use of the land as alleged in the enforcement notice has occurred and that some of the operations and buildings associated with such change of use are development in their own right. Notwithstanding that conclusion, the notice is clearly attacking the material change of use and consequently, the items listed therein are clearly there to facilitate the unauthorised use and justification regarding whether they are development in their own right is not required in this case.

18. The appeal on ground (c) therefore fails.

The appeal on ground (a)

19. The ground is that planning permission should be granted. The main issues are:

    i. whether the development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);

    ii. the effect on the openness of the Green Belt and the purposes of including within it;

    iii. the effect on the character and appearance of the area;

    iv. the effect on the woodland which is the subject of a TPO;

[1] Murfitt v SSE & East Cambridgeshire CC [1980] JPL 598
[2] Somak Travel v SSE & Brent LBC [1987] JPL 630
[3] Kestrel Hydro v SSCLG & Spelthorne BC [2015] EWHC 1654 (Admin), [2016] EWCA Civ 784
[4] Skerritts of Nottingham Ltd v SSETR & Harrow LBC (No. 2) [2000] JPL 1025

v. the effect on a priority ecological habitat and whether the development provides a net gain for biodiversity or safeguard the function of the Kirklees Wildlife Habitat Network;

vi. the effect on the safety of highway users with particular reference to on site car parking provision; and

vii. if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Inappropriate Development

20. The Framework attaches great importance to the Green Belt and inappropriate development is, by definition, harmful to the Green Belt and should not be approved except where there are very special circumstances. When determining applications substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt by way of inappropriateness, and any other harm, is clearly outweighed by other considerations.

21. Paragraph 146(e) of the Framework states that the material change in the use of land is not inappropriate in the Green Belt provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The enforcement notice clearly relates to the material change of use of the land. My conclusions on the next issues will determine whether or not the development is inappropriate.

Green Belt Openness and Purposes

22. The loss of openness can take a number of forms leading to encroachment. The countryside contains a wide variety of features, including open fields and woodland and the effect of development as encroachment on the countryside may be in the form of loss of openness or intrusion. An area of hardstanding will be developed land, but still part of the countryside and to that extent may be considered to be open. However, the construction of a building or the placing of items to facilitate a material change in the use of land may well cause a loss of openness through the loss of openness, intrusion or encroachment into the countryside. The effect of a development on openness is not necessarily related to its size but also its purpose. The concept of openness is quintessentially a matter of planning judgement for the decision-maker.

23. The appellant argues that there is no question that the openness of the Green Belt would be preserved and it is submitted that the use is a perfectly appropriate use of land and does not constitute inappropriate development insofar as the use falls within paragraph 146(e) of the Framework. His argument with respect to openness is unclear, but it is my opinion that the development that has occurred has significantly impacted on the openness of the Green Belt in terms of its spatial intervention into the woodland and its visual impact on the immediate surroundings. The structures that have been erected, extensive areas of hardstanding, footways, access tracks, hard surfaced car parking area and general event-related paraphernalia across the site including lighting, have encroached into the countryside and are intrusive

features that interrupt the openness of the countryside. In addition, the hard surfacing facilitates vehicle movement and parking within the site which would exacerbate the harm to openness.

24. In the above respect I conclude that the development does not preserve Green Belt openness and would impact on the purpose of safeguarding the countryside from encroachment. Although the effects are moderate, on the basis that the fundamental aim of Green Belt policy, as set out in the Framework, is to keep land permanently open, they would be sufficient to result in the development being inappropriate development in the Green Belt.

Character and Appearance

25. The development includes a large area of hardstanding at the front of the site adjacent to Liley Lane and further hardstanding and access tracks to the main event area which has a number of structures, including the tee-pee, shepherd-style huts, enclosures, decking areas, seating and play areas and other paraphernalia. The structures and their associated use which would attract large numbers of people and vehicles, would cause noise, require lighting and generally disturb this area of countryside, the character of the site and its surroundings would be harmed and would be very much at odds with its rural setting. The site and the structures within the site are visible from the surrounding countryside, including a nearby public right of way.

26. The previously relatively undisturbed area of woodland has been materially altered into a development which compromises the quiet and peaceful rural surroundings. I understand that there is no dispute between the main parties with respect to the effect on the living conditions of nearby residential occupants with reference to noise and disturbance, but nonetheless there is undue disturbance to the character and appearance of the area.

27. The relatively intensive use of the development during events would include movement of vehicles, high levels of activity and noise which would not reasonably be expected in a woodland area of this type. Therefore, the development harms the character and appearance of the area, unduly contrasting with its surroundings and at odds with the quiet rural character of the site and its surroundings.

28. The overall layout and design of the development fails to satisfactorily respect the landscape nor does it enhance the natural environment from a visual point of view. As such it is harmful to the character and appearance of the woodland setting and its surroundings. Therefore, on this issue I conclude that the development is harmful to the character and appearance of the area and conflicts with Policy LP24 of the Kirklees Local Plan Strategy and Policies Adopted 27 February 2019 (the LP) and the Framework which, among other objectives, state that the form, scale, layout and detail of all development should respect and enhance the character of the landscape and should contribute towards enhancing the natural environment.

Trees

29. The appeal site is a woodland which is protected by TPO 12/19/w1 which covers all trees in the woodland. The preservation order was imposed on the site following tree felling and other works which have taken place. The evidence before me shows that a number of trees have been removed from the

site in order to facilitate the development. In addition, the appellant has stated that no further clearance is required. I have noted that the development covers a relatively small area of the larger woodland; however, it seems to me that any potential effects on protected trees in the future may not just be limited to that smaller area. In addition to an Arboricultural Impact Assessment the appellant has submitted a Woodland Management Plan (WMP)which sets out advice on the trees present in Cockley Woods and advises on new planting and works to trees if required.

30. The material change of use that has occurred will inevitably significantly increase public access into the protected woodland, including potentially the wider area of woodland. Consequently, the potential risks to the protected trees would increase with consequences for woodland management. The defects in trees throughout the woodland would pose a risk to the health and safety of those using the wedding and events venue which would in turn lead to a need to carry out further works to trees, and potential felling, in the future.

31. I have taken account of the appellant's evidence, but do not find it to be sufficient to justify the approach that has and will be taken in the context of a realistic scenario that may arise from significantly increased public access and activity in the area. Without public access, any defects in the trees would not require intervention and the woodland would be allowed to naturally mature and regenerate. The retention of defective and dead trees in the woodland would normally bring biodiversity benefits and the level of activity that may reasonably be expected would undoubtedly affect ground conditions, including people trampling on saplings which would otherwise help to regenerate the woodland.

32. Furthermore, I can see from the evidence before me and my own observations that the development has already had a significant effect on trees within the woodland through felling, pruning and other works. This includes felling to facilitate the car parking area and access routes through the woodland.

33. Woodland management should only be required where it serves a particular purpose. The provisions of the appellant's WMP are only required to facilitate the development which has already shown to be harmful to the woodland through tree felling, for example. Without the development, the woodland would develop into a sustainable ecosystem and therefore I do not agree that the interventions recommended by the appellant would be beneficial to the woodland if it were left in its natural condition.

34. I can see that the Preservation Order brings protection to the woodland, but the development is a threat to the woodland and its trees by introducing levels of activity and potential disturbance. Therefore, on this issue I conclude that the development has a harmful effect on the woodland which is the subject of a TPO. Therefore it conflicts with Policy LP33 of the LP which states that planning permission will not be granted for developments which directly or indirectly threaten trees or woodland of significant amenity value.

Biodiversity

35. The Bat Roost Survey of the Trees at Cockley Woods provides the locations of trees which have the potential for bat roosts and their proximity to the lighting identified in the enforcement notice. The Survey identifies the lighting areas

but there are no details of lighting levels or the technical specification of the lighting used. Therefore, it has some limitations and is not adequate for determining how the impact of lighting on bat roosts or bat foraging areas would be avoided. Therefore, although the Survey does identify the position of trees that may be affected by lighting, a more detailed scheme of illumination across the appeal site would be required in the event of allowing the appeal on ground (a) in order to ensure further details are submitted with reference to the detailed specification of lighting provided.

36. A Biodiversity Enhancement Plan (BEP) has also been submitted in order to determine the ecological value of the woodland and predicted changes resulting from the development. However, the ecological baseline of each compartment of the whole woodland is based on its current post-development condition following the works that have already taken place, including the laying of hard surface areas and the clearance of trees and vegetation to provide space for the wedding and events venue and associated infrastructure. Consequently, the baseline information used is inadequate for the purposes of determining the habitat assessment and condition of the woodland as a whole. For example, Compartment 1 is described as being urban developed land – sealed surface and Compartments 12 and 13 are urban – vacant/derelict land/bare ground and have very low ecological values. Before the development took place it is understood that these areas were woodland with associated ecological habitat and value.

37. In addition, it seems to me that there is inconsistency between the BEP and WMP. For example, Compartment 2 is assessed in the BEP as having no ground flora present with the exception of bramble and possible evidence of bluebell, whereas the equivalent Compartment in the WMP has a very different description including semi to early-mature sycamore, with occasional oak, ground cover of bluebell and a small amount of bramble which existed before clearance works. A photograph in the WMP shows the extent of bluebell cover in the respective compartment. It therefore appears to me that before the development took place some parts of the woodland may have had some significant ecological value that has not been taken into account of in establishing the ecological baseline and net gain.

38. I have taken account of the appellant's latest comments with regard to the methodologies for undertaking the WMP and the BEP, but I find that the evidence submitted is not compelling with regard to showing a net ecological gain. I can see that in some parts of the woodland there will potentially be net gain in ecological value but cannot be sure that such assessment is based on accurate baseline data or indeed evidence of the pre-development conditions within the woodland.

39. I have also noted that the WMP includes safety inspections within some parts of the woodland. Such inspections are highly likely to result in the removal of dead wood or fallen tree branches, for example, which may themselves contribute to the ecological value of the woodland. As such it is unclear how such recommended interventions identified in the WLP result in the improved ecological conditions in those respective areas identified in the BEP.

40. Therefore, although concerns regarding bats could potentially be the subject of suitably worded conditions, I am not persuaded that the evidence regarding net ecological value is adequate to demonstrate that the development results in a

net gain for biodiversity or safeguard the function of the local wildlife network. Therefore, on this issue I conclude that the it has not been satisfactorily demonstrated that the development provides a net gain for biodiversity. Therefore, it cannot be said to safeguard the function of the Kirklees Wildlife Habitat Network. As such it conflicts with Policy LP30 of the LP and the Framework which, among other objectives, seek to minimise the impact on biodiversity and provide net biodiversity gains and safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network.

Highways

41. The appeal site is accessed off Liley Lane and car parking for 36 vehicles is provided on-site. At my site visit I observed an 'in and out' access arrangement but I understand that the 'in' is used as a two way access point and the other access point is used for maintenance purposes. The appellant states that there is no question that the number of parking spaces is sufficient for the needs of the development, but the Council remains concerns that the level of parking is inadequate and may result in vehicles attempting to park elsewhere. It is my understanding that there is no dispute between the main parties regarding there being adequate visibility splays according to the evidence before me, including a recent weekend evening speed survey.

42. The appellant contends that there is no evidence that the development has resulted in parking on Liley Lane but representations on other planning applications for the same site, indicates otherwise. Either way, the appellant has stated that there will be measures in place to control parking, including marshals who will guide and guard vehicles and considers that a planning condition could be used to provide for the submission and implementation of an event parking management plan.

43. The evidence presented shows that the development has hosted a number of various events for up to 200 guests. Given the potential number of guests and the limited number of parking spaces I am concerned that the on-site provision is inadequate to serve the potential demand for spaces on an event day. Even a very basic calculation shows that up to 200 guests will be likely to generate demand for more than 36 spaces, even if some arrive by taxi or are otherwise dropped-off and collected after an event is finished. Nothwithstanding the appellant's willingness to implement a number of measures to mitigate potential problems, including using a mini bus to collect guests to reduce demand, there is insufficient evidence before me that there are adequate contingencies in place to deal with a scenario where the car parking is full and vehicles need to park elsewhere.

44. The stretch of road near the appeal site entrance is relatively straight and at my site visit I noted that it is the most likely place for vehicles to overtake in the area. I also noted that the site is in a rural location where slow vehicles such as agricultural vehicles are likely to be using the highway. Limiting overtaking along this part of the road by implementing double white lines would not be a safe measure since it is likely to encourage overtaking on less safe parts of Liley Lane, resulting in hazardous highway movements. Overtaking near to the appeal site would also be hazardous on an event day as there may well be conflict between those wishing to access or egress the wedding/events venue and those trying to overtake along the straight stretch of road.

45. I am also concerned that there is no practical way of enforcing the way in which guests arrive at the site or how they park – in the event of the car parking being full, their instinct will be to park as close as possible to the site entrance and it is unlikely that marshals or any other measures in place would stop this.

46. Any parking along Liley Lane may reduce visibility and exacerbate potential highway conflicts, resulting in conditions likely to lead to be prejudicial to the safe and efficient movement of highway users. Therefore, on this issue I conclude that the development is likely to have a harmful effect on the safety of highway users with particular reference to on site car parking provision. As such there is conflict with Policies LP21 and LP22 of the LP and the Framework which, among other objectives require proposals to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network. Parking provision will be based on a number of principles, including the accessibility of the site, location of the development and the type of development.

Other considerations

47. The appellant claims that the exercise of permitted development rights is a fallback position that justifies the current development. Indeed, the appellant contends that the development has been operating under permitted development rights as discussed above under grounds (b) and (c). Furthermore, it is contended that the development could remain operational under the terms of Class B of Part 4 of Schedule 2 of the GPDO without recourse to planning control other than the conditions set out in the GPDO.

48. Case law, including the Mansell case[5] considers the concept of fallback as a material consideration. That judgment confirms that there should be a "real prospect" of a fallback development being implemented and therefore the decision-maker should exercise their planning judgment as to whether that would be the case depending on particular circumstances. I have concluded above that the development does not operate within the confines of Class B of Part 4 of Schedule 2 of the GPDO since there has not been any time between weddings or other events when the site has reverted to its previous use and furthermore, the physical infrastructure required to facilitate the use as set out in the enforcement notice has remained on site since they were first moved there around June 2019.

49. Given the permanence of the structures it is my view that the fallback position is not a realistic one since a substantial amount of work would be required to dismantle, remove and store the various structures/items which would then have to be brought back to the site and re-erected between weddings or other events. The appellant has stated that it is intended that the tee-pee would remain in situ for the majority of any year and, ideally all of it and has also indicated in the Business Plan that the number of events needs to increase to justify the continued investment and make the scheme viable. Therefore, I give this fallback very little weight.

50. The appellant has drawn my attention to an appeal decision[6] where the Inspector allowed the restoration of derelict land for agriculture, involving the

[5] Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314
[6] Ref: APP/Z4718/W/19/3232011

importation of 90,000 tonnes of top soil and sub soil in the Green Belt. In that case the Inspector concluded that the openness of the Green Belt would be preserved. Although I understand that there may be some comparisons with the current case with respect to engineering operations, the development before me is materially different and otherwise has only limited parallels with the previous appeal. I give only limited weight to the other recent appeal decision and I have, in any case, reached my own conclusions on the appeal on the basis of the evidence before me.

51. The appellant has summarised some other benefits relating to local and wider economic and supply chain benefits, diversification, job creation and business rate generation. There may be some economic benefits but it seems to me that these would be relatively limited and as such attract limited weight. In addition, it is argued that the development gives rise to net biodiversity gain, but I have concluded otherwise on this issue. The appellant also contends that the development provides an opportunity for outdoor weddings for which there may be increased demand as a consequence of Covid-19 and the development offers other possible commercial and community opportunities in the future. I can see that the development does offer an opportunity for outdoor weddings and events for which there may be increased demand in the future and therefore this does attract some weight. However, I attribute only limited weight to potential future opportunities given the limited evidence submitted to support them.

Conclusions on ground (a)

52. The Framework indicates that inappropriate development is by definition harmful to the Gren Belt and should not be approved except in very special circumstances. Although in this case the effects on openness and the Green Belt purpose of safeguarding the countryside from encroachment would be relatively moderate, substantial weight should still be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.

53. I have concluded that the development is harmful to the openness of the Green Belt and would impact on the purpose of safeguarding the countryside from encroachment. I have also found there to be harm to the character and appearance of the area, has a harmful the effect on the woodland which is the subject of a TPO and it has not been satisfactorily demonstrated that the development provides a net gain for biodiversity or safeguard the function of the Kirklees Wildlife Habitat Network. Furthermore, the development is likely to have a harmful effect on the safety of highway users with particular reference to on site car parking provision. The fallback position claimed by the appellant attracts very little weight and I have also given only very limited weight to another appeal decision to which my attention has been drawn.

54. There are some limited economic benefits associated with the development and it does provide an opportunity for outdoor events, locally. However, in this case and based on the range of evidence presented to me, the substantial harm to the Green Belt and the other harm I have identified is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. Therefore the appeal on ground (a) does not succeed.

The appeal on ground (f)

55. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve that purpose. The purpose of an enforcement notice are set out in s173 of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s174(4)(b)). Since the notice requires the cessation of the use of the site, the removal of all items associated with the wedding and events venue and the removal of hard surfaced areas, the purpose is clearly to remedy the breach.

56. The appellant contends that there are ambiguities in the notice which provide a lack of certainty. However, I find that the notice is sufficiently precise for the appellant to know what he needs to do within the four corners of the notice as established by case law[7]. It is quite clear to me that the requirement is to remove from the land all items associated with the development, including those items listed in paragraph 5b. of the notice.

57. As previously discussed, the hardstanding areas are part and parcel of the unauthorised development and, although I have taken account of evidence with respect to the presence of hardstanding areas within the site, as set out elsewhere in this decision, the hard surfaces do themselves constitute an engineering operation for which planning permission is required.

58. Other than arguing that the deemed planning application should be approved, the appellant does not specify what lesser steps would achieve the purpose of the notice to remedy the breach. The appeal on ground (f) does not succeed.

The appeal on ground (g)

59. The ground of appeal is that the time given to comply with the requirements is too short. The appellant contends that it is not known how to achieve full compliance with the requirements of the notice and therefore the period for compliance must be extended, or at least the position preserved by the appellant. The appellant has not submitted alternative time periods.

60. It is clear to me what the appellant needs to do to comply with the requirements of the notice and 30 days is sufficient for him to cease the use of the site for weddings and events and to remove all items associated with the venue. The 60 days is sufficient to remove the hard surfaced areas that have been installed.

61. Therefore, the appeal on ground (g) fails.

Overall Conclusion

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

Formal Decision

63. I direct that the enforcement notice shall be corrected by the deletion in the last but one line of paragraph 3 of the word "a". Subject to this correction the appeal is dismissed and the enforcement notice is upheld. Planning permission

[7] Miller Meade v MHLG [1963] 2 WLR 225

is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR