
Appeal Decisions

Site visit made on 10 March 2021

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Appeal A Ref: APP/W1850/C/20/3263704

Land at Cabback Lodge, Llangarron Ross-On-Wye, Herefordshire HR9 6PA

- 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 Lee Miles, L. Miles Building Services against an enforcement notice issued by Herefordshire Council.
- The enforcement notice was issued on 18 November 2020.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised material change of use of the Land from residential use to a mixed use for residential use and use as a commercial builders yard.
- The requirements of the notice are:
 - (1) Cease the unauthorised use of the Land as a builder's yard on the attached plan edged in red.
 - (2) Remove all builder's vehicles, building materials and items used in connection with the use of the Land as a builder's yard from the Land on the attached plan edged in red.
 - (3) Restore the Land to its condition before the breach took place by levelling the ground and re-seeding it with grass.
- The period for compliance with the requirements is:
 - Compliance with requirement (1) above within 180 days.
 - Compliance with requirement (2) above within 240 days.
 - Compliance with requirement (3) above within 300 days.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

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

Appeal B Ref: APP/W1850/W/20/3263084

Cabback Lodge, Llangarron Ross-on-Wye, Herefordshire HR9 6PA

- 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 Mr L Miles against the decision of Herefordshire Council.
- The application Ref 202964, dated 8 September 2020, was refused by notice dated 2 November 2020.
- The development proposed is change of use of land to a builders yard.

Summary of Decision: The appeal is dismissed.

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

Main Issue

1. The main issue is the effects of the development on the living conditions of neighbouring residents having regard to noise and disturbance.

Reasons

2. The appeal site comprises a residential detached property in a generous sized plot in the hamlet of LLangarron. The site is bounded on three sides by the gardens of residential properties.
3. The enforcement notice addresses the whole of the site. Appeal B seeks planning permission for the builders' yard use on the eastern portion only. At the time of my site inspection, a variety of items were on this eastern portion of the site including a portacabin, lorry, forklift, trailers and a skip.
4. I am informed that the business employs two full time employees and one part time employee. The business operates two lorries and there is a portacabin which is used as an office. The suggested business hours are 0800 to 1630 Monday to Friday. I have been provided with no substantive evidence from either party regarding the manner in which this business operates.
5. From all I have seen and read, the builders yard business is likely to generate more activity in and around the appeal site than would be normal for a dwelling. Although the Council's Environmental Health Officer raised no objection, the available evidence suggests that the commercial vehicles and equipment used/stored could be noisy. Moreover, given the close proximity of the eastern side of the site to neighbouring gardens, the activities associated with a builders' yard are likely to cause a degree of disturbance. Whilst I note that one of the immediate neighbours raises no objection, it seems to me this residential site is an unsuitable environment for a builders' yard, given the relatively quiet rural location.
6. Policy RA6 of the Herefordshire Local Plan Core Strategy (2015) (CS) seeks to ensure that development is of a scale which would be commensurate with its location and setting. The appellant acknowledges that the business has grown over time and argues that the size of the site limits the growth of the business beyond that which it currently enjoys. I saw at my site visit that due to the size of the appeal site, there is sufficient space for the business to grow further with potential for additional commercial vehicles and/or items to be stored.
7. Whilst I accept it is desirable for the appellant to live and work in the village of his birth, I have been given no reason why the builders' yard could not be located on an alternative site away from residential properties.
8. I consider that the development is harmful to the living conditions of neighbouring residents having regard to noise and disturbance. It is therefore contrary to Policies SS1, SD1 and RA6 of the CS and Policy EMP1 of the Llangarron Parish Neighbourhood Plan 2016 – 2031 Public Consultation Draft which seek to safeguard residential amenity for existing and proposed residents. The proposal would also conflict with the National Planning Policy Framework which seeks to ensure a high standard of amenity for existing and future users.
9. I accept that the hours of use could be conditioned by a planning condition as suggested by the appellant. However, to my mind this would not be sufficient to overcome the identified harm.

Other matters

10. The appeal site is within the catchment of the River Wye Special Area of Conservation (Wye Garren Brook catchment) Site of Special Scientific Interest Impact Risk Zone regarding “any discharges of water or liquid including to mains sewer” and thus subject to a Habitats Regulations Assessment. The Council’s Ecology Officer identifies surface water as “likely significant adverse effects”. No substantial information in this respect has been submitted by the appellant and it has therefore not been demonstrated that the development does not have an adverse impact on the SAC. Notwithstanding the comments from both parties regarding this matter, I have not considered this matter further as I am dismissing these appeals for other reasons.
11. The appellant has drawn my attention to Objectives 6 and 8 of the CS concerning Economic prosperity. The appellant’s business is clearly highly valued by the local community and I have taken into account correspondence in support of the business. However, the beneficial service that the business provides to its clients, together with the contribution to the local economy and local employment, do not outweigh my concerns regarding the impact on the living conditions of residents.
12. I note the appellant’s comments that CS Policy SS1 indicates that the Council will take a proactive approach when determining planning applications. Whether the Council acted proactively and whether it was expedient to issue the notice is a matter for the Council and is not relevant to the s174 grounds of appeal. Thus, I afford little weight to the appellant’s comments regarding this matter.

Conclusion

13. For the reasons given above, and having had regard to all other matters raised, I conclude that Appeal A on ground (a) and Appeal B fail and I refuse to grant planning permission on the deemed application.

Formal Decisions

Appeal A

14. The appeal is dismissed and 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.

Appeal B

15. The appeal is dismissed.

Elizabeth Jones

INSPECTOR