



Appeal Decision

Site visit made on 16 March 2021

by Richard S Jones BA (Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 12 April 2021

Appeal Ref: APP/R3650/C/20/3256946

Land at Green Lane Farm House, Green Lane, Badshot Lea, Farnham GU9 9JL

- 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 Peter Martin against an enforcement notice issued by Waverley Borough Council.
 - The enforcement notice, numbered EN/2020/07, was issued on 24 June 2020.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the Land from use for agriculture to a use for the commercial storage of vehicles and the laying of a hardstanding to facilitate the commercial storage of vehicles. The hardstanding is shown crosshatched on the attached plan.
 - The requirements of the notice are:
 1. Cease the use of the Land for the commercial storage of vehicles.
 2. Remove the area of hardstanding as identified by crosshatching on the attached plan.
 3. Remove from the Land all materials resulting in the removal of the hardstanding.
 - The period for compliance with the requirements is six 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is varied by the deletion of six months and the substitution with 12 months for the time for compliance.
2. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 as amended (the 1990 Act).

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

3. The main issues are the effect of the alleged development on:
 - the character and appearance of the site and its surroundings, including the relationship between settlements; and
 - highway safety.

Reasons

Character and appearance

4. The site lies adjacent to the built up area of Farnham in a location that is regarded as countryside for planning purposes. Policy RE1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites February 2018 (LP) seeks to safeguard the intrinsic character and beauty of the area.
5. The main focus of the enforcement notice relates to a triangular area of land positioned between Green Lane and Badshot Lea Road, which forms part of a larger open field running to the north. An application for the erection of up to 50 dwellings on land encompassing the field and the triangular area of land was dismissed at appeal in December 2020¹ on the basis of the harm found to the character and appearance of the surroundings, including the relationship between settlements.
6. As similarly observed by that Inspector, I saw that the greenery and openness of much of the appeal site and other fields, in combination with nearby playing fields and cemetery, provide contrast and visual relief to parts of the area that are more built up. I also agree that the site *"plays a role in providing a more localised sense of greenery between the areas of Farnham and Badshot Lea that is reflective of the location at the edge of settlement."*²
7. The use, which involves the parking of vehicles on a relatively large and unsightly area of hardstanding, urbanises and detracts from the intrinsic character and appearance of the site. Indeed, I find the scale and appearance to be more akin to an industrial/business setting rather than one which would otherwise be open and greenfield in nature. As a result, the use reduces the sense of greenery in the area and the visual relief that would be provided as part of a larger field.
8. I accept that the use is not extensively visible in longer views and that, due to the combined screening of the hedging and close boarded fencing along the boundary to Green Lane, views from the same are limited to higher sided vehicles. Nevertheless, despite the presence of a bund, parts of the open storage can be clearly be seen in views from the open field directly to the north. Parts of the open storage are also readily seen in elevated views from Badshot Lea Road and through gaps in the boundary hedging. Moreover, the use is out of character with the residential development currently being built out on the opposite side of Green Lane.
9. The appellant has identified opportunity for thickening existing hedgerows as well as peripheral tree planting to reduce the visibility of the site. However, a condition that requires additional screen planting would not overcome or justify the harm caused by the development. Such planting would take time to mature and, in any case, screening is not an answer to landscape harm; that argument could be repeated too often.
10. The Inspector for the previous appeal makes clear that the hardstanding was not within the remit of his decision. I do therefore not agree that his comments support the appellant's view that there is no material impact on the character and appearance of the area, as suggested. That said, given that the alleged

¹ Appeal Ref: APP/R3650/W/20/3249930

² Reference paragraphs 11 and 12

development relates to a significantly smaller area, I accept that those impacts would be less in this case.

11. Nevertheless, for the reasons explained, I find that the alleged development results in unacceptable harm to the character and appearance of the site and its surroundings, contrary to LP Policies TD1 and RE1 and Policies D1 and D4 of the Waverley Borough Council Local Plan 2002. These policies require, amongst other things, development to be of a high quality and inclusive design that responds to the distinctive local character of the area in which it is located. It follows that the alleged use also erodes the landscape character of the Farnham/Aldershot Strategic Gap, in which it is located, contrary to LP Policy RE3.
12. I also find conflict with Farnham Neighbourhood Plan 2013-2032, Updated for March 2020 Referendum, (NP) Policies FNP1 and FNP10, in that the alleged development is not of a high quality which responds to the distinctive character area of Farnham and does not enhance the landscape value of the countryside.
13. NP Policy FNP11 seeks to prevent coalescence between individual settlements, including Badshot Lea and Weybourne. The urbanisation of the site caused by the presence of stored vehicles on a relatively large and unsightly area of hardstanding has the effect of extending the edge of the settlement. The landscape features of the site would otherwise be open, green fields which contribute to preventing coalescence. Whilst I accept that on its own, the site does not result in the coalescence of two settlements, that argument could be repeatedly applied and the opposite would occur. It therefore plays a cumulative role in preventing the same. Consequently, the use of the land for the commercial storage of vehicles contributes to the coalescence of Weybourne and Badshot Lea, contrary to NP Policy FNP11.
14. The appellant makes reference to NP Policy FNP20, which relates to rural buildings for business and tourist uses. Notwithstanding the limited relevance in this case, a policy which allows for a well-designed building for business or tourist use does not justify the harm I have found arising from the development.

Highway safety

15. The appellant has provided a Technical Note³ in support of the appeal. Following a review of the same, the Highway Authority has confirmed that it has no objection subject to a condition stipulating that cars are only driven to the site and not transported on a heavy goods vehicle.
16. Given that the access to the site is achieved via a single width lane and that the flanking hedgerow restricts forward visibility, I agree that such a condition would be necessary to avoid likely vehicular conflict and potentially dangerous reversing movements.
17. As for the access, it emerges from the site at an acute angle and visibility to the right (for emerging drivers) is severely constrained by the hedge and fence. Consequently, drivers' views of any approaching pedestrians or vehicles would be largely obstructed, relying on the convex mirror for any meaningful visibility.

³ Project No: 05301 Version B

18. I note that the trip generation is very low and that the Personal Injury Collisions data does not suggest that there has been a particular highway safety issue. Nevertheless, visibility is so restricted that any intensification of use is undesirable given the potential for dangerous vehicular movements and conflict with pedestrians. The appellant has however offered the opportunity to use an alternative access to the north which I saw is on a straighter section of Green Lane and is more likely to be able to achieve appropriate visibility in both directions. The use of that access for the storage use could be ensured by way of condition.
19. Therefore, subject to conditions I am satisfied that the commercial storage of vehicles would not result in unacceptable harm to highway safety. On that basis, I do not find conflict with LP Policy ST1 relating to sustainable transport or NP Policy FNP30, which, amongst other things, permits development proposals where they would not add inappropriate traffic on rural lanes.

Other matters

20. It is unsurprising that the development plan contains no specific policy relating to the change of use of land for the purpose of external storage. In any case, it does not necessarily follow that there are no relevant development plan policies. Indeed, I have found that there are and considered the alleged development against them.
21. Whilst the land may provide storage for unsold vehicles for local garages, it has not been shown that there are no alternative sites which would not result in the harm that I have found. Nor has it been shown that such alternatives would result in lengthier journeys or that the site minimises the number of journeys so as to glean support from LP Policy ST1 and paragraph 104 of the Framework. Such arguments therefore attract limited weight.
22. The appellant suggests that increased planting, which could be secured by condition, would result in an improvement to biodiversity and habitat. However, there is no evidence for me to quantify such gains or even describe what the biodiversity enhancements might be. Even if such benefits could be achieved, I cannot find that they would outweigh the harm caused by the development or justify a grant of permission.
23. Paragraphs 83 of the Framework states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas. Paragraph 84 states that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. However, the former relates to the conversion of existing buildings or well-designed new buildings, which is not applicable in this case. In respect of the latter, the importance of ensuring development is sensitive to its surroundings is highlighted. I have not found that to be the case for the alleged development.

Conclusion

24. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should fail on ground (a) and the deemed planning application should be dismissed.

The Appeal on Ground (f)

25. The appeal on ground (f) is that the requirements of the enforcement notice are excessive to remedy the breach of planning control or the injury to amenity caused by the breach.
26. The enforcement notice alleges that there has been a material change of use and it requires the use to cease, meaning that the purpose of the enforcement notice is to remedy the breach. The appeal on ground (f) can therefore only succeed if it is shown that the steps set out in the notice are excessive for that purpose.
27. The appellant considers that it is unreasonable and excessive for the enforcement notice to require the removal of the hardstanding, asserting that it has zero visual or physical impact beyond the immediate confines of this private land, no impact upon the public realm and no identifiable planning harm. However, I have considered such arguments as part of the ground (a) appeal and have come to the opposite conclusion. I also cannot agree to a general statement that there is no planning harm arising from the existence of hardstandings on agricultural land. That will depend on individual circumstances.
28. I am satisfied that the creation of the hardstanding was undertaken in order to facilitate and sustain the alleged use of land for the commercial storage of vehicles. Accordingly, it is not excessive for the notice to require the removal of the hardstanding in order to remedy the breach that has occurred. The appeal on ground (f) therefore fails.

The Appeal on Ground (g)

29. The ground (g) appeal is that the six months given to comply with the notice is too short. The appellant requests that a period of two years be granted to allow affected businesses to seek a new storage location.
30. However, the appellant has not explained why finding an alternative location will be extremely difficult or will inevitably be considerably further away. No evidence, such as a site search, is provided to show that other locations have even been considered or that such options do not exist or are difficult to find within a reasonable distance.
31. I sympathise that the effects of the COVID-19 pandemic on businesses are far reaching but a period of two years as suggested by the appellant is disproportionate and unjustified. Nevertheless, I agree that the period for compliance should be extended, but to 12 months. An extension for any longer than 12 months would blunt the urgency of taking action. A period of 12 months would be a proportionate response to the breach of planning control and would achieve an appropriate balance between business needs and any issues arising from the current pandemic, and the public interest in this case.
32. I shall therefore vary the enforcement notice accordingly prior to upholding it. The appeal on ground (g) succeeds to that extent.

Richard S Jones

INSPECTOR