



Appeal Decisions

Hearing Held on 17 March 2021

Site visit made on 23 March 2021

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal A: APP/X0360/C/19/3223247

Model Farm, Barkham Ride, Finchampstead, RG40 4EX

- 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 Sheldon Seal against an enforcement notice issued by Wokingham Borough Council.
 - The enforcement notice was issued on 24 January 2019.
 - The breach of planning control as alleged in the notice is the material change of use of the land for the storage of vehicles.
 - The requirements of the notice are (i) to cease the use of the land for the storage of vehicles, (ii) remove the vehicles from the land, (iii) break up the hard standing and completely remove from the land all resulting materials and (iv) remove the canvas structure used for the facilitation of the storage of vehicles from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d) & (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/X0360/C/19/3223248

Model Farm, Barkham Ride, Finchampstead, RG40 4EX

- 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 Sheldon Seal against an enforcement notice issued by Wokingham Borough Council.
 - The enforcement notice was issued on 24 January 2019.
 - The breach of planning control as alleged in the notice is the material change of use of the land for the storage of vehicles.
 - The requirements of the notice are (i) to cease the use of the land for the storage of vehicles, (ii) remove the vehicles from the land, (iii) break up the hard standing and completely remove from the land all resulting materials and (iv) remove the portable building used for the facilitation of the storage of vehicles from the land.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d) & (g) of the Town and Country Planning Act 1990 as amended.
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Appeal C: APP/X0360/C/19/3223249

Model Farm, Barkham Ride, Finchampstead, RG40 4EX

- 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 Sheldon Seal against an enforcement notice issued by Wokingham Borough Council.
- The enforcement notice was issued on 24 January 2019.

- The breach of planning control as alleged in the notice is the material change of use of the land for the storage of vehicles.
 - The requirements of the notice are (i) to cease the use of the land for the storage of vehicles, (ii) remove the vehicles from the land and (iii) break up the hard standing and completely remove from the land all resulting materials
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (d) & (g) of the Town and Country Planning Act 1990 as amended.
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Procedural Matters

1. The appellant advised that the plan for enforcement notice A was incorrect as it included a general parking area outside the 'L' shaped building. This area is separated by a row of bollards from the rest of area A land. At the site visit that was seen to be the case. I shall therefore correct enforcement notice A plan to exclude that area.

Decisions

Appeal A

2. The appeal is allowed on ground (d) and it is directed that the enforcement notice be corrected by the deletion of requirement (iii). It shall also be corrected by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to these variations 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

3. The appeal is allowed on ground (d) and it is directed that the enforcement notice be corrected by the deletion of requirement (iii). The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of 3 months and the substitution of 6 months as the period for compliance. Subject to these variations 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 C

4. The appeal is allowed under ground (c) and the enforcement notice is quashed.

Reasons

Appeal C ground (c)

5. The Council say that the permission for B2 in unit 6 was only for the building, but the red line for the application is around a much larger area than the building. The application description is proposed change of use from light industrial (B1c) to general industrial (B2). It does not confine it to the building. The conditions that are attached include the land. Condition 3 notes no materials, containers or equipment shall be stored on the site outside buildings except for waste materials contained within suitable and sufficient waste

containers for removal. I therefore do not accept that the land was not included within the B2 permission.

6. The area is fairly small and I consider it reasonably likely that the limited number of cars that are there are directly associated with the use and awaiting attention within the workshop. It is also a permanently fenced area. I consider that these vehicles are associated with unit 6 operation, comply with the condition and therefore are part of the lawful use.
7. The appeal on ground (c) succeeds.

Appeals A & B ground (d)

8. The planning unit or units at the appeal site has been changeable over time. It is in one ownership and has been for some time. The physical demarcation has changed. It appears that in the past the outside spaces have been mainly one area, but recently Heras type temporary fencing has been added to physically separate the appeal units.
9. The land has had a long history of use by the appellant. At times different businesses have been run from the site. This included collection of rubble and tipping it at the site over many years. Inspection at the rear of the site shows that the height of the land has been significantly increased. The land beyond appears to be a marsh type landscape. To my mind what the appellant describes as the use of the land over the years is consistent with what is present on site and there is a hard surface formed with waste rubble.
10. Photographs show that some of the area has been used as hard surface. One plan relating to the B2 application shows a turning circle with an adjacent space for lorry parking. It clearly was adequate for this purpose. There are areas on the photographs that show some vegetation, but these include on the tops of some of piles of spoil. I do not attach much weight to these as showing that it was vegetation and not hardstanding.
11. I accept that the hardcore area has recently been maintained with a consistent gravel surface, but that is maintenance and permitted development. I conclude that the hard surface is more than 10 years old and the appeal on ground (d) fails. In addition, I do not accept that the hard surface that was formed well before the current use was constructed to enable the current use of the site.

Appeals A & B ground (a)

12. The development plan includes the Wokingham Borough Core Strategy [CS] and the Wokingham Borough Managing Development Delivery Local Plan [MDD]. CS Policy CP1 relates to sustainable development and seeks to maintain or enhance the high quality of the environment. MDD Policy CC01 also has a presumption in favour of sustainable development. CS Policy CP3 sets out general principles for development. It will grant permission for development that are of an appropriate scale of activity, mass, layout and character to the area, and are not detrimental to the amenities of adjoining land users including open spaces. CS Policy CP9 relates to scale and location of development. CS Policy CP11 relates to development outside development limits, including the countryside. Development will not normally be permitted except where it does not lead to excessive encroachment or expansion of development away from the original buildings. MDD Policy CC02 also relates to development limits. MDD Policy TB21 relates to landscape character.

13. The appeal sites are in the countryside adjacent to a SANG (Suitable Alternative Natural Greenspace). The appeal site has mainly open land about it and the area generally has the feel and character of countryside.
14. I accept that the appeal site includes a lawful B2 use and that its character is considerably different from the original model farm and different from usual agricultural type uses. However, in permitting uses at the farm that allow diversification and economic uses, the Council has been careful to protect the countryside. In particular it included conditions that limited the use of the spaces outside the buildings.
15. The current use for car storage has a significant impact. The cars are parked close together and have an alien and incongruous impact on the area generally. There is a Heras temporary type fence around the appeal site, that has some plastic screening included and there is also some vegetation. However, this does not overcome the harm of the vehicle storage at the site. I conclude it has a harmful impact on the character of the area and does not accord with CS Policies CP1, CP3, CP9 or CP11, nor MDD Policies CC01, CC02 or TB21.
16. I acknowledge that while the current lawful uses could have some adverse impacts, the ability for this to become significant is controlled by condition and at the moment the evidence does not suggest it to be likely. So, while there is effectively a 'fall back' position to the lawful use I attach limited weight to the potential harm of it.
17. The appellant also directed me to a proposal that is out for consultation for solar panels that would be located close by. I have taken this into account, but give it limited weight as it is at a very early stage and the benefits of it are a matter to be taken into consideration if it does go ahead. I have also considered the development for a caravan park further along the road, but that is a considerable way along the road, and does not affect the character of the area of the appeal site.
18. I have taken into consideration the economic and social benefit in providing business opportunities and employment in the area, but the location is not acceptable for such a use and these do not outweigh the harm.
19. Appeals A and B fail on ground (a).

Appeals A & B ground (g)

20. I acknowledge that time will be required not simply just to cease the use but also to find alternative accommodation and terminate leases. Removal of the hard surfacing is now excluded from the enforcement notices. However, finding alternative accommodation is likely to take longer than 3 months, but 12 months would in my view be more that is required. I consider that a reasonable length of time to enable the appellant to terminate the leases and to find alternative accommodation would be 6 months. Appeals A and B succeed on ground (g) and the time to complete requirements will be extended to 6 months.

Graham Dudley

Planning Inspector



Plan

This is the plan referred to in the Lawful Development Certificate dated: 26 April 2021

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

Land at: Model Farm, Barkham Ride, Finchampstead, RG40 4EX

Reference: APP/X0360/C/19/3223247

Scale: NTS



The red line area shall only be the area of cross hatching.