



Appeal Decisions

Site visit made on 18 May 2021

by **N Thomas MA MRTPI**

An Inspector appointed by the Secretary of State

Decision date: 5 July 2021

Appeal A Ref: APP/D1780/C/20/3265484

Land at Unit 2, Leornain House, Itchen Business Park, Kent Road, Southampton SO17 2LJ

- 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 Mrs Inese Moncevia of Byronswell Ltd against an enforcement notice issued by Southampton City 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 material change of use of the land to use as a clothing/textile recycling centre (B8 use).
 - The requirements of the notice are:
 - Cease the use of the land as a clothing/textile recycling centre (B8 use) and remove any equipment brought onto the land for such purposes.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) 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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Appeal B Ref: APP/D1780/W/20/3263473

Land at Unit 2, Leornain House, Itchen Business Park, Kent Road, Southampton SO17 2LJ

- 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 Mrs K Holden of Byronswell Ltd against the decision of Southampton City Council.
 - The application Ref 19/01469/FUL, dated 23 August 2019, was refused by notice dated 5 November 2020.
 - The development proposed is the change of use to storage and distribution (Use Class B8); siting of shipping container and re-siting of commercial waste bins.
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Decisions

Appeal A

1. The appeal is dismissed, the enforcement is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. The appeal is dismissed.

Appeal A ground (b)

3. The ground of appeal is that the matters stated in the notice have not occurred. The property was previously used as a training centre associated with a wastewater treatment works to the rear of the site. The appellant states that the building is being used as storage for stock that is collected from textile banks and house-to-house bag distribution, and then sold on to buyers in Europe. A portion of the money raised is then donated to charity. The appellant has not argued that the change of use alleged in the notice has not occurred. The appeal on ground (b) therefore fails.

Appeal A on ground (a) and Appeal B

4. The ground (a) appeal and the deemed planning application are for the existing use of the land as a clothing/textile recycling centre falling into use class B8. This falls within the description of the proposed development in Appeal B which includes the siting of a shipping container and the re-siting of commercial waste bins. The use was stated to have started on the application form in 2013 and the current use was stated to be the storage and distribution of textiles, associated clothing and bric-a-brac. It is clear therefore that the application sought planning permission for the use that was already being carried out. The reasons for issuing the notice and the reason for refusing the application are broadly the same and I have dealt with these appeals together.
5. The main issue is therefore:
 - The effect of the development on neighbouring operations with regard to servicing and highway safety.

Reasons

6. The appeal site is located in the urban area of Southampton, within a small business park adjacent to a wastewater treatment works, lying next to the River Itchen. It is accessed from a spur off Kent Road, which also serves Saltmead Estate, a residential development. Kent Road is residential and lined with houses on both sides with on-street parking.
7. Leornain House is a modern building, and Unit 2 is located at one end of it, adjacent to the access drive. The access drive continues past the building to the rear, serving a wastewater treatment works, car parking and a pallet storage premises 'Palletmove'. To the front of the building is a car park. There are other uses within Leornain House including a charity which helps those with disabilities to drive independently, and a church.
8. The existing use of Unit 2 involves regular deliveries of clothing and textiles to the unit by small goods vehicles. Large vehicles collect the merchandise approximately three times a month to ship it overseas. These are heavy goods vehicles (HGVs) and the size of the collecting vehicle is not controlled by the appellant. Unit 2 has a loading dock in its front elevation, with three allocated parking spaces adjacent to it. The rest of the forecourt parking serves Unit 1.
9. When collecting the clothing and textiles, the HGV parks in front of the warehouse. A drawing has been provided illustrating how a 16.5 metre long HGV can be accommodated in front of the loading dock. The HGV is shown partly across the access drive which serves the wastewater treatment works and Palletmove and partly across the access to the car park. According to

photographs provided by local residents, the HGVs are however often longer than 16.5 metres. It is difficult to see how an HGV, particularly one longer than 16.5 metres, could be parked to the front of the loading dock without significantly obstructing both the access to the rest of the car park, and the access drive to the wastewater treatment plant. While vehicles may be able to edge around a parked HGV in this position, it is clearly not an ideal arrangement for servicing of the premises. It would be reasonable to assume that an HGV when parked to collect goods in this position would significantly reduce visibility towards oncoming vehicles for those drivers exiting the car park and when passing the HGV along the access drive to the wastewater treatment works. This has the potential to be harmful to highway safety for other road users, including pedestrians and cyclists. I have seen no firm evidence that there is adequate space to accommodate a parked HGV without causing potential harm to highway safety and disrupting access to neighbouring operations.

10. It is not clear from the appellant's evidence for what period of time the collecting HGVs are parked to the front of the loading dock. Given the size of the vehicle however it would be reasonable to assume that it would take more than a few minutes to load it. It is stated that sometimes the collection is close to the driver's break, which can be for 11 hours, when it is necessary to park the HGV on or near the site for that period. Reference is made to parking HGVs during long breaks further down the access road on the driveway that leads to the riverside. I have not been advised whether this is a suitable parking area available for HGVs or within the control of the appellant. It appears to me that there is potential that HGVs will need to be left on site for longer periods, and that this could be in a position that is harmful to highway safety and the ability to access neighbouring premises and the car park.
11. In terms of manoeuvring an HGV to access the site, the appellant states that there is sufficient space for an HGV to turn around and to allow access to the other unit at Leornain House as well as the wastewater treatment works to the rear. However, no drawings have been provided demonstrating how an HGV can safely manoeuvre into the site. From the evidence before me and what I have seen on site, I am not satisfied that there is adequate space to manoeuvre a large HGV onto the site without causing temporary blockage of the access road. The photographs provided with the Council's evidence indicate that HGVs turning and parking to load can cause delays for other vehicles either using the car park or the wastewater treatment works.
12. Due to the constrained nature of the site and lack of manoeuvring space, there is a risk that an HGV would turn at the entrance to the site from Kent Road or Saltmead, and reverse towards the loading dock. It seems to me that this would be a dangerous manoeuvre that could create potential for conflict with other road users, including pedestrians and cyclists. The appellant has indicated that they would be content for a condition requiring details of vehicle turning to be provided. However, I have seen no evidence that adequate space is available for large HGVs to turn safely, and therefore such a condition would not overcome my concerns.
13. The Council has also suggested a condition making a permission personal to the appellant's business. As I have found that the operation of the appellant's business is potentially harmful to neighbouring operations and highway safety,

this would not provide a satisfactory solution. None of the other suggested conditions would overcome my concerns.

14. I am aware that the appellant's business is charitable and provides benefits by selling on clothing and textiles at a reduced price, as well as making financial contributions to other charities. It therefore requires low rent premises. However, I have seen no evidence that there are no suitable alternative premises at an appropriate rent. This consideration does not outweigh the harm I have identified.
15. I therefore conclude that the development is harmful to neighbouring operations with regard to servicing and highway safety. The use is in conflict with 'saved' policies SPD1(i) and TI2 of the City of Southampton Local Plan Review 2006, and policies CS6 and CS8 of the Core Strategy Development Plan Document 2010, insofar as they seek to ensure that development does not unacceptably affect health, safety and amenity, and where vehicular access does not adversely affect road safety. It is also in conflict with the guidance in the National Planning Policy Framework.

Conclusions

Appeal A

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

17. For the reasons given above, and taking into account all matters raised, I shall dismiss the appeal.

N Thomas

INSPECTOR