



Appeal Decision

Inquiry Held on 25 May 2021

Site visit made on 27 May 2021

by Mrs H M Higenbottam BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 22 July 2021

Appeal Ref: APP/X1925/C/20/3250187

Land at Venture Caravans and Motorhomes, Rose Gardens, Cambridge Road, Hitchin SG4 0JX

- 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 David Brown (Hitchin Caravans Ltd) against an enforcement notice issued by North Hertfordshire District Council.
 - The enforcement notice was issued on 27 February 2020.
 - The breach of planning control as alleged in the notice is 'Without planning permission, the change of use of agricultural or horticultural land to B8 Storage use for Caravans and Motorhomes.
 - The requirements of the notice are to cease the use of the land for the storage of Caravans, Mobile Homes and all other items associated with the current B8 use taking place.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be varied by the deletion of four months and the substitution of twelve months as the period for compliance. Subject to these variations the appeal is dismissed, and the enforcement notice 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 on ground (d)

2. In appealing on ground (d) the burden of proof is firmly on the appellant to demonstrate, on the balance of probabilities, that the development was lawful through the passage of time at the date when the enforcement notice was issued. That is, had there been a material change of use of the premises from agriculture or horticultural land to B8 Storage use for Caravans and Motorhomes on or before 27 February 2010 and that use had occurred continuously throughout that period, it would be lawful through the passage of time.
3. The storage for caravans and motorhomes began 2017 . However, the appellant argues that the appeal site was in use for a B8 storage use prior to that, and that the storage of caravans and motorhomes was a lawful storage use as it falls within Use Class B8.

4. The appellant's written and oral evidence states that in 2004 the site in the appellant's view became a separate planning unit, utilised by Harkness Roses. It was fenced on three sides and hedged in 2004. Hardcore was laid also in 2004. Its use was for '*the storage of multiple mechanical and horticultural implements including an old tractor and a '40' storage container*¹. This use continued according to the statutory declaration from February 2004 to 2 June 2017. The author of the Statutory Declaration did not appear at the Inquiry.
5. The appellant company purchased the appeal site on 2 June 2017, and it was then occupied for the storage of caravans and motorhomes. The appellant company owned the adjacent land and within Areas B, C and D on the aerial photograph in Appendix 2 of the appellant's statement.
6. An aerial photograph from 2016 shows the storage container had been removed and the level of items on the land was reduced and less in 2016. Google Street View images in 2016 and 2019 show the change in the northern boundary of the site from being open to being fenced.
7. The Council consider a separate planning unit was created in 2017 when the appeal site was first used for the storage of caravans and motorhomes. The northern end of the plot was also fenced in 2017, separating it from the Harkness Roses site.
8. In order to assess whether or not there was a material change of use of the appeal site in either 2004 or 2017 I need to consider what the planning unit comprised and comprises. The planning unit is usually the unit of occupation, unless a smaller area can be identified which, as a matter of fact and degree, is physically separate and distinct, and/or occupied for different and unrelated purposes. The leading case for the determination of the planning unit is *Burdle and Williams V SSE & New Forest DC [1972] 1 WLR 1207*. In that case three broad categories of distinction were identified:
 - a) A single planning unit where the unit of occupation has one primary use and any other activities are incidental or ancillary;
 - b) A single planning unit that is in a mixed use because the land is put to two or more activities and it is not possible to say one is incidental to another; and
 - c) The unit of occupation comprises two or more physically separate areas which are occupied for different and unrelated purposes. Each area that has a different primary use ought to be considered as a separate planning unit.
9. The area to be looked at when considering what the planning unit is, in any particular case, the whole of that which is used for a particular purpose, including any part of that area which is put to an incidental use².
10. In 1988 Area C on the aerial photograph in Appendix 2 of the appellant's statement was sold to the appellant. Area B was sold to the appellant in 2000 and Area D was sold in 2012 to the appellant. The appeal site is Area A and was sold to the appellant in 2017.

¹ Statutory declaration of Mr Philip Harkness Director of R Harkness and Co Ltd.

² *Hertsmere BC v SSE & Percy [1991] JPL 552*

11. In 2000 the aerial photographs show that the area (Area A) is part of the agricultural field to the west. There is no demarcation or separation of the land from the field. The 2007 and 2013 aerial photographs show the land separated from the open agricultural land to the west, the Area B of Hitchin Caravans to the south and partly along the eastern boundary to the access road by a hedge. The northern end of the land is open to the field boundary and there is clearly free access from the land to the access track that leads to the Harkness Roses buildings to the east and to the access from Cambridge Road.
12. Oral evidence at the Inquiry was that lorries delivered compost, peat and pots to the appeal site and that forklift trucks/tractors moved the items to the commercial green houses. Also, items for display at the Chelsea Flower Show were stored on the appeal site all for purposes of the Harkness Roses business.
13. The July 2016 Google Streetview image shows the northern end of the appeal site is open and that hedges existed on the east and western sides. The southern boundary is not seen in the photograph. The northern end is open to the field boundary. The March 2019 Google Streetview image shows a metal fence had been erected and caravans/motorhomes are parked up to that fence within the appeal site.
14. In 2017 the northern end of the site is demarcated on the aerial photograph with a gap between it and the boundary to the north. No access is possible from the access track into Area A. The same is true in the 2020 aerial photograph.
15. While I accept that Harkness Roses utilised the area for storage purposes, the evidence demonstrates it was for purposes incidental to the primary use of the Harkness Roses planning unit. The aerial photographs demonstrate in 2000 the land was part of the agricultural land to the west; under the ownership I understand of Harkness Roses. In 2004 Harkness Roses used the area to store items associated with the horticultural/agricultural business and at times it was used to store items that were then utilised for the display at the Chelsea Flower Show such as stands/display modules, which Harkness Roses attended.
16. In my view, the use between 2004 and 2017, was functionally connected to the wider Harkness Roses use. There was no boundary at the northern end and while the other three sides of the land the subject of the enforcement notice were enclosed, this was not, to my mind, to create a separate storage use or planning unit. Since 2004 until the land was sold in 2017 there was free access from the access track serving the other functional areas of the Harkness Roses use and it was only used to store items associated with the Harkness Roses operation. It was physically and functionally connected to the Harkness Roses use through what was stored and the open free connection between the northern end of the area and the access road to the greenhouses. I therefore find that the use of the appeal site by Harkness Roses was, on the balance of probabilities, a use which was ancillary or incidental to the Harkness Roses horticultural/agricultural use. It was part of the planning unit for the Harkness Roses operation.
17. In 2017, the area the subject of the enforcement notice was demarcated on all four sides, enclosing the northern end with metal fencing. Access was created via Area B and this remains the only access to Area A. It became a storage area in its own right with no access from the public or the Harkness Roses operation. It is at this time I consider that a material change of use took place

for storage. It was from 2017 functionally and physically separate from the Harkness Roses operation and was a distinct area, used solely by Hitchin Caravans Ltd, to store caravans and motor homes. No sales took place on this area; it was to store stock or caravans/motor homes awaiting repair or picking up by customers.

18. I therefore conclude, on the evidence before me, and on the balance of probabilities, that the material change of use to storage took place in 2017 and, as such, did not take place ten years prior to the issue of the enforcement notice. As such the appeal on ground (d) fails.

Appeal on ground (a)

19. The main issues are:

- whether the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2021 (the Framework) and any relevant development plan policies; and
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development would be inappropriate development in the Green Belt

20. The appeal site lies to the north of Cambridge Road and the east of Stotfold Road (about 75m from the road). To the north and west is agricultural land, to the east and south is the group of businesses including a horticultural business, garden centre, two retail outlets as well as the sale, repair and servicing of caravans and motorhomes. There is extensive hardstanding within the complex of uses. It is located within the Metropolitan Green Belt in a gap of about 800m between the settlements of Hitchin and Letchworth Garden City. Cambridge Road is the main road linking the two settlements.
21. The land rises up from Stotfold Road and the vegetation adjacent to that road limits views of the appeal site. The footpath beyond the northern boundary of the agricultural land allows views through to the appeal site through breaks in the vegetation. A hedge has been planted beyond the metal fencing demarcating the northern boundary of the appeal site.
22. Paragraph 150 of the Framework³ regards the material change of use of land as not inappropriate provided openness is preserved and the use does not conflict with the purposes of including land within it.

Openness

23. Openness is capable of having both a spatial and visual aspect. The development occupies an area of land that was once part of a field, which was over time separated from the field and used for storage ancillary and incidental to the Harkness Roses horticultural use. Up until 2017 the use seems to have included the placing of a storage container on the land and various items being stored on it. However, there is no substantiated evidence about the amount of

³ Previously paragraph 146 of the Framework.

storage, its height or coverage of the land. The aerial photographs show very low key storage on the land associated with Harkness Roses use.

24. The appeal development is for about 18 caravans or motor homes occupying the land. To limit or mitigate visual intrusion an evergreen hedge has been planted on the northern boundary. The caravans and motor homes are currently clearly viewed from the footpath where gaps in vegetation occur. In time the hedge will prevent views of the caravans and motorhomes if it is allowed to grow above the height of the motorhomes. However, this seeks to mitigate the visual intrusion of the use and does not diminish the harm to the spatial openness of the Green Belt when viewed from the footpath to the north. The caravans and motorhomes have both a spatial and visual aspect harming the openness of the site whilst stored on the land.
25. Due to topography and the height of the vegetation along Stotfold Road I do not consider that the motorhomes and caravans being stored would be viewed from the dwellings along that road, most of which are single storey.
26. Notwithstanding that it is possible in time to overcome the current visual harm by allowing vegetation to grow tall enough and dense enough to shield view, in my view, the use for the storage of caravans and motorhomes currently harms the openness of the Green Belt in both a spatial and visual aspect.

Purposes of the Green Belt

27. The appeal site lies within Study Area 14 – Willian sub-parcel 14c of the North Hertfordshire Green Belt Review 2016. The sub-parcel of land is identified as preventing expansion of Hitchin and Letchworth into a narrow gap between them, playing a critical role in separating Hitchin and Letchworth, protecting the countryside in the narrow gap between settlements. It is therefore important in preserving the setting of Hitchin due to the strong visual relationship with the historic core of the town of Hitchin. The overall evaluation is that it provides a key separation function between Hitchin and Letchworth and provides a significant contribution to Green Belt purposes.
28. The appeal site extends the non-horticultural/agricultural use to the north of the existing caravan centre use and encroaches on what was agricultural land and part of a field in 2000 and was part of the horticultural/agricultural use of Harkness Roses up to 2017. As such the development encroaches on the countryside and fails to safeguard it. This harms one of the purposes of the Green Belt.
29. Moreover, it has increased the amount of land that is developed in this sensitive narrow gap. It extends the urban form of the Hitchin Caravan Ltd operation and adds to the urbanisation of this part of the Green Belt. It does reduce the separation of Hitchin and Letchworth, albeit in a limited way. It therefore results in less separation between Hitchin and Letchworth and is contrary to the purpose of the Green Belt in preventing merging of neighbouring towns.
30. In the 2005 appeal decision (Ref APP/X1925/A/04/1163699 for use of a different parcel of land as an extension to Hitchin Caravan Centre), the Inspector found that the proposal would enclose the land and consolidate the built environment across the whole complex. He found that this added to the urbanisation of the area and in view of its proximity to Stotfold Road the

apparent sprawl of the built up area. That appeal related to land within the complex and not the current appeal site, which is on the edge of it. In my view, the appeal site would extend the complex further into the countryside and this would therefore also add to the apparent sprawl of the built up area. This conflicts with the purpose of the Green Belt to check the unrestricted sprawl of large built up areas.

Conclusion on whether the development is inappropriate

31. I have concluded that the development harms the openness of the Green Belt and some purposes of including land within the Green Belt. As such, it is inappropriate development in the Green Belt and contrary to Policy 2 of the saved North Hertfordshire District Plan (the DP) (adopted 1996) and Policy SP5 of the emerging North Hertfordshire Local Plan 2011-2031 proposed submission (September 2016) incorporating the proposed main modifications (November 2018) (the ELP).
32. DP Policy 2 is consistent with the Framework and I therefore give it significant weight. The Council consider that due to the stage that the ELP has reached that 'top end moderate weight'⁴ should be given to the policies. I see no reason to give less than moderate weight to the policies, so concur with the Council on the weight to be given to policies in the ELP.

Other considerations

33. The development is stated to be integral to the appellant's business and that if it is not retained it would result in the reduction of the company's size, turnover and staff employed by some 30%. The estimated potential reduction in staff would be likely to be five. Currently the company employs 17 staff. Furthermore, due to the value of stock and propensity for the theft of items from stock or the actual vehicles, significant measures such as fencing, movement detectors, guard wire around the perimeter linked to an alarm and CCTV have to be available for insurance to be obtained. The appeal site has all of these facilities and allows for the company to operate efficiently. This weighs in favour of the appellant as the Framework states planning policies and decisions should help create the conditions in which businesses can invest, expand, and adapt.
34. As a result of changes within the way stock is sourced from the manufacturers there is a need to hold a greater amount of stock than had previously been the case. The ability to store caravans and motorhomes at the level provided for by the appeal site is integral to the success of the business. This adds some weight in favour of the development.
35. ELP Policy ETC2 indicates planning permission for employment uses outside allocated Employment Areas and Employment Allocations BA10 and RY9 will only be permitted subject to meeting specified criteria. The development is not within a defined settlement boundary and is inappropriate development in the Green Belt. As such, Policy ETC2 does not support the development.
36. The appellant asserts there is little or no harm to the landscape character or appearance. In my view, this is neutral in the planning balance.

⁴ Oral evidence of Mr Greaves.

Green Belt Balance and Conclusion

37. The Framework requires that substantial weight is given to any harm to the Green Belt and states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
38. I have found harm to the Green Belt by reason of the development's inappropriateness. Weighed against that are the other considerations set out above. However, for the reasons given those would not, in their totality, clearly outweigh the harm to the Green Belt that I have identified. The very special circumstances necessary to justify the development therefore do not exist and the development would conflict with the Green Belt protection aims of the Framework and those of DP Policy 2 and ELP Policy SP5.
39. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the ground (a) appeal should be dismissed.

Appeal on ground (g)

40. This ground of appeal is that the period of compliance is too short. The Council has allowed four months compliance period and the appellant is seeking 12 months. At the Inquiry the Council considered that the compliance period could be extended to 8 months due to the implications of the Covid 19 pandemic.
41. The appellant states that the storage provided by the appeal site is essential for the caravan and motorhome business to function efficiently. I accept that the appellant will need to look for alternative usable storage in close proximity to the appeal site as it is essential for security and efficiency. In the alternative, if a suitable site cannot be found, and either bought or leased, then the appellant states that the size and capabilities of the business would need to be purposefully reduced.
42. The appellant made clear that due to the specific requirements for security and proximity for an alternative site that it will not be straightforward to find a suitable alternative site.
43. In my view a period of 12 months to look for an alternative site would be likely to support the business affected and allow it to continue to thrive. I will therefore vary the compliance period to 12 months. The appeal on ground (g) succeeds to this extent.

Conclusions

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

Hilda Higenbottam

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr C Forrest	Counsel instructed by William Innes instructing solicitor
He called	
Mr S Pease BA (Hons) Dip TP MRTPI	ANCER SPA Ltd on behalf of the appellant
Mr D Brown	Director of Hitchin Caravans Ltd, on behalf of the appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Ms T Campion	Litigation and Planning Enforcement Lawyer, North Herts District Council
She called	
Mr C Braybrooke Associate RTPI	Senior Planning Compliance Officer, North Herts District Council
Mr S Greaves BA (Hons) Dip URP MRTPI	Director GC Planning Partnership Ltd on behalf of North Herts District Council

DOCUMENTS SUBMITTED AT INQUIRY

- 1 Policies SP1 and NE1 of the Local Plan 2011-2031 Proposed Submission October 2015⁶.

⁵ Email sent on 24 May 2021 by Mr Braybrooke but received by Inspector on 25 May 2021.