



Appeal Decisions

Site visit made on 11 August 2021

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

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeals A and B : APP/J0405/C/20/3262874 & 3262875

Land lying to the west of Wendover Road, Stoke Mandeville, Bucks

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr James Bone and Mrs Suzanne Bone against an enforcement notice issued by Aylesbury Vale District Council.
 - The enforcement notice was issued on 6 October 2020.
 - The breach of planning control as alleged in the notice is a material change in the use of the land to a mixed use, comprising the importation, deposit and processing of waste material, storage of plant, machinery and vehicles associated with the importation, deposit and processing of waste material, general open storage of plant, machinery, vehicles and containers and parking of vehicles and operational development comprising the creation of hardstanding and the siting of any paraphernalia associated with the elements of the unauthorised mixed use.
 - The requirements of the notice are: Step 1 – Cease the use of the land for the importation, deposit and processing of waste material: Step 2 – Cease the use of the land for general open storage, the storage of plant, machinery, vehicles and containers and the parking of vehicles: Step 3 – Remove all imported waste material: Step 4 – Remove all plant, machinery and vehicles associated with the importation, deposit and processing of waste material: Step 5 – Remove all hardstanding from the land: Step 6 – Remove all paraphernalia associated with the elements of the unauthorised mixed use from the land.
 - The period for compliance with the requirements is Step 1 – one day; Step 2 – three months; Step 3 – three months; Step 4 – three months; Step 5 – four months and Step 6 – four months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. The fee has not been paid on appeal 3262875, so the ground (a) appeal has lapsed and there is no deemed planning application.
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Procedural Matters

1. The appellant does not argue the case in relation to waste at the site, but that the parking should be granted planning permission on the basis that it is needed for adjacent users. While the appellant has argued the source of some of the material, the Council is of a different opinion and there is no ground (b) appeal or relevant information to consider. However, I do not need to consider that matter further as the appellant has removed the material identified by the Council in the notice. The noise and disturbance, dust etc. complained of by the Council with respect to such material will therefore cease.
2. The parking area is relatively level with the surrounding land of the business park and does not appear to have been the subject of noticeable waste

deposition. There has been some hardcore type material used for the base, but I assume that is part of the car park construction.

3. The enforcement notice and Council statement does not purport to have any effect on the current access to the garden centre or skip business etc.
4. The current access to the site from the business park is not within the red line of the enforcement notice and cannot be included within the ground (a) appeal. The Council also state that this land is owned by another and therefore correct notifications would need to be in place. I have therefore considered the parking on the basis that access would need to be from the existing access (used by skip hire etc.) or may in the future be permitted as currently arranged, but that cannot be assumed.

Decisions

Appeal A

5. The appeal is allowed insofar as it relates to the land shown hatched black on the plan annexed to this decision, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for parking of vehicles and operational development comprising the creation of hardstanding, subject to the following conditions:
 - 1) The land shall only be used for the parking of vehicles and not for any other purpose.
 - 2) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out below:
 - Within 3 months of the date of this decision a scheme for landscaping, based on drawing 918 LA01, shall have been submitted for the written approval of the local planning authority, and the scheme shall include a timetable for its implementation.
 - If within 9 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - If an appeal is made in pursuance of the above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - The approved scheme shall have been carried out and completed in accordance with the approved timetable.
 - Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained and maintained.
 - In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

6. The appeal is dismissed and the enforcement notice is upheld as varied insofar as it relates to the land shown on the enforcement notice plan (for the avoidance of doubt the access to the side of the field serving the garden centre and skip hire business etc is excluded) for material change in the use of the land to a mixed use, comprising the importation, deposit and processing of waste material, storage of plant, machinery and vehicles associated with the importation, deposit and processing of waste material, general open storage of plant, machinery, vehicles and containers and parking of vehicles and operational development comprising the creation of hardstanding and the siting of any paraphernalia associated with the elements of the unauthorised mixed use, and planning permission is refused in respect of material change in the use of the land to a mixed use, comprising the importation, deposit and processing of waste material, storage of plant, machinery and vehicles associated with the importation, deposit and processing of waste material, general open storage of plant, machinery, vehicles and containers and the siting of any paraphernalia associated with the elements of the unauthorised mixed use on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

7. The appeal is dismissed.

Reasons

Ground (a)

8. The main issues are:

- The effect on the character and appearance of the surrounding area.
- The effect on ecology.

Character and Appearance

9. The development plan includes the Buckinghamshire Minerals and Waste Local Plan [BMWLP] and the Aylesbury Vale and District Local Plan [AVDLP]. AVDLP Policy GP8 notes proposed development will not be granted permission if it would unreasonably harm any aspect of the amenity of nearby residents, while also considering the benefits of proposals. AVDLP Policy GP35 notes that the design, if new development, should respect and complement the physical characteristics of the site and surroundings and the natural qualities and features of the area. AVDLP Policy 95 indicates that the Council should have regard to the protection of the amenities of existing occupiers. Development that exacerbates any adverse effects of existing uses will not be permitted.
10. The BMWLP sets out policies regarding mineral and waste development. The appellant is not contesting that mineral and waste use should not occur and has noted these matters are going to cease; at the site visit these were seen to have ceased and land made good.
11. The site is near to Stoke Mandeville and on a fairly busy route. The area is mixed, with some houses opposite the entrance, a busy garden centre

adjacent, skip hire recycling area nearby, some open fields and countryside and the Triangle Business park is also adjacent.

12. It is noted by the appellant that he will comply with the notice in respect of storage of plant and machinery, but that parking for JT Event Truck Ltd and Knowhow along the western edge of the site will continue. I noted at the site visit there still appears to be some storage continuing, with a number of containers on site, a dairies tanker and what appeared to be some form of conveyor. There is currently a limit on the number of vehicles licensed for the site, but that could change in the future and I attach little weight to that and assume the whole of the delineated areas may be used for parking. There is a transport assessment that is based on what is reasonably necessary for the businesses involved. Although it is based on the business park access, so carries little weight, it notes the highway nearby as adequate for the use, and the road at the existing entrance is straight and satisfactorily used by many other large and small vehicles.
13. The parking area is well away from the main road and seen across the field, with the business park building behind forming the backdrop. The active garden centre and skip business is to the side. The parking of vehicles is relatively transient and the site remains partially open. There is some visual intrusion from the parked commercial vehicles, but buildings from the business park form the immediate background when viewed from the main road and do not have a rural character or appearance. The land itself does not benefit from an allocation within the provisions of the AVDLP or wider development plan. I also accept that it is out of keeping with the adjacent field, but the overall character of the area around the parking is not open and rural, but formed by the mixed uses of business park, skip business and garden centre and field.
14. Unit 14 only has a small on site car park and no lorry parking. JT Event Truck Ltd specialises in event freight movements throughout the UK and Europe, so requires parking within the area covered by the Enforcement Notice to continue operating from the site. Knowhow also require additional space for parking for their vehicles and visiting vehicles.
15. Full compliance with the enforcement notice in respect of the parking areas would directly impact upon the trading of the companies and could threaten their viability and the workforces they employ. The potential loss of many jobs that are reliant on the two hard surfaced accesses and parking areas, needed to efficiently operate, would have a detrimental social impact and would not support the aim of creating and maintaining strong, vibrant and healthy communities.
16. The appellant has proposed landscaping to enhance both the visual appearance and ecological nature of the development. I consider that this would lead to a considerable beneficial impact on the appearance of the area and offset visual harm from the parking. I have some concern about future use of the site, particularly as there are some large containers with what appears to be storage. I therefore think it necessary to uphold the notice overall, with the ground (a) appeal and deemed planning application overriding its effect in relation to parking, but also to be clear attaching conditions to ensure that the land may only be used for parking and that the landscaping shall be completed in accordance with the landscape proposed drawing 918 LA01. Standard conditions are also required to ensure the landscaping is provided.

Ecology

17. There is no direct evidence of great crested newts on the appeal site, or of any other particular biodiversity matters, but the Council has identified the presence of great crested newts around 200m from the site. I accept the Council's point that putting waste on the site and the formation of the parking area could have caused some harm in terms of bio-diversity and habitat. However, the appellant has agreed to remove any material brought onto the land in terms of waste and some making good of the land has taken place. He has also agreed to undertake habitat creation, including native species tree planting; hedgerow planting; the creation of an attenuation pond and the planting of pond edge and hedgerow mixes of wildflowers. To my mind this would make up for any damage that may have been caused, and simply reinstating the field by removing the car parking would not be likely to be as beneficial.

Other Matters

18. The waste aspect complained of in the notice that was occurring at the site would, if it were continued, be highly likely to give rise to adverse noise and dust impacts that would affect nearby occupiers and I agree with the council in relation to this. However, that use has ceased, leaving the parking issue. There will be some noise and disturbance associated with the parking but the area of parking is small. Any additional activity would be limited, particularly in relation to all the other activity in the area, including the busy garden centre and the skip business and main road. The parking area, where on site movements will occur, is well away from the nearest residential users and will have little effect, particularly as the main road intervenes.
19. I note that permitted development rights might be used for 1 The triangle in relation to residential use, but that itself has car parking adjacent and is close to the skip business, and this parking use is already occurring. In addition, I understand that the permission has not been implemented. In any case, it seems to me where conversions can occur without the 'normal' consent process there is much greater responsibility on the owners and future occupiers to check the surroundings and be satisfied that they are acceptable.
20. I do not consider that it would have a material effect on nearby users in terms of noise and disturbance.
21. I conclude that the proposal, although not complying with the land allocation aspect of the development plan, has minimal impact, and there are landscaping and economic benefits that outweigh the harm.
22. The appeal succeeds on ground (a) to a limited extent related to parking only.

Ground (g)

23. The appellant notes that step 1 has been complied with already and this is not contested. In relation to step 2, the appellant notes in the statement that removal has already started and will be removed within 3 months, so this is not contested.
24. With regard to step 3 the appellant notes that 3 months is not sufficient time to remove all the deposited material, but this has now been completed. The appellant also claims that the material was not imported, but came from other

- parts of the site. That is an argument that needed to be made under ground (b) with relevant evidence, which I do not have.
25. The appellant notes in the statement that step 4 is being complied with, and that all plant, machinery and vehicles associated with the importation, deposit and processing of waste material will be removed from site. It is maintained that processing will continue as necessary to separate out the top soil from the waste. However, there is no argument that the 3 months is too short. I consider that it is a reasonable period in which to complete the step.
26. Step 5 related in the main to the ground (a) appeal. For the avoidance of doubt I have specifically excluded the existing main access that serves the garden centre and skip business. I do not need to consider any extension of time for this as planning permission has been granted.
27. It is noted by the appellant that step 6 will be completed within the four month period and is not contested.
28. The appeal fails on ground (g)

Graham Dudley

Planning Inspector

Plan

This is the plan referred to in my decision dated:

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

Land at: Land lying to the west of Wendover Road, Stoke Mandeville, Bucks

Reference: APP/J0405/C/20/3262874

Scale:

