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# Appeal Decision

Site visit made on 22 February 2022

**by Stephen Hawkins MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4 March 2022**

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**Appeal Ref: APP/R5510/C/20/3262517**

**Land at Zenith Compound, Vineries Close, West Drayton, UB7 0JH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Ghufuran Habib of Zenith Compound against an enforcement notice issued by London Borough of Hillingdon.
  - The notice was issued on 16 October 2020.
  - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land known as Zenith Compound, Vineries Close, West Drayton, UB7 0JH for the storage and sale of motor vehicles.
  - The requirements of the notice are: (i) Cease the use of the land for the storage and sale of motor vehicles. (ii) Remove all vehicles from the land in association with the storage and sale of motor vehicles. (iii) Remove from the land all fixtures and fittings, machinery and equipment that facilitate the use of the land for the storage and sale of motor vehicles. (iv) Remove from the land all debris, waste, building materials, plant, equipment and machinery resulting from the works carried out in compliance with (i), (ii) and (iii).
  - The period for compliance with the requirements is three months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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## Decision

1. 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 1990 Act as amended.

## Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The main parties have been given an opportunity to comment on the implications of the Framework in respect of the appeal and I have taken it into account in my decision.
3. The London Plan 2021 (LP) has been published since the enforcement notice was issued. The LP comprises the spatial development strategy for London and is now part of the Development Plan. Policies 7.16 and 6.13 in the previous version of the London Plan were referred to in the Council's reasons for issuing the notice. Those policies have been replaced by LP Policies G2 and T4 respectively. I have determined this appeal in accordance with the LP.

## Main Issues

4. The appeal site is located in the Metropolitan Green Belt. Therefore, the main issues in the appeal are:
- Whether the use for storage and sale of motor vehicles constitutes inappropriate development in the Green Belt, having regard to the effect on the openness and purposes of the Green Belt, the Development Plan and the Framework.
  - The effect on the character and appearance of the surrounding area.
  - The effect on the living conditions of occupiers of adjoining residential property, having regard to noise and disturbance.
  - The effect on highway safety.
  - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, whether this would amount to the very special circumstances required to justify the development.

## Reasons

### *Whether inappropriate development-effect on Green Belt openness and purposes*

5. The site comprises a broadly rectangular compound, surrounded by palisade fencing. There are areas of rough hardstanding across the site surface. Apart from the fencing and a portacabin-style building, the compound is largely free from above ground level structures. I understand that the lawful use of the site is as a garden centre.
6. LP Policy G2 seeks to protect the Green Belt from inappropriate development. The Framework paragraph 150 advises that a material change of use is not inappropriate development where it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
7. I am not aware that the use of the site for storing and selling vehicles has involved any increase in the extent of the hardstanding or other operational development. The notice does not attack any hardstanding or other operations as integral to the use. I understand that the fencing is the subject of a separate enforcement notice. In itself, the unauthorised use has therefore resulted in limited permanent physical change to the site.
8. According to a drawing accompanying a recent planning application for a similar use, up to around sixty vehicles could be accommodated at the site<sup>1</sup>. The drawing shows vehicles arranged in around four rows. However, during the site visit the main parties agreed that around ninety vehicles, mostly cars, were present in the compound. The vehicles were roughly arranged in several rows and they occupied the vast majority of the compound surface area. Although there were gaps between vehicles in some places, by and large the site surface left uncovered was probably the minimum needed for vehicle manoeuvring and circulation. Therefore, the unauthorised use has given rise to an accumulation of a significant number of vehicles at the site.

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<sup>1</sup> Council Ref: 29977/APP/2019/2901.

9. As the vehicles are mostly stored awaiting sale, many are likely to remain at the site for relatively long periods. Any vehicles which are sold are likely to be replaced by new stock fairly rapidly. Consequently, it is highly probable that the majority of the site surface will remain covered by vehicles for considerable periods as a result of the unauthorised use. Any parking or open storage associated with the former garden centre is unlikely to have been similar in terms of its site coverage or duration; there is no evidence to suggest otherwise. The unauthorised use has therefore resulted in a significant reduction in openness. Furthermore, having regard to the effect on the character and appearance of the environs set out below, the unauthorised use has resulted in a significant and obvious diminution in openness in views of the site in its surroundings.
10. For the above reasons, the unauthorised use has had a negative effect on openness. At paragraph 137, the Framework advises that openness is an essential characteristic of Green Belts. Moreover, by introducing an inherently urban activity into what for the reasons set out below is a semi-rural setting, the unauthorised use has had an undue urbanising influence which amounts to urban sprawl and encroachment into the countryside. This is in conflict with two of the purposes of including land within the Green Belt set out in paragraph 138 of the Framework.
11. Therefore, the unauthorised use amounts to inappropriate development in the Green Belt, being inconsistent with the Framework at paragraph 150 and failing to accord with LP Policy G2, Policy EM2 of the Hillingdon Local Plan: Part 1- Strategic Policies (SP) and Policy DMEI 4 of the Hillingdon Local Plan: Part 2- Development Management Policies (DMP). At paragraph 147, the Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. I attach substantial weight to the harm to the Green Belt arising from the unauthorised use by reason of its inappropriateness.

#### *Character and appearance*

12. The site is located on the edge of a small village which includes buildings of traditional character and materials. It adjoins tracts of land in open uses, including some uses normally associated with a countryside location. These factors contribute to a significant semi-rural feel in the environs, notwithstanding the presence of the M4 nearby and Heathrow airport slightly further afield. The rural aspects of the locality also contribute positively to the setting of the prominent former chapel, a non-designated heritage asset, opposite the site.
13. The substantial accumulation of vehicles at the site is readily apparent to passers-by on adjacent roads, when travelling either by foot or using other forms of transport, as well as in outward views from adjoining residential property. Due to their obviously man-made attributes, including the angular profiles and shiny metallic finishes, the vehicles are essentially urban features. The accumulation of significant numbers of vehicles therefore provides the site with an appearance normally associated with a more built-up setting, such as a commercial garage or a trading estate. This is entirely at odds with the visual qualities of the locality set out above, leading to the unauthorised use being seen as an alien feature in its surroundings and also appreciably eroding the

setting of the former chapel. There is no evidence that the former garden centre had similar visual consequences and, in my view, that is unlikely.

14. As a result, the unauthorised use has caused unacceptable harm to the character and appearance of the surrounding area and fails to accord with SP Policy BE1, as it does not maintain the quality of the built environment. For a similar reason, the unauthorised use does not accord with DMP Policies DMHB 11 and DMHB 12.

#### *Living conditions*

15. A number of residential properties back onto the site, with others located almost directly opposite. Whilst there is background noise in the vicinity associated with the motorway and airport, the adjoining and nearby residential occupiers could nevertheless reasonably expect to enjoy relatively good levels of peace and quiet, consistent with the semi-rural setting.
16. No explanation was offered regarding how the unauthorised use operated. However, in my view it is likely to include regular arrivals of vehicles for sale as well as departures of sold vehicles, together with arrivals and departures of prospective customers viewing vehicles in addition to employees. The departure of one vehicle from the site and arrival of another in the relatively short time I was in the vicinity would seem to bear this out. Due to its scale, the unauthorised use is therefore likely to have led to a significant number of daily vehicular comings and goings to and from the site, together with vehicles manoeuvring within the site itself.
17. The above vehicle movements together with associated activity—for example vehicle doors opening and closing, engines revving, vehicle radios playing and so on in proximity to residential property has meant that the adjoining occupiers are likely to experience significant levels of additional noise and disturbance from the unauthorised use, notwithstanding the pre-existing background noise levels. During the summer months, when householders will often leave their windows open for ventilation purposes, such noise and disturbance is likely to be even more apparent. There is no evidence that the former garden centre generated similar levels of noise and disturbance and in my view, that is unlikely.
18. Therefore, the unauthorised use has significantly and harmfully eroded the standards of peace and quiet that occupiers of adjoining and nearby residential property could otherwise reasonably expect to enjoy, causing significant detriment to their living conditions and failing to accord with criterion in DMP Policy DMHB 11.

#### *Highway safety*

19. The unauthorised use utilises a pre-existing site entrance leading onto Vineries Lane, a residential cul-de-sac. The cul-de-sac serves a number of residential properties, as well as a school. It connects with Sipson Lane, a through road linking the village with larger settlements. During my visit I observed that there is a proliferation of casual parking along the cul-de-sac, reducing its effective width to a single carriageway in the vicinity of the site entrance. Similarly, on Sipson Lane there was casual parking in the vicinity of the junction with the cul-de-sac, extending further along the road. An appreciable level of traffic movements were taking place along Sipson Lane. Consequently,

there are likely to be considerable numbers of vehicles negotiating the Vineries Lane/Sipson Lane junction, particularly at peak periods such as school drop-off and pick-up times.

20. No evidence was provided concerning the number of vehicle movements to and from the site associated with the unauthorised use, including those which could occur during peak periods. As already noted above, having regard to the scale of the unauthorised use there are likely to be a significant number of such movements. Whilst my visit took place during half-term, it is not unreasonable to suppose that on-street parking at school drop-off and pick-up times will act as a further constraint on the free flow of vehicles along the highway in the vicinity of the site. To my mind, and in the absence of anything to suggest otherwise, vehicle movements associated with the unauthorised use are therefore likely to contribute significantly to traffic congestion on the nearby roads, particularly during peak periods. There is nothing before me to suggest that the former garden centre gave rise to a similar or greater number of vehicle movements.
21. As a result, on the basis of the available evidence and in the context of the constraints identified above, I am not persuaded that the local highway network has been able to safely accommodate the additional vehicle movements into and out of the site associated with the unauthorised use. Therefore, the unauthorised use fails to accord with criterion in DMP Policy DMT 1, as it has not been shown that there is no significant adverse transport impact, as well as criteria in DMP Policy DMT 2, as it has not been shown that there is safe and efficient access to the highway network and that there has been no deterioration to the safety of road users. Moreover, the unauthorised use does not accord with criterion in LP Policy T4, as there has been a failure to show that there is no increase in road danger.

#### *Other considerations*

22. I am given to understand that the site was for many years used as a residential encampment without planning permission or the landowner's consent, such use having eventually been ended following eviction proceedings. I fully understand why the appellant would seek to recoup some of the costs and pay off debts associated with the civil proceedings by re-using the site for commercial purposes. The COVID-19 pandemic might well have imposed further financial constraints on the range of commercial activity that the appellant is able to engage in from the site. However, there was no evidence regarding whether the unauthorised use represented the optimum viable use of the site. Whilst the unauthorised use might have secured the site against further residential occupation, I remain unconvinced that other uses would not also provide a similar benefit without causing some or all of the planning harm identified above. Moreover, the potential for other harmful unauthorised development to occur in the future is not a good argument for perpetuating the harm caused by the unauthorised use, as it could be repeated. Therefore, these matters all carry limited weight.
23. No details were provided regarding other economic benefits, such as any local employment generated, arising from the use. In any event, as it is likely that such benefits are small-scale and would apply equally if the use operated from another location, for example on a trading estate in the surrounding area, they are not site-specific. As a result, this factor carries only modest weight.

*Green Belt Balance*

24. Any economic benefit and the other considerations do not clearly outweigh the totality of the harm to the Green Belt and the other harm identified above. Accordingly, the very special circumstances necessary to justify permitting the unauthorised use to continue do not exist.

**Conclusion**

25. The failure to protect the Green Belt and the other harm identified above fails to accord with the Development Plan and is inconsistent with the Framework. Therefore, 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.

*Stephen Hawkins*

INSPECTOR