



Appeal Decision

Site visit made on 31 May 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 13 June 2022

Appeal Ref: APP/U4230/C/22/3294698

Land Formerly Patricroft Working Mens Club, Legh Street, Eccles, Manchester M30 0UT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Bashar Shahrour of Gext Ltd against an enforcement notice issued by Salford City Council.
- The enforcement notice was issued on 7 February 2022.
- The breach of planning control as alleged in the notice is without planning permission, a material change of use of the land from vacant land formerly the Patricroft Working Mens Club to the use of the land for the storage of containers and tyres. Without planning permission, the siting of containers on the site.
- The requirements of the notice are:
 - 1) Cease the use of the land for storage;
 - 2) Remove from the site all storage containers;
 - 3) Remove from the site any tyres and any other materials arising from compliance with no (1) above.
- The period for compliance with the requirements is 56 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Preliminary Matter

1. The allegation concerns a material change of use of the land for the storage of containers and tyres. However, the wording is duplicated in that the siting of containers is repeated. The second reference to containers is unnecessary and it should be deleted. In addition, the reasons for issuing the notice state a time limit of four years¹. The relevant time period for a material change of use is 10 years and the notice should be corrected accordingly.
2. I am satisfied that I can make these corrections without injustice since the terms and effect of the enforcement notice would be unchanged, and the appeal is made on ground (a) only, that planning permission should be granted for the matters alleged. It is clear from the appellant's submissions that he understands the notice to be directed at a change of use of the land as opposed to operational development.

¹ Section 171B of the 1990 Act concerns time limits at the end of which no enforcement action may be taken. 171B(3) is relevant in this case, as a material change of use is alleged. The relevant period is 10 years beginning with the date of the breach.

The ground (a) appeal and the deemed planning application

Background and Main Issues

3. The terms of the deemed planning application are derived from the corrected allegation. Hence, planning permission is sought for the material change of use of the land for the storage of containers and tyres.
4. The main issues are: (i) whether the development would have a detrimental impact on the provision of outdoor recreational facilities in the local area and (ii) the effect of the development on highway safety.

Reasons

Outdoor recreational facilities

5. The appeal relates to the site of a former club and associated bowling green. The building was demolished around 2012 and the bowling green is no longer maintained. I understand the use of the bowling green ceased in 2010.
6. The Council is seeking to protect the recreational facilities that were formerly provided. It cites Policy R1 of the Unitary Development Plan (UDP) (2006), which is a restrictive policy aimed at protecting recreational land and facilities, irrespective of whether they are privately owned or specifically allocated. The policy is supported by the Council's adopted Greenspace Strategy: Supplementary Planning Document (SPD) (2019). Policy GS17 of the SPD concerns surplus facilities and sets out detailed considerations that will be applied. The appellant maintains that the facility has not been available for several years and, as such, it should not be considered to be existing recreational land. Nonetheless, the last lawful use of the land was for recreational purposes. The lack of use may be indicative of a lack of demand. However, R1(iii) requires evidence to demonstrate that the site is surplus to requirements and no such assessment is provided.
7. Even if I were to agree with the appellant's arguments on this matter, criterion (iii) also requires the development to facilitate the wider regeneration of the area. There is very limited information about how the use would facilitate regeneration. It is claimed that the development would benefit the local economy as the appellant leases the adjoining unit and requires storage in connection with his business venture. It is said that this would generate four new jobs and would be in line with the National Planning Policy Framework (the Framework) insofar as it seeks to support economic growth and maximise the use of under-used land. However, the nature of the business and the need for the appeal site is not explained and this consideration carries limited weight.
8. It is also argued that the site currently detracts from the character and appearance of the area and it would be enhanced through the proposed change of use. However, I do not agree that the use of the land for storage of tyres and containers would be a visual enhancement, even if landscaping were to be provided. Extensive areas of landscaping would be needed in order to be effective. This would limit the use of the site and may be considered unreasonable. Also, it would be necessary to allow sufficient visibility splays for vehicles, which would prevent the provision of adequate landscaping. Overall, I am not satisfied that the proposed development would bring the site back into an appropriate use that would assist the wider regeneration of the area.

9. It is argued that Policy R1 is not up-to-date since there is no assessment of the need for open space of this type. However, the policy is in line with the Framework in that it seeks to protect recreational land. The Council's SPD is based on its Greenspace Audit 2017/18, which identifies the site.
10. I am referred to an appeal concerning residential development on the site of three former allotment plots². In that case, the Inspector considered the Council's lack of a five-year supply of deliverable housing sites was crucial to the planning balance. It was concluded that the need for residential development outweighed the loss of the allotments. The circumstances of that appeal are significantly different from the matters before me, therefore.
11. The appellant has offered an alternative scheme, which shows an area delineated for container storage towards the front of the site, an access road with entrances in and out, and an area extending to 900 sqm for possible recreational use. I have powers to grant permission in relation to the whole or any part of the matters stated in the enforcement notice or the whole or any part of the land to which the notice relates³. In this case, the alternative scheme would require me to grant for planning permission for either (i) a mixed use of the land for recreational use and use for the storage of containers or (ii) to limit the extent of the site to that delineated for the storage use, as shown in the appellant's Appendix 6.
12. I am not satisfied that I could use my powers to consider a mixed use (i) as this would considerably change the nature of the development proposed, for which there has been no consultation. This would cause prejudice to the Council and any interested people. While considering only part of the site for the storage use may be possible (ii), through an alteration to the enforcement notice plan, this would not overcome my concerns. I do not consider the proposed storage use to be compatible with an adjoining recreational use. Users would need to access the recreational facility by crossing the storage area and its access roads, which is not conducive to highway safety. Also, the landscaping strip would not be adequate to screen the containers. Furthermore, the restricted size and poor means of access would limit the possibilities for using the adjoining site for recreational purposes. Therefore, I do not consider that the alternative scheme would overcome the policy objections set out above.
13. I conclude that the development would have a detrimental impact on the provision of outdoor recreational facilities in the local area. It would not accord with Policies R1 and DEV5 of the UDP, Policy GS17 of the Council's SPD or Policy R3 of the emerging Local Plan⁴, which seek to protect recreational land and facilities. The development would not accord with the Framework insofar as it seeks to protect land for outdoor sport and recreation.

Highway safety

14. The appeal site is within an area of mixed use, however, it is accessed via a relatively narrow residential road. The terraced houses along Legh Street do not have off-road parking spaces and, despite parking restrictions in some areas, I saw a number of parked cars.

² Ref APP/W3005/W/15/3003349 dated 16 June 2015.

³ Section 177(1)(a) of the 1990 Act.

⁴ Development Management Policies and Designations (2022).

15. From the information before me, I do not consider that a vehicle of a size capable of delivering and positioning the containers could access the site safely due to the highway constraints. It is likely that the vehicle would need to reverse onto the highway or into the site as there is insufficient turning space. This would present a risk to the safety of other road users.
16. The appellant argues that delivering the containers would be a one-off activity as they would not be moved once positioned and traffic regulations could be put in place during delivery. Even if the development led to a maximum of 25 trips as suggested, this would still be a risk to highway safety as it has not been shown that HGVs could enter and leave the site in forward gear.
17. The revised scheme shows seven containers of a smaller size (6m in length). It is stated that a vehicle the size of a refuse wagon (10m overall length), would be used and suitable access and egress could be provided. However, the appellant's vehicle tracking diagram, Appendix 7, is incomplete. It does not show the relevant path of movement nor does it take account of parked cars or the right angled junction at the end of Legh Street.
18. It is suggested that I could approve the scheme with conditions requiring a revised internal layout to be submitted for approval, and a revised highway access arrangement. However, this assumes that the matters can be addressed with simple amendments to the scheme. At present, there is no information before me to show that safe access can be achieved for the development proposed.
19. The appellant suggests that the Council has not engaged in an appropriate manner. However, the information is limited and this consideration carries little weight. Similarly, the letters of support from interested people do not overcome the concerns identified.
20. I conclude on this matter, that the development would have an unacceptable impact on highway safety. It would not accord with Policy A8 of the UDP or Policies A1 and D3 of the emerging Local Plan, which seek to promote sustainable transport and minimise adverse impacts on transport networks while ensuring development is safe and easy to physically access. The development would not meet the aims of the Framework insofar as it seeks to ensure safe and suitable access can be achieved for all users.

Conclusion

21. I find that the proposals would not accord with the development plan as a whole. There are no other considerations that would outweigh the conflict with the development plan. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

22. It is directed that the enforcement notice is corrected by the deletion of the words "without planning permission, the siting of containers on the site", in paragraph 3, and the replacement of the words "four years" in paragraph 4 with the words "ten years".

23. Subject to the corrections, 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.

Debbie Moore

Inspector