



Appeal Decisions

Site visit made on 5 August 2022

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

an Inspector appointed by the Secretary of State

Decision date: 15 August 2022

Appeal A: APP/M0655/C/22/3292614

White Moss Nursery and Garden Centre, South Lane, Warrington WA8 3TZ

- 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 William Smith against an enforcement notice issued by Warrington Borough Council.
- The enforcement notice was issued on 27 January 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change in use of land for vehicle and container storage with associated hardstanding.
- The requirements of the notice are:
 - a) Cease the use of the land for vehicle and container storage;
 - b) Remove from the land all associated shipping containers, vehicles and structures;
 - c) Remove all areas of hardstanding within the approximate position edged red on the attached Google Earth image labelled SB01;
 - d) After completion of requirement c) reinstate the area of land subject to removal of hardstanding by spreading a layer of topsoil and seeding it with a suitable grass mix so as to achieve a vegetated cover.
- The period for compliance with the requirements is:
 - a) One month for a), b), and c);
 - b) Two months for d).
- 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.

Appeal B: APP/M0655/W/21/3284703

White Moss Nursery and Garden Centre, South Lane, Warrington WA8 3TZ

- The appeal is made under section 78 of the 1990 Act as amended against a refusal to grant planning permission.
- The appeal is made by Mr William Smith against the decision of Warrington Borough Council.
- The application Ref 2021/39117, dated 1 April 2021, was refused by notice dated 24 September 2021.
- The development proposed is for continued use as vehicle and container storage.

Summary of Decision: The appeal is dismissed.

Preliminary Matter

1. I saw that all the vehicles had been removed from the land and the rear of the site was vacant, aside from the hardstanding. A number of storage containers remained, although the layout differed from the appellant's proposed site plan.

Appeal A on ground (a) and the deemed planning application / Appeal B

Background and Main Issues

2. The ground (a) appeal is that planning permission should be granted for the matters alleged. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for the material change of use of the land for vehicle and container storage with associated hardstanding. This accords with the terms of Appeal B, which is against the Council's refusal of planning permission for the continued use of the land for vehicle and container storage. The site plans are the same for both appeals. I am satisfied that the enforcement notice plan reflects the planning unit correctly as it corresponds to the unit of occupation. I have, therefore, considered the two appeals together.
3. The land is within the Green Belt. The main issues are:
 - whether the development is inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect of the development on the character and appearance of the area;
 - whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Whether the development is inappropriate development in the Green Belt and the effect on openness of the Green Belt

4. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As set out above, the matters before me concern a material change of use of land. Paragraph 150 of the Framework sets out that certain forms of development are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes material changes in the use of land (such as for outdoor sport and recreation, or cemeteries and burial grounds).
5. The appeal site was formerly part of the garden centre, which lies to the west, and appeared to be partially occupied by polytunnels and used for the open storage of materials. It is bounded to the north by a railway embankment and to the east and south by a line of trees. Consequently, the site is screened to a certain extent. Nonetheless, the Courts have held that openness of the Green Belt has a spatial aspect as well as a visual aspect. The absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension.

6. The unauthorised development comprises the storage of containers and vehicles on the land, in addition to hardstanding and palisade fencing. The containers are not highly visible due to the fencing, trees and vegetation on the site boundaries, and the railway and the garden centre to the north and west. However, the storage of containers on land has a negative spatial impact because the size, scale and extent of the storage use is considerably greater than that which existed previously. The vehicles may not be permanent but they would still affect openness since they would be present frequently on the land for prolonged periods. In my judgement, the development does not preserve openness.
7. In addition, the development represents encroachment into the countryside. The use for the storage of containers has an industrial character and appearance, which is at odds with the semi-rural setting. I appreciate that the land was previously part of the garden centre, but it does not follow that different commercial uses on part of the site would be acceptable. The character and appearance of the land for intensive storage is significantly different to a garden centre, which includes open areas, plants and screening. As such, the development conflicts with the Green Belt purposes and it would not fall within the exception set out in paragraph 150(e).
8. The Council indicates that the site may be considered 'previously developed land', which is defined in the Framework as "Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure". There is limited evidence before me that the land was occupied by a permanent structure. In any event, the concept of previously developed land only has relevance where new buildings are being considered, not a change of use as in this case. Paragraph 149 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate development, exceptions include, at 149(g), limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt than the existing development. Even if this argument were advanced by the appellant, the development would have a greater impact on openness than the existing development, that being the land as it existed before the unauthorised development took place, for the reasons set out above.
9. I conclude that the development is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and this harm carries substantial weight.

Character and Appearance

10. The site lies adjacent to the main road (A5080) and it adjoins a railway and garden centre. The dominant features are the agricultural land and occasional hedgerows. Despite the relative proximity of the garden centre, and the cooling towers of the power station in the distance, I found the character of the area to be semi-rural.
11. It was asserted that the site does not harm visual amenity due to the screening. However, the fencing itself, and the parts of the site that are visible through the gates, have an industrial character and appearance. Prior to the

unauthorised development, the land was used as part of the garden centre. It would have been a greener space with more trees and shrubs than exist now, which would have made a positive contribution in keeping with its semi-rural setting. The unauthorised use has led to a reduction in natural landscaping and has introduced an unsightly form of development, which is incongruous with the locality.

12. I find, therefore, that the development has had an adverse effect on the character and appearance of the area. The harm is relatively localised and, hence, I consider it to be moderate.

Conclusion

13. I conclude that the development is inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be moderate harm to the character and appearance of the area. There are no other considerations advanced by the appellant that would clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The development is unacceptable in principle and the harm could not be mitigated through the imposition of planning conditions.
14. The development would be harmful to the Green Belt, contrary to Policy CS.5 of the Local Plan Core Strategy (2014), which seeks to protect the Green Belt from inappropriate development, and Policies QE7 and CC2, which seek to protect the character and appearance of the countryside. As a result, the development would not accord with the development plan taken as a whole.

Conclusion

15. For the reasons given above, I conclude that the appeals 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.

Formal Decisions

16. Appeals A and B are 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