
Appeal Decisions

Site visit made on 20 February 2023

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2023

Appeal A Ref: APP/M0655/C/22/3299468

Land at Pillmoss Barn, Hatton Lane, Hatton, Warrington, Cheshire WA4 4DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr N Lamb against an enforcement notice issued by Warrington Borough Council.
- The notice, numbered ENF/20/08027, was issued on 27 April 2022.
- The breach of planning control as alleged in the notice is a change of use of the land for siting of storage containers.
- The requirements of the notice are to: Cease the use of the land for the siting / storage of storage containers, and remove all storage containers from the land.
- The period for compliance with the requirements is: 2 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 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.

Appeal B Ref: APP/M0655/C/22/3299470

Land at Pillmoss Barn, Hatton Lane, Hatton, Warrington, Cheshire WA4 4DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Wilson Allison Lamb against an enforcement notice issued by Warrington Borough Council.
- The notice, numbered ENF/20/08027, was issued on 27 April 2022.
- The breach of planning control as alleged in the notice is a change of use of the land for siting of storage containers.
- The requirements of the notice are to: Cease the use of the land for the siting / storage of storage containers, and remove all storage containers from the land.
- The period for compliance with the requirements is: 2 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 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.

Appeal C Ref: APP/M0655/C/22/3299471

Land at Pillmoss Barn, Hatton Lane, Hatton, Warrington, Cheshire WA4 4DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Diana Elizabeth Lamb against an enforcement notice issued by Warrington Borough Council.
- The notice, numbered ENF/20/08027, was issued on 27 April 2022.
- The breach of planning control as alleged in the notice is a change of use of the land for siting of storage containers.
- The requirements of the notice are to: Cease the use of the land for the siting / storage of storage containers, and remove all storage containers from the land.
- The period for compliance with the requirements is: 2 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(f), (g) of the Town and Country Planning Act 1990 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.

Appeal D Ref: APP/M0655/W/22/3297274

Pillmoss Barn, Hatton Lane, Hatton, Warrington WA4 4DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr N Lamb on behalf of Rowswood Timber Supplies Limited against the decision of Warrington Borough Council.
- The application Ref 2021/40683, dated 13 December 2021, was refused by notice dated 11 February 2022.
- The development proposed is a change of use from open storage to use land for siting of storage containers for a temporary period of three years.

Summary of Decision: The appeal is dismissed.

Appeals A, B and C

The Enforcement Notice

1. The enforcement notice (the notice) alleges a change of use of the land for siting of storage containers.
2. Paragraph 1 of the notice states that there has been a breach of planning control falling within section 171A(1)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act), which is the carrying out of development without the required planning permission. Development is defined in section 55(1) of the 1990 Act as including 'the making of any material change in the use of any building or other land'.
3. Whilst the notice refers to 'a change of use' it does not allege that a material change in the use of the land has occurred. It therefore follows that the allegation in the notice would not constitute development for the purposes of section 55(1) of the 1990 Act.
4. Section 57 of the 1990 Act provides that planning permission is required for the carrying out of any development of land. Because the breach of planning control as alleged in the notice does not constitute the development of land, it follows that planning permission would not be required for it. The notice is defective in that respect.
5. However, having regard to the appellants' case and their appeal under grounds (f) and (g), they have clearly understood the allegation was intended to refer to a material change of use. As such, I am satisfied that a correction of the notice to include reference to a material change of use would not cause injustice in this case.
6. The allegation simply refers to the 'siting of storage containers'. It does not identify what these containers are used for. Having regard to the parties' cases and sought confirmation from them, it is clear the use of the containers is for self-storage business use. As such, I am satisfied that a correction of the notice to include reference to self-storage business use would not cause injustice in this case.
7. Paragraph 4 of the notice states '...the breach of planning control has occurred within the last four years'. However, the alleged breach of planning control is a material change of use and therefore the correct period of immunity would be ten years, not four. The notice is defective in that respect. However, as the

appellants have not made a ground (d) appeal I am satisfied that a correction of the notice to include reference to the breach occurring within the last ten years, instead of four, would not cause injustice in this case.

The appeal on ground (f)

8. This ground is that the notice requirements are excessive. Depending on the purpose of the notice, this can be assessed against the question of whether the requirements exceed what is necessary to remedy the breach of planning control; or, any injury to amenity.
9. The appellants' case under ground (f) is that it would be unreasonable to seek compliance with the requirements of the notice before the s78 appeal (Appeal D) is determined. However, the enforcement notice is separate to the planning application that is the subject of Appeal D. Even if I allowed Appeal D, the notice would still remain in force and it would be at the discretion of the Council whether they would enforce its requirements.
10. There is no evidence before me to suggest the requirements exceed what is necessary to remedy the breach of planning control.
11. I therefore conclude the ground (f) appeal must fail.

The appeal on ground (g)

12. This ground of appeal is that the period for compliance is unreasonably short.
13. The appellants' case under ground (g) is that sufficient time is required to allow the Appeal D to be determined. As with the ground (f) appeal, even if I allowed Appeal D, the notice would still remain in force and it would be at the discretion of the Council whether they would enforce its requirements.
14. There is no evidence before me to suggest the period for compliance is unreasonably short to comply with the requirements of the notice.
15. I therefore conclude the ground (g) appeal must fail.

Appeal D

Main Issues

16. The main issues in this appeal are:
 - Whether the development would be inappropriate development in the Green Belt;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area; and
 - If the development is inappropriate, 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 necessary to justify the development.

Reasons

Inappropriateness

17. The appeal site is located within the Green Belt. The National Planning Policy Framework (the Framework) states that inappropriate development in the Green Belt is by definition harmful and should not be approved except in very special circumstances. Policies CC1 and CS5 of the Warrington Borough Council Local Plan Core Strategy 2014 (the CS) similarly restrict development in the Green Belt. Paragraph 149 of the Framework states the construction of new buildings in the Green Belt shall be regarded as inappropriate development. There is no dispute between the parties that the proposed development would not meet any of the exceptions set out in paragraphs 149 or 150 of the Framework. I find no reason to conclude otherwise.
18. I conclude therefore, the proposed development would be inappropriate development, which, by its very definition, is harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

19. Paragraph 137 of the Framework advises 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. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean there is no impact on the openness of the Green Belt.
20. The appeal site is split into two distinct sections. The section that fronts Hatton Lane is an open grassed area with a low hedge/post and rail fence boundary to the front and a low, wooden picket fence boundary with the access drive into the site. The northeast and northwest boundaries comprise high hedges.
21. The rear section of the site is an open, hardstanding area, which at the time of my site visit was used for low level storage of building materials, including pallets and aggregate, a lorry trailer, a large skip filled with what appeared to be waste wood and a large bulldozer. This section of the site is well screened from views off Hatton Lane by the high hedge that separates it from the front section of the site. There is no physical boundary between the site and the adjacent open field to the rear.
22. In terms of the visual dimension of openness, the proposed containers would be well screened by the high hedging, with perhaps only glimpsed views of them through gaps in the hedge and from within the site itself. Overall, I find that the development would not represent an unacceptable visual intrusion.
23. In terms of the spatial dimension of openness, the erosion of three-dimensional space arising from the introduction of up to 57 storage containers onto the site would itself result in an erosion of openness. Whilst the site is used for outside storage associated with the wider timber supplies business, the existing materials and items stored on it have a transient appearance, compared to the more permanent appearance of the containers, and covers a substantially smaller proportion of the site than the proposal would.
24. The appellant contends the site has an established B8 open storage use, although admits this has not been regulated. Based on my observations on site and the evidence from both parties, the site has clearly been used for outside storage for some time. However, it is not clear whether this has been ancillary to the timber supplies business, a stand alone use or as part of a mixed use.

Moreover, there is no indication of the level of storage the site has been used for, certainly nothing to suggest it has been used to the extent of the proposed container storage use. Accordingly, I give very little weight to the appellant's argument that there is no upper limit to the quantum and volume of storage material permissible on the site.

25. Overall, whilst it would not represent a visual intrusion, it would diminish the openness of the Green Belt. Given the proposal is for a temporary period of 3 years and the site could be reverted back to its pre-existing state with relative ease, there would be no long-term harm to the openness of the Green Belt. Nevertheless, in the short to medium term, it would be harmful. Accordingly, I attribute moderate weight to the effect it would have on openness. I conclude therefore that the development would unacceptably harm the openness of the Green Belt.

Character and Appearance

26. The appeal site is located within an open countryside rural setting that is largely characterised by verdant fields interspersed with farmsteads and sporadic dwellings. The small settlement of Hatton lies a short distance to the northwest of the appeal site and the M56 to the south.
27. The timber supplies business that the appeal site currently forms part of comprises a collection of low-level buildings that are largely screened from public views by way of high hedging within and around the site. In addition to the building complex, there are open, grassed parcels of land within the site and hardstanding areas for parking and outside storage. The open spaces within the site make a positive contribution to the open, rural character of the area.
28. Similar to the existing building complex, the proposed storage containers would be well screened by existing hedging, therefore limiting public views of them. Nevertheless, the introduction of up to 57 containers on to an otherwise open parcel of land that is free from built form would significantly increase the commercial character of the wider site and erode its openness. The commercial nature of the self-storage business on a scale as proposed would be in stark contrast to the predominantly rural setting, being a form of development more typically found in a built-up urban setting. Consequently, the development would erode the rural character of the area.
29. I find therefore, the development would significantly harm the character and appearance of the area, contrary to Policy QE7 of the CS, which amongst other things, seeks to ensure development reinforces local distinctiveness and enhances the character, appearance and function of the street scene, local area and wider townscape.

Other Considerations

30. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I turn now to address other considerations that, potentially, might clearly outweigh harm arising from inappropriate development in the Green Belt and the erosion of openness so as to provide the very special circumstances required to justify a grant of planning permission.

31. The proposed containers could be utilised by businesses. Therefore, it would support the local economy, which is strongly advocated by the Framework. However, there would be nothing to limit the use of the containers to businesses only. Such containers are also commonly used for additional domestic storage. Moreover, given the rural setting of the site, there is no substantive evidence to indicate the number of local businesses that would be served by the proposed use at this location. Furthermore, it is argued that the purpose of the proposed use was initially to assist businesses, including diversifying the timber supplies business, during the Covid-19 pandemic. However, the pandemic has since passed. Accordingly, I attribute moderate weight to the support the proposal would have to the local economy.
32. The development would only be for a temporary period of 3 years. Therefore, the harm to the Green Belt would not be permanent.
33. I note that the development would not have a harmful effect on the living conditions of neighbouring residents, generate any undue noise or significantly increase traffic movements. However, these are neutral matters that neither weigh in favour of nor against the proposal.

Planning Balance

34. The proposal has harmful implications for the Green Belt in terms of inappropriate development and the erosion of its openness. Whilst the overall loss of openness would be moderate, the Framework establishes that substantial weight should be given to any harm to the Green Belt. Furthermore, the development would significantly harm the character and appearance of the area. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
35. Whilst the proposal would provide economic support for local businesses, I do not find that this clearly outweighs the harm to the Green Belt and the character and appearance of the area. Furthermore, I do not find that there is sufficient justification for permitting such harm even for a temporary period of 3 years. I find therefore, the very special circumstances required to clearly outweigh the harm to the Green Belt have not been demonstrated.
36. Consequently, the proposal would conflict with objectives of the Framework to protect the Green Belt and Policies CC1 and CS5 of the CS.

Conclusion

37. For the reasons given above, having regard to the development plan as a whole, the approach in the Framework and all other material considerations, the appeal is dismissed.

Formal Decision

Appeals A, B and C

38. It is directed that the enforcement notice is corrected by:
- a) The insertion of the word "material" after the word "a" under paragraph 3.
 - b) The insertion of "for self-storage business use" after the word "containers" in paragraph 3.

- c) The deletion of the word “four” in paragraph 4 and substituting “ten”.
- d) The insertion of “for self-storage business use” after the words “siting / storage of storage containers” in paragraph 5.

39. Subject to the corrections, the appeals are dismissed and the enforcement notice is upheld.

Appeal B

40. The appeal is dismissed.

Alexander Walker

INSPECTOR