



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/22/3300343

63 Greymist Avenue, Woolston, Warrington WA1 4AR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Neil Hesketh against an enforcement notice issued by Warrington Borough Council.
- The notice was issued on 4 May 2022.
- The breach of planning control as alleged in the notice is the siting of a portacabin building for office use.
- The requirements of the notice are to remove the portacabin from the site.
- The period for compliance with the requirement is 2 calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: 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.

Appeal B Ref: APP/M0655/W/22/3300246

Workshop adjacent 61 Greymist Avenue, Woolston, Warrington, Cheshire WA1 4AR

- 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 Neil Hesketh on behalf of ABC Services Ltd against the decision of Warrington Borough Council.
- The application Ref 2019/36133, dated 12 November 2019, was refused by notice dated 5 April 2022.
- The development proposed is a portacabin for office use on the premises.

Summary of Decision: The appeal is dismissed.

Procedural Matter

1. The addresses for each appeal as set out in my banner headings above are taken from the respective appeal form (s174 appeal) and application form (s78 appeal). However, the two appeals relate to the same site.

Appeal A - The ground (a) appeal and the deemed planning application; and Appeal B

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the area;

- the living conditions of the occupants of neighbouring residential properties, with particular regard to outlook; and
- ecology and biodiversity in the area, in particular the Woolston Eyes Site of Special Scientific Interest (SSSI)

Character and Appearance

3. Greymist Avenue is predominantly a residential road comprising two-storey detached and semi-detached dwellings. The setback position of the dwellings and their low front boundary treatments make a positive contribution to the openness of this suburban setting.
4. The appeal site lies at the end of the Avenue, accessed off the large turning/parking area. The site comprises a single-storey workshop building with a yard to the front of it and the portacabin. The site is bound by solid, high fencing which restricts views of the portacabin from public vantage points. Due to the low height of the single-storey workshop and its setback position from the established forward building line of the dwellings fronting the Avenue, the site represents a low-key commercial addition that does not detract from the open residential character of the area.
5. Whilst it would not be readily visible from the public domain, the portacabin would be visible from neighbouring properties and from within the appeal site itself. There are a number of first-floor windows in properties on Manchester Road that would have clear views of the portacabin, as well as the rear garden of the adjacent property, 61 Greymist Avenue. Due to its size, occupying almost the full width of the site, the portacabin would be viewed as an excessively large, incongruous addition that diminishes the openness and detracts from the predominantly residential character of the area.
6. The appellant contends that the portacabin is more in character than the workshop and adjacent substation building. However, these have a more permanent appearance and are constructed of brick, similar to the surrounding dwellings. The prefabricated design of the portacabin fails to reflect any existing built form within the vicinity of the site.
7. I therefore find the portacabin significantly harms the character and appearance of the area. As such it is contrary to Policy QE7 of the Warrington Borough Council Local Plan Core Strategy 2014 (CS), which seeks to ensure development reinforces local distinctiveness and enhances the character, appearance and function of the street scene, local area and wider townscape; and harmonises with the scale, proportions and materials of adjacent and / or existing buildings.

Living Conditions

8. The portacabin sits approximately 2m from the rear garden boundary fence with No 61 and extends along almost its full length. No 61 has a large outbuilding along a section of this boundary, effectively screening the portacabin from views from the rear half of the garden.
9. However, even accounting for its setback position from the boundary, from the front half of the garden the portacabin is clearly seen as rising substantially above the high timber fence, significantly reducing the outlook from the garden of No 61 resulting in an unacceptable overbearing impact on its occupants.

10. I note the appellant's argument that the current occupants of No 61 moved into the property after the portacabin was placed in situ. However, my assessment of the effect on the living conditions of this property has been made on the basis of the effect on existing and future occupants. The fact that it did not dissuade the occupants from purchasing the property does not equate with there being no harm.
11. I have had regard to the effect of the portacabin on the living conditions of other neighbouring occupants, including 109 Manchester Road. Whilst it would be clearly visible from certain vantage points in neighbouring properties, due to its distance from them and positioning in relation to their boundaries, I do not find that there would be any harmful effects on the living conditions of their occupants.
12. I find therefore that the portacabin significantly harms the living conditions of the occupants of 61 Greymist Avenue, with regard to outlook. As such, it is contrary to Policy QE6 of the CS, which seeks to ensure development respects the living conditions of existing neighbouring residential occupiers with regard to, amongst other things, outlook.

Ecology and Biodiversity

13. The reasons given for issuing the notice and the reasons for refusal in the decision notice for the planning application the subject of these appeals simply state the development impacts upon the SSSI. There is no indication before me as to whether or not the site lies within or adjacent to the SSSI.
14. Notwithstanding the above, the appellant confirms the portacabin does not generate any wastewater and the reference in the planning application form to waste water disposal was with regard to the cleaning of bins within the wider site, not the portacabin. The Council does not dispute this. Based on this, and in the absence of any evidence to the contrary, the portacabin would not have any harmful effect on the SSSI.
15. I therefore find that the proposal would not harm the ecology or biodiversity in the area, with particular regard to the SSSI. As such, it would not conflict with Policy QE5 of the CS, which seeks to ensure development protects biodiversity.

Other Matters

16. In the event I find the portacabin unacceptable, the appellant confirms they would be willing to accept temporary permission for three years. However, given I have found harm to the character and appearance of the area and living conditions of the occupants of No 61, there is no evidence before me to justify permitting such harm for a further 3 years. Therefore, I do not find that granting planning permission subject to a condition limiting the siting of the portacabin for a maximum of three years to be acceptable.

Conclusion on the Appeal A ground (a) appeal and the deemed planning application; and Appeal B

17. Whilst the portacabin does not have a harmful effect on ecology and biodiversity in the area, this is a neutral effect and does not outweigh the harm it has to the character and appearance of the area and the living conditions of the occupants of 61 Greymist Avenue. For the reasons given above, planning permission should not be granted in response to either the ground (a) appeal

against the enforcement notice and deemed application, or to the Section 78 appeal against the refusal of permission. Therefore, Appeal A on ground (a) fails, as does Appeal B.

Appeal A – The ground (g) appeal

18. This ground of appeal is that the period for compliance is unreasonably short.
19. The appeal form for Appeal A indicates an appeal on ground (g) has been made. However, such a ground is not explicitly referred to in the appellant's evidence. Nevertheless, the appellant confirms they would be willing to accept temporary permission for three years, which I have interpreted as them seeking to amend the compliance period in the notice from two calendar months to three years.
20. However, as I have set out above, due to the harm I have found in relation to the ground (a) appeal and Appeal B, I do not find that granting planning permission subject to a condition limiting the stationing of the portacabin for a maximum of three years to be acceptable. There is no evidence before me to indicate why the period of two calendar months is an unreasonable period of time to comply with the requirements of the notice.
21. In summary, from the available evidence, I consider the two month period specified in the notice is reasonable, and I do not see justification for extending it.
22. I therefore conclude that the ground (g) appeal must fail.

Formal Decision

Appeal A

23. 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.

Appeal B

24. The appeal is dismissed.

Alexander Walker

INSPECTOR