



Appeal Decision

Site visits made on 4 April 2023 and 4 July 2023

by Roy Curnow MA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st August 2023

Appeal Ref: APP/N0410/C/21/3288011

**Sawyers Green Farm, Langley Park Road, Wexham,
Buckinghamshire SL3 6DD**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr S Hussain against an enforcement notice issued by South Bucks District Council.
- The enforcement notice, numbered EN/20/0389/EN/2, was issued on 26 October 2021.
- The breach of planning control as alleged in the notice is Without planning permission:
 1. A material change of use of the Land and buildings (outlined in a thick black line on the attached Plan 1) to a (Sui Generis) mixed use comprising: a) the storage and parking of motor vehicles; b) the storage of portable cabins (the approximate current locations of which marked 'TC' on Plan 1); c) the storage of touring caravans (the approximate current locations of which are shown marked 'TC' on Plan 1); d) the storage of shipping containers (the approximate current locations of which are shown marked 'SC' on Plan 1) e) the storage of trailers; f) the storage of mobile homes; g) the storage of new and used vehicle parts; h) the deposition of general waste (comprising scrap metal, oil drums, white goods and household waste); i) storage of plant, machinery, tools, equipment and apparatus in connection with the Unauthorised Use of the Land and buildings; j) the carrying out of motor vehicle maintenance and mechanical and bodywork repairs, paint spraying and welding, with associated workshops and office uses; and k) residential use of the dwellinghouse ('The Bungalow') the location of which is shown on Plan 1 and some of the touring caravans which are stationed on the Land (the approximate current locations of which are shown marked 'TC' on Plan 1). (collectively called the "Unauthorised Use"); and
 2. The carrying out of operational development integral to the Unauthorised Use comprising: a) the laying of hardstanding (in the approximate location shown hatched on Plan 1); b) the extension of and alterations to the existing building on the Land shown labelled B2 on Plan 1 comprising a roof extension, (the approximate position of which is shown cross-hatched on Plan 1, and the attached plan marked Plan 2 and shown in photographs as the area above the original brown wooden gable end shown on the attached photographs marked "Photo 1" and "Photo 2"); c) the extension of and alterations to the existing building on the Land shown labelled B5 on Plan 1, comprising a part single storey side/part roof extension, constructed of timber, plastic awnings, corrugated metal sheeting panels, blockwork and brick, (in the approximate position of which is shown dotted on Plan 1 and Plan 2 and which is shown in the photos on the attached sheet marked "Photo 3").
- The requirements of the notice are:

Cease the "Unauthorised Use" of the Land and buildings for the (sui generis) mixed use as described in Section 3.1 above, save for the lawful residential use of the dwellinghouse ("The Bungalow");

Remove from the Land and buildings: a) all motor vehicles, portable cabins, touring caravans, shipping containers, trailers, mobile homes, and any other moveable structures brought onto the Land in connection with the Unauthorised Use of the Land and buildings; b) all new and used vehicle parts brought onto the Land in connection

with the Unauthorised Use of the Land and buildings; c) all general waste deposited onto the Land in connection with the Unauthorised Use of the Land and buildings; d) all plant, machinery, tools, equipment and apparatus brought onto the Land in connection with the Unauthorised Use of the Land and buildings; e) all debris and materials arising as a result of compliance with the paragraphs 5.2 (a) to 5.2(d) above.

Demolish the unauthorised operational development comprising the roof extension to building B2 on the Land, as described in Section 3, 2.(b) above;

Remove from the Land all debris and materials arising as a result of compliance with Step 5.3 above;

Demolish the operational development comprising a part single storey side/part roof extension to building B5 on the Land as described in Section 3, 2.(c) above;

Remove from the Land all debris and materials arising as a result of compliance with Step 5.5 above;

Take up and remove the unauthorised Hardstanding from the Land, the position of which is shown hatched on Plan 1; and

Rip the soil from the part of the Land where the Hardstanding has been removed pursuant to requirement 5.7 to alleviate compression of the ground and restore the Land to its level prior to the laying of the Hardstanding (commensurate with adjacent ground level).

- The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) 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.

Procedural Matter

2. I first visited the site on 4 April 2023. The Appellant did not attend the site visit and a further site visit was arranged, this occurred on 4 July 2023. What I saw on both visits has informed my decision.

The Notice

3. The Appellant claims that the Notice lacks precision and that this means, given the criminal liabilities that can arise from non-compliance with it, that it should be quashed.
4. S173(2) of the Act says that a Notice must enable any person on whom a copy of it is served to know what the matters alleged to constitute the breach are. The test is whether the Notice tells the recipient fairly what they have done wrong and must do to remedy it. A Notice must be fundamentally defective in order to be found a nullity.
5. The Appellant says that the term “any other moveable structures” in section 5.2a) of the Notice is an ambiguous term and is not precise. It is not necessary for the Council to make an exhaustive list of all of the moveable structures that are on the site. Indeed, on a site of this size where there are many such structures it could lead to an even more lengthy, and unwieldy, Notice. The key here is that the moveable structures referred to would have been brought onto the land in connection with the alleged use. I find the requirement to be unambiguous.

6. I find likewise with the details shown in Plan 2 attached to the Notice. Using the description of the breach in section 3 of the Notice, which refers to the “approximate” position of the extensions to Buildings B2 and B5, as well as Plans 1 and 2 attached to the Notice, I was able to readily identify the extensions it refers to. I have been given no substantive reason to find that a recipient of the Notice would be unable to do so.
7. That the requirement to remove the portable cabins, touring caravans and shipping containers does not refer to Plan 1, where their approximate position is shown, does not render the Notice a nullity. The land to which the Notice relates is clearly defined, in its section 2, as being that land edged with a thick black line in Plan 1. The portable cabins, touring caravans and shipping containers referred to in the alleged breach of planning control lie within the identified Land and, therefore, are required to be removed from it by the Notice.
8. In the Notice, the Council does not seek to enforce against Buildings B1 to B5, save for identified extensions. As they can otherwise remain, the Appellant claims that it would be reasonable to allow an element of external storage in association with their respective future uses. The Notice simply attacks the unauthorised use of the land and would not, therefore, preclude any such storage in future if this was lawful.
9. The Notice does not specifically refer to “buildings” in section 2, the Land to which it relates, though it does in sections 3 and 5, its alleged breach and requirements, respectively. This does not equate to underenforcement, in respect of removing items related to the unauthorised use from the buildings, as claimed by the Appellant. It is axiomatic that ‘Land’ includes the buildings thereon.
10. Overall, recipients of the Notice would know from its four corners what the breach of planning control is and what they would need to do to remedy this. Therefore, I find that the Notice is not hopelessly ambiguous and uncertain, and I will not quash it.

Reasons

Ground (a)

11. An appeal made under this ground is, in essence, that planning permission should be granted for the breach of planning control alleged in the Notice.

Main Issues

12. Although I was not given a copy of a plan showing the defined boundary of the Metropolitan Green Belt (‘GB’), it is common ground that the site lies within it. Therefore, the main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt;
 - iii) The effect of the proposal on the character and appearance of the area and highway safety;

- iv) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

The Appeal Site

13. The site consists of a fairly large area of land that is mostly bounded by hedgerows with mature trees. An arm of the Grand Union Canal lies immediately to its south. This defines a distinct break between heavily developed land to its south and more open land to the north, in which the appeal site lies. On its western side, the site is bounded by a busy road, the B470, from which access to the site is gained. A household recycling centre lies roughly opposite the appeal site, on the western side of the B470. Beyond the site, to the north and east, the land appeared open.
14. The site's gated access is set back a short distance from the B470, across a verge on which a fairly large number of vehicles were parked each time I visited. However, I could not be sure whether these vehicles were related to the use of the land. Within the site, the land closer to the gate was sub-divided by temporary metal fencing into what might be described as compounds. Within these were small wooden or portable buildings, and each compound contained cars parked closely together. Cars frequently arrived and left these compounds during my visits.
15. Set back from the B470 boundary, along the northern side of the site, was a range of buildings. Although I did not enter it as its use is unaffected by the Notice, there is a bungalow here that is used for residential purposes. Immediately to its east are three single-storey buildings, marked as Buildings B1, B2 and B3 on the Plans attached to the Notice. B1 is constructed of red brick under a pitched roof made of sheets in cement or some similar material. B2 is made of timber and has a large, partially open timber extension on its eastern side. B3 is finished in render which, I surmise, has been applied to brick or blockwork walls. Building B5 lies to the east of these three buildings. It has been extended and appears as a large rambling building of a variety of designs and heights that is largely constructed from timber sheets. To their south, Building B4 has a chipping finish and, again, it appears that this was applied to a brick or blockwork building.
16. In its eastern and south to south-eastern parts, the Land has not been sub-divided in the same manner as it is towards its western end. In these areas the site is strewn with a range of vehicles, in all states of repair, vehicle parts and tyres. The vehicles and other equipment across the site were positioned very close together, often leaving little space to get around them. This is not an exhaustive list of what was on the land, but provides a flavour of how it is used.

Relevant Planning History

17. The submissions show that in the past the land had been used for free-range poultry rearing and as kennels. It appears from the evidence that the land was unused for some years, probably from 2011 to 2017. An enforcement notice was issued by the predecessor local planning authority against the use of the land for airport parking and associated operational development in 2018. This was appealed against, as was an application for planning permission for the

change of use of the land from kennels to airport parking. Both appeals¹ were dismissed.

18. An enforcement notice, together with a Stop Notice, were issued by the Council against the use of the land that is the subject of the appeal before me. However, these were withdrawn. Subsequently, following the issuing of a Planning Contravention Notice, and its completion and return by the Appellant, the Notice before me was then issued.

Whether Inappropriate development and Effect on Openness

19. Chapter 13 of the Government's National Planning Policy Framework 2021 (the 'Framework') sets out the Government's policy aims for GB land. It attaches great importance to it and its fundamental aim is to prevent urban sprawl by keeping land permanently open.
20. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. Paragraph 148 states that when considering any planning application, decision-makers should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. Paragraph 149 states that new buildings are inappropriate development in the GB. However, the extension or alteration of a building is not inappropriate development where it does not result in disproportionate additions over and above the size of the original building. Similarly, paragraph 150 sets out that material changes in the use of land are also not inappropriate in the GB, provided they preserve its openness and do not conflict with the purposes of including land within it. 'Saved' Policies GB1 and GB2 of the South Bucks District Local Plan, adopted March 1999 and consolidated in 2007 and 2011, (the 'LP'), are consistent with these terms of the Framework.
22. Notwithstanding that the description of development in the planning appeal before the Inspector in 2018 referred to the change of use from dog kennels, he was unable to determine that this was the lawful use of the land. He was able, however, to find that the kennel use, together with associated parking, "could not have encompassed more than a limited portion of the site". I have not been given substantive information to find otherwise.
23. The large number of vehicles and the manner in which they are closely positioned, together with the portable cabins, touring caravans, shipping containers, trailers, mobile homes, vehicle parts, stacks of tyres, other plant, machinery and equipment on the site, together with the associated fencing has caused a substantial reduction in the openness of the land.
24. The hardstanding is development, being an engineering operation defined by s55 of the Act. I am not aware of any planning permission for it, nor of any reason as to why permission would not have been required for it. Although it does not affect the openness of the GB, it was put in place to facilitate the unauthorised, and harmful, use of the land.

¹ APP/N0410/C/18/3195503 and APP/N0410/W/18/3190035

25. The extensions to Buildings B2 and B5 are disproportionate when assessed against the original buildings. They appeared to be larger than their host buildings, that to B5 significantly so. Neither is modest in scale, as suggested by the Appellant. Therefore, as they are inappropriate development, their effect on openness should be assessed in line with the judgement in *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor* (Rev 1) [2016] EWCA Civ 404. I find that the extensions do adversely impact on openness.
26. What has occurred has resulted in development encroaching into the countryside, which is at odds with purpose c) in paragraph 138 of the Framework. It is inappropriate development in the GB that conflicts with the Framework and Policies GB1 and GB2 of the LP. Being inappropriate, it is by definition harmful, and I am to afford substantial weight to this harm.

Other considerations

Character and appearance

27. Amongst its terms, LP Policy EP3 only permits developments where the use or built form of development is compatible with the character and amenities of the site and its surroundings. The development is readily visible from the B407 and, to a lesser degree, from the canal towpath. The large number of cars parked or stored, as well as the other development referred to in the Notice across this large field is incongruous in this rural setting. It is harmful to the character and appearance of the area. I have taken account of the fact that the household recycling centre lies opposite the site. It is partially seen from the B470 and it and its associated traffic does have an effect on the character and appearance of the area. However, its presence does not mitigate the harmful impact that the proposed development has.
28. The original buildings can, at best, be described as being utilitarian, and add very little to the character and appearance of the area. The extensions that have been added to buildings B2 and B5 are disproportionately large and, by way of this, their ramshackle appearance and mix of finishes cause significant harm to the character and appearance of the area. They do not sit comfortably in the landscape.
29. The case made under Ground (f) is mixed in with the Ground (a) arguments and I can address it here. The Appellant suggests that the hardstanding could remain, as it has no ill-effects on the GB. In itself, I would agree this is the case; however, it has been provided to facilitate the breach of planning control and it is reasonable to require its removal. Furthermore, the extensive hardstanding is out of keeping on what the evidence suggests was a largely open field before the unauthorised use occurred. The Appellant further states that I could apply a condition regarding the external finishes to be applied to the extensions. This might improve their external appearance, but they would still be disproportionately large, and the harm to the character and appearance that I have identified would not be mitigated. Therefore, I find that the extensions are contrary to the terms of LP Policy EP3.

Highway safety

30. The Appellant's position is that the Council relies on the comments made by the Inspector in his decisions on the recent appeals I have referred to, above. He

says that this was a completely different form of development. My decision is based on the evidence before me, including those appeal decisions; it is not a regurgitation of his finding

31. Although the development for which permission is sought is a mixed, *sui generis* use, there are undoubted parallels with that which was the subject of the earlier appeals. The activities on site in both are overwhelmingly car-related. I witnessed a fairly high number of traffic movements in the short periods that I was on site and I do not doubt that the use generates a significant volume of these movements.
32. The B470 was reasonably busy on the occasions that I visited. The appeal site lies just within the 30mph speed limit that relates to the urban area of Langley, to the south. To the north, the national speed limit applies. There is a hatched 'ghost island' running down the centre of the carriageway, separating northbound and southbound traffic, to the north and south of a right-hand turn for Trenches Lane, which serves the recycling centre. This allows for southbound vehicles to wait safely before crossing the northbound carriageway and entering Trenches Lane.
33. There is no right turn facility for the drivers of northbound vehicles to wait safely when entering the site. They have to wait on the ghost island to the south of the turn into Trenches Lane for an opportunity to cross the southbound carriageway. That part of the ghost island did not appear to have the same width as the northbound and southbound carriageways, so vehicles I saw waiting there were partially on one or other of the carriageways thus reducing their width. I appreciate that vehicles would have done this in connection with the previous lawful use of the land. However, there is no evidence before me to show that the numbers of vehicles executing the manoeuvre would have been as great as the numbers doing so in connection with the proposed use of the land.
34. My impression accords with that of the earlier Inspector, inasmuch as a significant number of vehicles were exceeding the speed limit on the B470 outside the site. This was a result of slowing down too late when entering the 30mph zone or accelerating too early when leaving it.
35. No details of who is likely to be driving to the site, for what purpose and in what numbers have been provided by the Appellant. However, I find it to be likely that there will be a significant number of movements into and out of the site and that a significant proportion will involve the northbound right turn. In much the same way as seems to have been the case with the earlier Inspector, I do not have any information before me to suggest that the previous use of the site generated as many traffic movements as the use before me would. Like him, I find that it has not been shown that the B470 can safely accommodate the additional movements that would be generated by the development in accordance with the terms of LP Policy TR5 and paragraph 111 of the Framework.
36. Although not quoted in the Notice, a copy of Core Policy 10 from the South Bucks Local Development Framework Core Strategy, adopted February 2011, ('CS') was submitted with the Council's Questionnaire. The proposal is also contrary to this policy, as it, too, seeks to ensure a safe transport network. The Notice referred to Buckinghamshire's Local Transport Plan 4, though I was not given a copy of this.

Other considerations

37. The Appellant points to the employment opportunities that the use of the land provides. I have not been provided with a definitive figure in terms of people employed at the site. I did see in the order of ten to a dozen people when I visited the site, though I cannot be sure that all were employed there. Employment at the site is a factor that weighs in favour of the proposal. However, without knowing definitively the numbers of people working there, or what this might be in future, I can only give this limited weight.
38. Although, again, not quoted in the Notice, a copy of Core Policy 10 from the CS was submitted with the Council's Questionnaire. This provides support to new employment development. However, where this involves the intensification of existing employment sites in the GB its support is conditional upon the intensification being appropriate development. That is not the case here.

Planning Balance

39. The limited weight that I afford to the employment arguments put forward does not outweigh the harm to the GB, nor that to the wider character and appearance of the area. Therefore, the very special circumstances required by the Framework to justify allowing this inappropriate development in the GB do not exist.

Ground (f)

40. This has been dealt with, above.

Ground (g)

41. An appeal under Ground (g) is that any period specified in the notice in accordance with s173(9) falls short of what should reasonably be allowed.
42. The Appellant seeks 12 months to comply with the requirements. This is based on the argument that what are described as the "present circumstances in relation to the COVID pandemic" have led to a high demand for people required to undertake the work and dispose of materials arising correctly.
43. No detail as to what the circumstances are and the COVID pandemic ended some time ago. Given the substantial harm to the GB and the highways problems that I have identified, there is a need to remedy the breach as soon as is reasonable. As such, I am not persuaded that 6 months is an unreasonable period to comply with the terms of the Notice.
44. For the above reasons, the Ground (g) appeal is dismissed.

Conclusion

45. For the reasons given above, 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.

Roy Curnow

Inspector