



Appeal Decisions

Site visit made on 9 January 2024

by B S Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal A Ref: APP/R1038/C/23/3324011

Appeal B Ref: APP/R1038/C/23/3324012

West Handley Nursery, West Handley, SHEFFIELD, S21 5RZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr Lee Mayfield and Appeal B is made by Mr Daniel Mayfield against an enforcement notice issued by North East Derbyshire District Council.
- The notice, numbered 21/00297/COU, was issued on 9 May 2023.
- The breach of planning control as alleged in the notice is Without planning permission, a material change of use of the Land from a use as a nursery and landscaping business to a mixed use comprising: use as a nursery and landscaping business; operation of a skip hire contractor's base including the importation and sorting of waste; use for the storage of vehicles, scrap vehicles, vehicle parts, scrap metals and other waste materials; use for the siting of a static caravan used for human habitation..
- The requirements of the notice are: a) cease the use of the land as a skip hire contractor's base and remove from the land all vehicles, plant, machinery and skips associated with the skip hire contractor's business; b) cease the use of the land for the importation and sorting of waste and scrap materials; c) cease the use of the land for the storage of vehicles, scrap vehicles, vehicle parts, scrap and waste materials. Unless expressly authorised by planning permission 16/00292/FL (a copy of which is attached to this notice), remove from the land all items, equipment, vehicles, scrap and waste materials stored on the land in connection with this use; and d) cease the use of the land for the siting of a static caravan used for human habitation and permanently remove it from the land.
- The periods for compliance with the requirements are: one month for step a), one day for step b), four months for step c) and three months for step d).
- The appeals are proceeding on the grounds set out in sections 174(2)(b) and (c) of the Town and Country Planning Act 1990 as amended.

Decision

1. Both Appeal A and Appeal B are dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The original appeals on ground (a) were withdrawn by the appellants during the course of the appeal and the prescribed fees were not paid. Accordingly, the planning merits of the development are not matters which are part of my determination.
3. There are only limited views of the appeal site available from public vantage points. From such views, I was able to appreciate the context of the representations. A more detailed site inspection was not necessary in this case because my determination of the appeals on grounds (b) and (c) relies predominantly on the written and photographic evidence put before me.

The appeals on ground (b)

4. This ground is that the alleged breach of control has not occurred as a matter of fact. The onus is on the appellants to demonstrate their case, on the balance of probability.
5. The appeal site has planning permission, granted in 2016, for use as a nursery and landscaping business, with a portacabin to be replaced with a static caravan for mess facilities (LPA ref: 16/00292/FL). I agree with the Council's interpretation of such a use as including the growing and propagation of plants, shrubs and trees either for sale or provided as part of a landscaping business. This latter is regarded as the supply of services and materials related to horticulture and landscaping. It would include planting, fencing, tree works, gardening, landscape maintenance etc and might reasonably involve the storage of soils and timber and the storage and maintenance of machinery needed for that, such as lawnmowers, strimmers etc.
6. The evidence provided by the Council comprises records of its site visits, dated photographs and correspondence from the Environment Agency, whose officers have also visited the site. This indicates the presence of activities on site which have little relationship to the above permitted use.
7. There is photographic and other written evidence of a skip hire business use, including the transport of skips onto the site and the storage of skips on or around the site. The recorded presence here of a household waste skip would not normally be related to a landscape business. The appellants have provided no evidence of an alternative base from which such a skip hire business might be operating.
8. In addition, there is photographic and other written evidence of the storage of vehicles, whether useable or for parts/scrap. The aerial photographs in particular show a vast extent of vehicles, whether whole or in parts, which could not reasonably be considered to be related to a landscape business. Evidence also shows a whole range of scrap and other waste materials, including white goods, plastics and other materials. The Environment Agency letter of 6 July 2022 alleges the illegal storage of waste materials on site. The appellants have provided no evidence that such storage is related to the authorised use of the site.
9. The use of a static caravan for human habitation is not disputed by the appellants. The Council's records show that Council Tax has been paid for a residential use, a matter confirmed by the appellants.
10. I also have statements from a number of nearby residents which are consistent with the evidence of the Council and the Environment Agency as to the uses taking place at the appeal site.
11. I conclude that the appellants have failed to demonstrate, on the balance of probability, that the alleged breach of planning control set out in the enforcement notice has not taken place as a matter of fact. Accordingly, the appeals on ground (b) fail.

The appeals on ground (c)

12. The appellants have not put forward a cogent case to demonstrate why the alleged use does not amount to a breach of planning control. The activities

listed in the breach, including a skip hire use, the importation and sorting of waste and the storage of vehicles, scrap vehicles and other waste materials are of a character, scale and extent which is materially different from those authorised either by the 2016 planning permission or by the long-term use of the site. They appear to alter the character of the site itself and to have a material impact on the adjoining public highway and its surroundings, for example by increased traffic movements. Planning permission has not been granted for the uses in question.

13. Finally, the use of the site for the siting of a caravan for residential purposes introduces a new use to the planning unit which comprises a material change of use requiring planning permission; no such permission has been granted.
14. I conclude that the appellants have failed to demonstrate that the alleged material change of use, as set out in the notice, does not amount to a breach of planning control. Accordingly, the appeals on ground (c) fail.

B S Rogers

INSPECTOR