



Appeal Decision

Site visit made on 28 September 2016

by **Susan Wraith DipURP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2016

Appeal Ref: APP/F4410/C/15/3139355

Keepers Lodge, Barnsley Road, Marr, Doncaster, South Yorkshire DN5 7BQ

- The appeal is made under s174 of the Town and Country Planning Act 1990 [hereafter "the Act"] as amended by the Planning and Compensation Act 1991.
 - The appeal is made by David Joslin against an enforcement notice issued by Doncaster Borough Council.
 - The notice was issued on 20 October 2015.
 - The breach of planning control as alleged in the notice is: Without planning permission, the change of use of the premises from a residential use to a mixed use of residential and a use for the storage, display of motor vehicles for sale and the unauthorised use of the domestic garage for vehicle repairs in connection with motor vehicle sales.
 - The requirements of the notice are:
 - (i) Cease the use of the land for the storage and sale of motor vehicles.
 - (ii) Cease the use of the domestic garage for the repair/service of motor vehicles.
 - (iii) Remove from the land all motor vehicles, motor vehicle parts and equipment associated with the use.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the ground set out in s174(2)(a) and of the Act. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under s177(5) of the Act.
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Decision

1. It is directed that the enforcement notice be corrected as follows:
 - a. In paragraph 5.(i), by deletion of "sale of motor vehicles" and substitution of "display of motor vehicles for sale".
 - b. In paragraph 5.(ii), by deletion of "the repair/service of motor vehicles" and substitution of "vehicle repairs in connection with motor vehicle sales".

Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

Matters concerning the enforcement notice

2. The steps of an enforcement notice should flow directly from the breach. There is a requirement at 5.(i) to cease the "sale of motor vehicles" whereas the allegation is the "display of motor vehicles for sale". At 5.(ii) there is a requirement to cease the "repair/service of motor vehicles" whereas the allegation is "vehicle repairs in connection with motor vehicle sales". To add clarity to the notice, and to ensure that the requirements cannot be construed as going further than necessary to regularise the breach, I shall correct the
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wording so that it follows more closely that of the allegation. I shall make these corrections under the available powers of s176(1)(a). No injustice to either of the main parties will arise in me so doing.

The appeal on ground (a) and the deemed application

Planning policies and statutory requirement

3. I have been referred to policies ENV3 and ENV10 of the Doncaster Unitary Development Plan and policy CS3 of the Doncaster Council Core Strategy¹. Read together these policies seek to protect the openness of the Green Belt, to limit conversions to uses appropriate to a rural area and to ensure development is not visually harmful or likely to result in unacceptable highway problems.
4. Planning law requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise².
5. National planning policy for protecting Green Belt land is set out in section 9 of the National Planning Policy Framework [hereafter "the Framework"]. The Framework states (amongst other things) that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. One of the core planning principles set out in the Framework is to take account of the different roles and character of different areas, including by (amongst other things) protecting the Green Belts and recognising the intrinsic character and beauty of the countryside. The Framework is a material consideration for this appeal.
6. The Unitary Development Plan policies referred to above pre date publication of the Framework although are in general conformity with it insofar as the issues in this appeal are concerned.

Main issues

7. Having regard to the above development plan policies, the statutory requirement, the Framework and the submissions made by the parties I consider the main issues in the appeal on ground (a) and for the consideration of the deemed application to be:
 - a. Whether the development is inappropriate development in the Green Belt;
 - b. The effect of the proposal on the visual amenity of the countryside and the efficient use of the highway;
 - c. Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Whether development is inappropriate in the Green Belt

8. The Framework, at paragraphs 89 and 90, lists various types of development that are not inappropriate development in the Green Belt. This is a closed list. In other words, if the development is not within the list it will be inappropriate.
9. The material change of use of land is not within the list although the re-use of buildings including any associated uses of land is not inappropriate in the Green

¹ The Doncaster Council Core Strategy 2011-2028 was adopted by the Council in May 2012 which was after publication of the Framework in March 2012.

² S38(1) and (6) of the Planning and Compulsory Purchase Act 2004 and s70(2) of the Town and Country Planning Act 1990.

Belt provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt. However, for the following reasons I do not consider the development to fall within this exception to Green Belt policy.

10. Firstly, there is only a small office within the building associated with the car sales business with the building remaining primarily a dwellinghouse. As a matter of fact and degree this does not amount to the "re-use" of a building. Secondly the use results in the storage and display of vehicles on the open part of the site to the front of the dwelling. Such use, taking place on a prolonged and continuing basis, erodes the openness of the Green Belt and, thus, fails to meet the first proviso of this exception. Thirdly, the use is of urban character and fails to serve the purpose of the Green Belt to assist in safeguarding the countryside from encroachment. Thus it fails to meet the second proviso of the exception.
11. On this first main issue I find the development is inappropriate development in the Green Belt and, thus, harmful by definition.

The effect of the proposal on the visual amenity of the countryside and the efficient use of the highway

12. The storage and display for sale of vehicles to the front of the property appears out of place within this generally open, arable landscape. Whilst partially screened by the timber fence across the property frontage, the vehicles can still be clearly seen through the gateway opening, above the fence and through its vertical slats. I find the development harmful to the visual amenity of the countryside.
13. The adjacent highway is a busy main road upon which vehicles travel at speed. The comings and goings of customers vehicles, which will slow down whilst their drivers are looking for the property and accessing the site, is likely to have some detrimental effect upon the efficient use of the highway. The parking of vehicles on the narrow highway verge (as evidenced in photographs taken by the Council) is also detrimental to the interests of highway efficiency.

Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal

14. The harm by reason of inappropriateness and other Green Belt harm, together with the harm to the visual amenity of the countryside and highway efficiency, is substantial.
15. Weighing in favour of the development is that the business provides employment for the appellant, his son and a number of employees. Whilst the economic benefits of this small business are acknowledged they do not outweigh the substantial harm which I have identified. Neither can I see why meeting the welfare needs of the appellant's wife would be dependant upon the continuity of the business at this location.
16. There are no considerations that have been advanced that would clearly outweigh the harm and that could amount to very special circumstances.

Conclusions on ground (a) and the deemed application

17. On ground (a) I find that the development is contrary to the cited policies of the development plan and national guidance for protecting Green Belt land as set out in the Framework.

Conclusion

18. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

Susan Wraith

Inspector