



Appeal Decisions

Site visit made on 6 November 2009

by Paul V Morris DipTP MRTPI

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

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**Decision date:
24 November 2009**

Appeal A: APP/L2820/C/09/2101917

Springfields, Harborough Road, Braybrooke LE16 8AD

- 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 Patrick Ward against an enforcement notice issued by Kettering Borough Council.
- The Council's reference is ENFO/2009/00039.
- The notice was issued on 18 March 2009.
- The breach of planning control as alleged in the notice is, without planning permission, the change of use of agricultural land to a use as an extended curtilage for a gypsy caravan site for the siting of one mobile home, together with the associated operational development comprising the laying of hardstanding and installation of four lighting columns along the northern boundary of the site, all carried out as part of the unauthorised change of use.
- The requirements of the notice are to:
 - (1) cease the use of the land as a gypsy caravan site;
 - (2) permanently remove from the land all temporary structures and materials associated with the unauthorised use, including the lamp posts, mobile home base, and all hardcore and other such materials deposited on the land forming the hardstanding;
 - (3) upon completion of steps (1) and (2) set out above, sow the remediated area with grass seed.
- The periods for compliance with the requirements are: step (1) – three months; step (2) – 4 months; step (3) – 12 months.
- The appeal is proceeding on grounds (a) and (f) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. The appellant is deemed to have made an application for planning permission for the development to which the notice relates by virtue of s177(5) of the 1990 Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with variation.

Appeal B: APP/L2820/A/09/2101912

Springfields, Harborough Road, Braybrooke LE16 8AD

- 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 Patrick Ward against the decision of Kettering Borough Council.
- The application Ref KET/2009/0049, dated 28 January 2009, was refused by notice dated 18 March 2009.
- The development proposed is the change of use of the land to residential mobile home for gypsy traveller and the laying of hardstanding.

Summary of Decision: The appeal is dismissed.

Appeal A, ground (a) and the deemed application, and Appeal B

1. Planning permission was granted on appeal¹ for the change of use of land from agriculture to the siting of one residential mobile home and use of an existing building as a day room. I understand that this planning permission related to the area bordering the north-western end of the land subject of the enforcement notice, with an access from Harborough Road, and containing the small building which has now been converted to a day room.
2. The land, subject of the enforcement notice, has now been adjoined, so that the whole site appears as one. A hard surface of chippings covers the majority of the land, except for a concrete base in about the middle of the site, and an area of lawn on the south-eastern end. The extended frontage alongside Harborough Road is fenced, and there is a fence on the south-eastern boundary between the roadside and the bottom of the railway embankment which forms the northern boundary. The four lighting columns are spaced along this boundary.

The main issue and planning policy

3. The previous appeal was determined within the context of policies and information relating to the provision of gypsy and traveller sites, and I consider that the grant of that planning permission determined the appropriate matters concerning gypsy and traveller sites. In this case, the appellant has simply extended the site for his own occupation and I have dealt with the appeal on that basis.
4. The relevant planning policies are therefore Policy 13 of the adopted North Northamptonshire Core Spatial Strategy (2008) dealing with sustainable development including the need to conserve and enhance landscape character, and saved Policy 7 of the Kettering Borough Local Plan (1995) dealing with development in the open countryside.
5. The main issue is whether the development is harmful to the character and appearance of the area, in conflict with these policies.

Reasons

6. The appeal land is well outside the south-east limit of the built-up area of Market Harborough, and some distance from the settlement of Braybrooke, further to the south-east. I saw on my visit that the site is isolated from any other built development in the vicinity, and I can see no reason why national and local policies relating to development in open countryside should not apply.
7. The development has resulted in a three-fold increase in the area originally granted planning permission, and the full extent of this increase is readily visible as it is alongside the Harborough Road. Fencing has been erected along the whole frontage of about 75m, in contrast to the limited amount of roadside fencing which would have been associated with the original site, the area of hard surfacing has increased significantly, the lighting will signal the presence of a much larger area of development during the hours of darkness, and I gather from the position of the concrete base that it would be the appellant's

¹ APP/L2820/A/07/2054614 - 25.1.2008

- intention to place a mobile home in the middle of the site. To my mind, all this results in a substantial intrusion into this rural setting, causing harm to the character and appearance of the open countryside, and contrary to the national and local policies for its protection.
8. I acknowledge that the railway line on its embankment forms a backdrop to the development, but the tree and shrub cover on the embankment only serves to confirm the rural nature of the area.
 9. I do not accept the appellant's contention that the location of the mobile home within the appellant's ownership was acceptable as its location was not significant to the determination of the original appeal. It is reasonably clear to me that this issue did not arise in the original appeal as the development approved was relatively compact, close to the north-western boundary. The present development has completely changed that position.
 10. The appellant also raises a point about previously existing hard surfacing on the site as a justification for the enlargement. Whilst it may be the case that some form of rubble had been deposited on the site in the past, the Council's photographs indicate that the site was grass covered. It is apparent, judging by the material and the coverage, that the hard surfacing which has taken place on the enforcement notice site cannot be regarded as other than a new and recent operation.
 11. The additional explanation for the enlarged site, concerning the proximity of the original site for the mobile home to the access point, to my mind has little weight. The area with planning permission seemed to me to offer plenty of scope for the siting of a mobile home at a safe and sufficient distance from the access.
 12. The conditions put forward by the Council relating to gypsy status and restricting the number of caravans on the site would not address the objections to this development, or otherwise alter the balance of my decision. I find that the ground (a) appeal, and the planning appeal fail.

Appeal A, ground (f)

13. The appellant maintains that it is excessive to require the removal of the hard surfacing, as it has been in place for a considerable period of time, and is exempt from enforcement action.
14. There was no appeal on ground (d), and so it is not possible to come to a conclusion on the long term existence of hard surfacing on the site. However, it was apparent to me at the site visit, as I have said previously, that, judging by the material and the coverage, the hard surfacing which has taken place on the enforcement notice site cannot be regarded as other than a new and recent operation. As such, it is part and parcel of the change of use, and its removal and the sowing with grass would not be excessive, both to remedy the breach of planning control and in the interests of amenity.
15. However, for the avoidance of doubt, I propose to vary step (2) of the requirements to delete the words: '*hardcore and other such*' so that it refers only to the material recently deposited.

16. As for the lighting columns, the retention of lighting on the planning permitted area would be a matter for the Council to determine, but they are part and parcel of the change of use of the enforcement notice site, and I do not consider their removal would be excessive, both to remedy the breach of planning control and in the interests of amenity.

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17. I direct that the enforcement notice be varied by deleting, in paragraph 5(2), the words: '*hardcore and other such*'.
18. Subject to this variation, I dismiss the appeal, 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.

Appeal B: APP/L2820/A/09/2101912

19. I dismiss the appeal.

Paul V Morris

Inspector