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## Appeal Decision

Site visit made on 25 April 2017

by **Alan Novitzky BArch(Hons) MA(RCA) PhD RIBA**

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

Decision date: 02 May 2017

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**Appeal Ref: APP/F2415/C/16/3162044**

**Land at Oakham Road, Tilton on the Hill, Leicestershire LE7 9DJ**

- 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 Andrew Parkes (CWSEC Ltd) against an enforcement notice issued by Harborough District Council.
  - The enforcement notice, numbered 5766, was issued on October 2016.
  - The breach of planning control as alleged in the notice is, without planning permission, a material change of use of agricultural land for the siting of a metal storage container for B8 storage use and a portable toilet unit in the approximate location marked 'X' on the Plan.
  - The requirements of the notice are, remove the unauthorised storage container and portable toilet unit from the Land.
  - The period for compliance with the requirements is two months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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### Decision

1. The enforcement notice is corrected by deleting the words, 'of agricultural land' from the allegation (section 3). Subject to this correction, the appeal is dismissed and 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.

### Preliminary Matters

2. The appellant notes that the land is not agricultural land and has not been used as such for over 60 years. Rather it is a disused quarry. However, he does not appeal on grounds (b) or (c) and therefore appears to accept that a material change of use (MCU) has taken place. Moreover, he appeals on ground (a), that planning permission should be granted for what is alleged in the notice, that is, a MCU.
3. In these circumstances, with no clear evidence as to the existing use of the site, I correct the notice in the way set out in the decision.

**Ground (a) – that planning permission should be granted for what is alleged**

### Main Issues

- The principle of development.
- The effect on the character and appearance of the countryside

- The effect on highway safety

### **Reasons**

#### *Justification*

4. At the site visit I saw that the portable toilet had been removed and the metal storage container was largely empty. The few items it contained included a wheelbarrow, some hand garden and other tools, a small number of shelving racks, and some garden or field chemicals. Also on the site were a children's trampoline and a picnic table, suggesting use of the field for leisure purposes. However, on her site visit of 29 July 2015, the Council's Planning Enforcement Officer had reported seeing wooden shuttering and other building materials in the container, and a portable toilet outside. Photographs to illustrate this have been provided.
5. The appellant argues that the container would be used to store grass cutting, hedge trimming and similar equipment to maintain the field, an area of some 0.386 ha. However, the Council argues that the container is far too large for such a relatively small field. It provides some 29 sq m of floor area, whilst a shed of some 9 sq m would be adequate. I agree that the container has probably three times the capacity necessary for the appellant's stated purpose.
6. Ground (a) is intended to be used to support the case that planning permission should be granted for what is alleged in the notice. The allegation refers to undifferentiated B8 storage. This opens the possibility of use for any kind of storage, including that observed by the Council in July 2015.
7. Policy CS17 (Countryside, Rural Centres and Rural Villages) of the Harborough District Core Strategy 2001-2028 tells us that only development required for the purposes of agriculture, woodland management, sport and recreation, local food initiatives, support visits to the District and renewable energy production will be appropriate in the countryside. Undifferentiated B8 storage would, therefore, conflict with this Policy.
8. Such storage would be alien to the rural area. It could well generate frequent HGV traffic, inappropriate to the rural area, with associated noise and disturbance. Moreover, it would compromise the use of the land as amenity space, contrary to Policy CS8 (Protecting and Enhancing Green Infrastructure). Whilst a planning permission could be conditioned to restrict storage to field maintenance equipment, its enforcement would be difficult, time consuming and generally impracticable.
9. The principle of the development is unacceptable, even without the portable toilet.

#### *Character and Appearance*

10. The field comprises rough grassland, surrounded by mature hedgerows. Access is via a field gate towards the eastern end of the southern boundary which separates the field from the road verge. It is rural in nature, with no indication of an industrial character derived from quarrying or otherwise. In these circumstances, the red painted container represents an incongruous intrusion.

11. Although the hedgerows are visually impermeable to a great extent, at least in summer when in leaf, the container, set against the eastern hedgerow, can be glimpsed from the road and verge. However, even if repositioned against the southern hedgerow or elsewhere, so that visibility from the field gate would be narrowed, and painted a more subdued colour, the container would be out of character with its surroundings.
12. The development would conflict with Policy CS11 (Promoting Design and Built Heritage) with regard to respect for context; and with Policy CS17 in terms of lack of sensitivity to its landscape setting and its failure to retain or enhance the distinctive qualities of the landscape character. Overall the effect on the character and appearance of the countryside is unacceptable.

#### *Highway Safety*

13. The appellant has provided an assessment of visibility splays from a formal access into the site which appear to be satisfactory. However, the position of the access on the outside of a bend means that use for general B8 storage, would generate awkward turns into and out of the site for the HGVs inevitably involved.
14. The development therefore shows unresolved conflict with Policy CS5 (Providing Sustainable Transport) which adds weight to the lack of acceptability under the previous issues.
15. Overall, the development is unacceptable. The appeal fails on ground (a).

#### **Ground (f) – that the steps required are excessive**

16. The effects of repositioning the container and painting it a different colour have been considered under character and appearance above. Neither these nor any other measures would be adequate. The appeal fails on ground (a).

**Alan Novitzky**

Inspector