

Ground A - That planning permission should be granted for what is alleged in the notice.

The material change of use and operational development that is the subject of the enforcement notice is located between the existing house of Longfield and the railway line serving Wood End train station. Parking provision is off-street only and accessed via an access serving the residential property of Longfield from Poolhead Lane and situated behind the residential property, Longfield.

It should be noted that the neighbouring properties situated along Poolhead Lane, on the same side of the Lane as the subject property, also benefit from significantly large garden areas to the rear, leading up to the railway line, in accordance with the characteristics of Wood End, being ribbon development (Appendix A - Tanworth Neighbourhood Development Plan 2021 – 2031). It should be noted that some infilling development has taken place within these large rear gardens to other properties along Poolhead Lane.

The buildings used for business purposes and the parking area is situated to the rear of the property and as such has no impact on the character and appearance of the street scene. In fact, the buildings and parking areas cannot be fully seen from any public vistas. Limited views may be possible from the pedestrian access to Wood End train station. The buildings are of single storey and have a limited impact on the amenity of the neighbouring properties.

It can therefore be argued that this limited infilling of the land in the grounds of Longfield would have a very limited impact on the character of Wood End; the openness of the Green Belt; the character of the Arden Special Landscape Area; nor the amenity of the neighbouring properties.

The business operating at the property currently employs local people, and the loss of these jobs would be contrary to Policies E1 and E3 of the Tanworth Neighbourhood Development Plan 2021 – 2031, which is a material consideration in development proposals in Wood End. Evidence of the nature and quality of these jobs and this international company will be brought to demonstrate that its retention amounts to very special circumstances sufficient to overcome the green belt policy objection..

The material change of use and operational development is in accordance with paragraphs 143, 154 and 155 of the National Planning Policy Framework; Policies CS.5, CS.10, CS.12, CS.22 and AS.10 of the adopted Stratford-on-Avon District Core Strategy 2011 – 2031, adopted on 11 July 2016; and Policies H3, H4, E1, E3 and Appendix A: Character & Landscape Assessment Statements, Appendix C: Valued Views of the Tanworth Neighbourhood Development Plan 2021 – 2031.

Ground B - That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

This Ground of appeal is prefaced by saying that despite seeking information from the council it has so far failed and or refused to provide all the information it has relating to the Appellant and the property. Steps are presently being taken to compel the council to disclose this information. The Appellant therefore reserves the right to alter, withdraw or appeal under different grounds if and when further information comes to light.

Paragraph 3 i) of the Notice in setting out the alleged breaches of planning control states as follows: "Without planning permission, the following:

- i) Material change of use of Land to a business use....."

The plan attached to the Notice draws a boundary line around part of the garden of the property at Longfield and includes part of the access to the house and garden (this will be referred to as the "Notice Land", the whole of the property at Longfield including the Notice Land, the rest of the garden and the house itself will be referred to simply as "Longfield"). The drawing of the Notice land boundary line – which is not reflected on site in physical boundaries - appears to assume that there is a separate planning unit within the garden of the Longfield. That is not justified or supported by the facts.

In establishing the correct planning unit, the starting point is to establish the extent of ownership. That will often be the planning unit (in this case that would mean Longfield). If it is found that within that parcel of ownership there are separate and distinct uses occupying smaller areas of the land, then it may be appropriate to separate the larger site into separate planning units. However, where it is not possible to identify distinct uses within distinct parcels of the larger site it is then appropriate to regard the entire site as having a mixed use (as set out in the case of *Burdle and Another v Secretary of State for The Environment and Another*[1972] 1 W.L.R. 1207.

Evidence will be brought to show that the Notice Land has formed part of the garden of Longfield probably since the date that Longfield was constructed in or around 1937 or shortly thereafter. Since 2008 Longfield has been in continuous mixed use as part of the Appellant's business and residence. That position continues to the present day. Furthermore, the Notice Land includes both elements of the residential use as well as elements of the business use. As examples, part of Building A is still used for domestic storage, the hardstanding between buildings A and B are also used for parking the family's vehicles, part of the Notice Land remains as domestic garden and the access forming part of the Notice Land is part of the access to the house and garden. Conversely, the house continues to be used by the Appellant for business purposes.

In summary terms the chronology of the use is as follows:

- 2008 – 2013 the business expanded into the office space created above the garage at Longfield. During this time Building A was extended and repurposed to include a workshop office as well as the garden shed/storage uses it had performed previously. These works were substantially complete by the end of 2013. By 2013 the business had outgrown the space available in the house (and Building A) and so work on Building B commenced to cope with that requirement. Before the end of 2013 the substantial hardstanding had been constructed between Buildings A and B. That is not complained of within the Notice.
- 2014 – present – the business has continued to thrive and more people have been employed by it. Not all employees work from Longfield at any one time some will work from home and some need to work at customers sites. The Notice Land continues to be used for residential purposes as outlined above and similarly the house continues to be utilised for business purposes.

The above sets out the facts of the matter and show a clear mixed use of the property at Longfield for residential and business use for well over 10 years. This demonstrates that the breach of planning control as alleged by the council has not occurred and the Notice should accordingly be quashed.

Ground D – That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters

The facts as set out in the Ground B appeal help to demonstrate that the Notice Land was already in use for business purposes in March 2014. Furthermore, and without prejudice to the Appellant's primary position (that Longfield was all in mixed use from at least 2008), it is contended that the notice must still fail on immunity grounds.

In this case it is alleged that a material change of use has taken place. It is acknowledged that there is no planning permission for the use of the Notice Land (or the rest of Longfield) for business purposes.

It is also acknowledged that there is no planning permission for the operational development of which the council complains.

It is not believed that there is any dispute that at least part of the operational development in allegations in the Notice was completed more than 4 years before the service of the Notice. The Council states at paragraph 4 of the Notice that "It appears to the Council that the above breach of planning control has occurred within the last 10 years."

The Notice alleges this operational development to be the breach of planning control. That is not in fact the case because the operational development occurred more than 4 years before the date of the Notice.

In fact, Buildings A and B were completed more than 10 years ago and Building C was built more than 10 years ago and refurbished within the last 2 years.

The use had already commenced on the Notice land more than 10 years before the Notice was issued.

Building A dates from before the Appellant acquired Longfield and, although subsequently extended, it was completed and in use for business purposes by the end of 2013 (as it is today). As such it is immune from enforcement action.

The hardstanding to the south of Building A which is not complained of was already in use for the parking of vehicles concerned with the business by the end of 2013 (and in fact some time before that).

Building B was substantially complete by/before March 2014 and so is also immune from enforcement action .

Buildings A and B are capable of being employed either for business use or lawful residential use. Therefore, it is not necessary for them to be removed for the use of the Notice land to cease and the steps required in paragraphs 3 iv and v are disproportionate, unnecessary and/or ultra vires the Council's enforcement powers (see Ground F).

Similarly in relation to Building C, evidence will be brought to show that this building was present and substantially complete more than ten years before the notice was issued and was used for storage mainly relating to gardening tools and materials. It was refurbished more recently and has been used for the storage of materials for the business and as an additional workshop but that does not make it a new building. As such it is also immune from enforcement action.

Ground E – That copies of the enforcement notice were not served as required by section 172

Section 172 (2) of the Town and Country Planning Act 1990 (as amended) states as follows:

“(2) A copy of an enforcement notice shall be served—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.” (our emphasis)

The appeal property together with other land at Longfield is occupied by Ashbourne Management Services Limited (AMSL). The Council is aware that the property is occupied by AMSL, and therefore the council is required to serve the occupier of the land. The service of the Notice is therefore defective.

Ground F – The requirements of the notice are excessive

Even if (contrary to the Appellant's primary case), the Council is entitled to require the business use of the Notice land to cease, and the buildings are not immune from enforcement action. The requirements of the notice are excessive because the buildings could be used for other purposes and, moreover, building A (in its original form) was present on the land before the Appellant even acquired Longfield and so it is disproportionate to require its entire removal.

Ground G - That any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed

The nature of the Appellant's business is such that a significant amount of office space is required but also an element of manufacturing space. Premises of this kind are not readily available in the locality which is one of the reasons the business has developed in the way that it has. It is therefore likely that any new premises that the business might find will require alterations to make it suitable to the needs of the enterprise. As a result of this and the general time it will take to actually move a complex organisation requiring sophisticated electronic and IT infrastructure the Appellant asks that the time permitted for compliance with the terms of the Notice be extended to 18 months.

It is noted that the council has made reference to only a single complainant and has not provided any information as to the nature of their complaint. As such the development is not the cause of significant local opposition and should be permitted the time to move its operation smoothly.

It will be necessary to test the factual nature of the appeal given that it hinges in large part on the chronology of events and evidence will need to be given on oath. In addition, the council has come to various so far unsubstantiated conclusions about the use of the appeal site together with associated land which need to be tested. The determination of those facts will then lead to legal consequences that can only be properly explored in an inquiry process. Finally, the Appellant has concerns about the Council's failure to disclose material information/evidence which it could not be conveniently or appropriately dealt with through either the written representations or hearing procedures.