
Appeal Decision

Site visit made on 22 November 2016

by Simon N Hand MA

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

Decision date: 14 December 2016

Appeal Ref: APP/P0240/C/16/3152191

Land and Buildings at the rear of 2 Wrestlingworth Road, Potton, Sandy, SG19 2DP

- 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 David Mark Buck against an enforcement notice issued by Central Bedfordshire Council.
 - The enforcement notice was issued on 1 June 2016.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land from agricultural use to a use for the storage of materials, equipment and machinery associated with the unauthorised demolition business.
 - The requirements of the notice are (i) cease the use of the land for the storage of materials, equipment and machinery associated with the unauthorised demolition business; (ii) remove the materials, equipment and machinery associated with the unauthorised demolition business from the land.
 - The period for compliance with the requirements is one month.
 - The appeal is proceeding on the grounds set out in section 174(2) (b) and (c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is corrected by: by the deletion of the words "shaded and edged blue on the attached plan" and the substitution of the words "edged and hatched black on the plan annexed to this decision"; by deleting the words "from agricultural use" from the allegation; and by the substitution of the plan annexed to this decision for the plan attached to the enforcement notice. Subject to these corrections the appeal is dismissed and the enforcement notice is upheld.

The Site

2. No 2 Wrestlingworth Road is a modest semi-detached house with a small front garden and rear yard area. Beyond this is a large paddock which contains various outbuildings of differing sizes and states of repair, some of which are close to the house. The land around those outbuildings closer to the house is formed of a concrete pad and further away it is a hard surface of crushed brick. The rest of the land which forms the majority of the site is grassed paddock.
3. The plan attached to the enforcement notice covers the whole paddock but excludes the house with its front and rear garden the southern boundary of which is delineated by the access drive. I was shown on site that beyond the access drive to the south is an extension of the front garden with a small pond

that is clearly fenced off from the paddock. There are also some buildings to the rear of the house that are being used as kennels for the appellant's dogs.

The appeal on Ground (b)

4. This ground is that the matters alleged have not happened as a matter of fact. There is no dispute that there is some storage of materials on the land, but the appellant argues there is no unlawful demolition business taking place and the former use was not agricultural but it was used for the keeping and breeding of greyhounds.
5. It is common ground the land, or at least some of it, has been used for the keeping and breeding of greyhounds for a number of years. Temporary permissions were granted retrospectively for a greyhound gallop with fencing and the keeping of greyhounds in 1991 and 1994 and finally in 1996 for 2 years. It appears the use ceased in 2005 due to ill health but recommenced in 2010 when a final application for planning permission for the same use was refused. The land was sold to the appellant in the autumn of 2015 by which time the use for greyhounds had ceased. The site at the time of my site visit resembled a large open paddock, and apart from various buildings in differing states of repair dotted about, there was no sign of the former greyhound use.
6. I do not need to determine what the former use of the land was. A letter from the previous owner, Mr Page, describes the uses but makes no mention of any of the planning applications. There is no ground (d) appeal and no compelling evidence has been provided to suggest the greyhound use had become lawful through the passage of time. On the basis of the evidence I have seen it is not possible to speculate as to the most likely lawful use of the land, but it would presumably be either agricultural, the grazing of horses, or the keeping and breeding of greyhounds or a mix of those uses. Consequently, it would be best to delete the previous use from the allegation.
7. The appellant also argues there is no unauthorised demolition business taking place on the site. The matters alleged are unlawful storage associated with the demolition business. Whatever the previous use of the land, it did not authorise a storage use, unless that use was ancillary, so it is not essential to identify what that storage is in connection with. I shall consider whether the storage is ancillary to another use or whether it is linked to the demolition business under ground (c) and can decide then whether the allegation is affected.
8. The proposed correction to the allegation to remove the previous use does not affect the appeal or the arguments raised on ground (c) and does not cause injustice to either party. I shall therefore consider the ground (c) appeal on the basis of the corrected allegation.

The Appeal on Ground (c)

9. This ground is that planning permission is not required for the matters alleged, in this case the storage of materials, equipment and machinery. The appellant argues that he runs a demolition business from a different site (DBS Demolition), and so has access to materials and machinery that most householders would not. He also has a telefork lift which is his personal property and nothing to do with the business. Otherwise there is a grass cutter on the site which came with the land when he bought it and is clearly needed

to cut the large area of open grass paddock. He argues that the stored materials are timber and steel posts to be used for fencing to protect the boundaries of the site, bricks for repairs to outbuildings on the land, metal sheeting for roof repairs, and miscellaneous cobbles, stones etc for landscaping purposes. All of these are reasonably required for dealing with the general upkeep of the land, and therefore whatever the use of the land, such storage would be ancillary.

10. The history of the site since the appellant took ownership is instructive. In January 2016, following complaints from neighbours the Council visited the site and saw a considerable amount of outside storage as evidenced by photographs. The appellant was given 8 weeks to remove the storage, extended to 21 April. Following site visits on 22 April and 20 May it was clear the materials had not been removed. The appellant argued that some had gone and the rest were for repairs and maintenance to the property. The notice was issued 1 June 2016, so it is at that date the unlawful storage use should be occurring.
11. There are letters on file from 5 locals all resident in The Baulk, a track that leads to houses on the eastern side of the paddock land. These letters are dated late July and early August and paint a similar picture. They allege the appellant, since first occupying the land, has been bringing materials onto the land, sorting them and taking them away. This consists, amongst other things, of bricks being placed on pallets and shrink-wrapped for transport, other materials stored in skips or containers which are then taken away, piles of rubble and general waste and materials burnt in large bonfires. This is carried out by men in hi-vis jackets and accompanied by movement of machinery and beeping of reversing signals.
12. I have no reason to doubt the general thrust of these accounts and they fit in with the observations made by the Council. What is clear is these activities have been much reduced since the issue of the notice and the appellant is now arguing that there is only storage on site and that only for ancillary uses.
13. On my site visit I saw there was actually a considerable amount of storage being undertaken. A shipping container was placed on the crushed brick surface with large timbers on its roof. There were numerous pallets of brick and concrete blocks, some shrink-wrapped and several large containers of cobbles, with many bags of cobbles or stones stored further away. There was a disassembled large metal shed, a massive pile of blue insulation sheets and several piles of metal roofing sheets. There was about a dozen large window frames with glass intact. There were extensive piles of timber, some wrapped in blue sheeting, others including telegraph poles and what appeared to be roof trusses or timbers disassembled and laid flat and several large piles of plywood sheeting. There was a large area of galvanised steel planks which the appellant said was a disassembled building and a pile of scaffold poles. There were also piles of miscellaneous items scattered around the area. In addition to the tractor that tows the grass cutter and the forklift there was a large digger on the site.
14. All the storage was relatively neatly piled up and sorted, but a large central area of the paddock had been churned up by tractor wheels suggesting a lot of movements by heavy vehicles in the recent past.
15. It is entirely possible that some of the materials would be useful for repairing

fencing or buildings on the land. The appellant says he is intended to use the paddock for livestock purposes which would require more fencing to subdivide the area, and there are numerous buildings on the land, some of which did appear to be in a poor state of repair. Nevertheless, and setting aside the issue of whether any rebuilding would require planning permission, the sheer scale, nature and extent of the materials stored is far in excess of what would be reasonably required for general maintenance purposes. Furthermore many of the materials were entirely unsuitable for use as stock fencing or building repairs, especially given the modest scale of the buildings on the site and their simple construction.

16. The appellant's written representations suggest a large amount of glass bricks that were on the site have been taken away, and he pointed out on the site visit several piles of materials that were intended to be removed in the near future. Even so, and even if some of the materials will be used for repair and maintenance by the spring of next year, to clear the site would be a major undertaking of either removal of materials or building works on the land, neither of which would be ancillary to any of the possible uses, whether agriculture, equine or keeping of greyhounds.
17. The appellant may own the telefork lift, but its use on the land can only be for moving and storing materials and the amount of materials that were genuinely ancillary would hardly require the purchase of a telefork. There was no suggestion the ownership of the telefork was a hobby use, so I can only conclude the use of the telefork lift further supports the allegation.
18. Although it seems the activities have been scaled back since the issue of the notice, I have no doubt the use for unlawful storage was taking place at the date the notice was issued and is still taking place. Given the description of activities from third parties and the scale of the storage it is reasonable to conclude the use is in connection with the appellant's demolition business and that the allegation is correct. The appeal on ground (c) fails.

The Accuracy of the Plan Attached to the Notice

19. The appellant is in dispute with the Council as to the extent of the curtilage around his dwelling, but this is irrelevant for the notice as the storage alleged is not domestic. However, a portion of the area outlined in blue on the plan covers the small front garden with the pond, which has fencing around it that is clearly not new. The land registry plan of the property shows the site with various lines dating from when it was used as greyhound runs and several of the outbuildings and fence lines are shown. I shall amend the red line on this plan to exclude the house and its garden areas. I shall also exclude the narrow buildings to the rear of the house that are being used for the appellant's dogs and are not involved in the storage use. This corresponds with hatched red area shown on the appellant's agent's plan submitted with his statement. This of course affects only the extent of the notice and I take no view on whether this is residential curtilage or not.

Simon Hand

Inspector



Plan

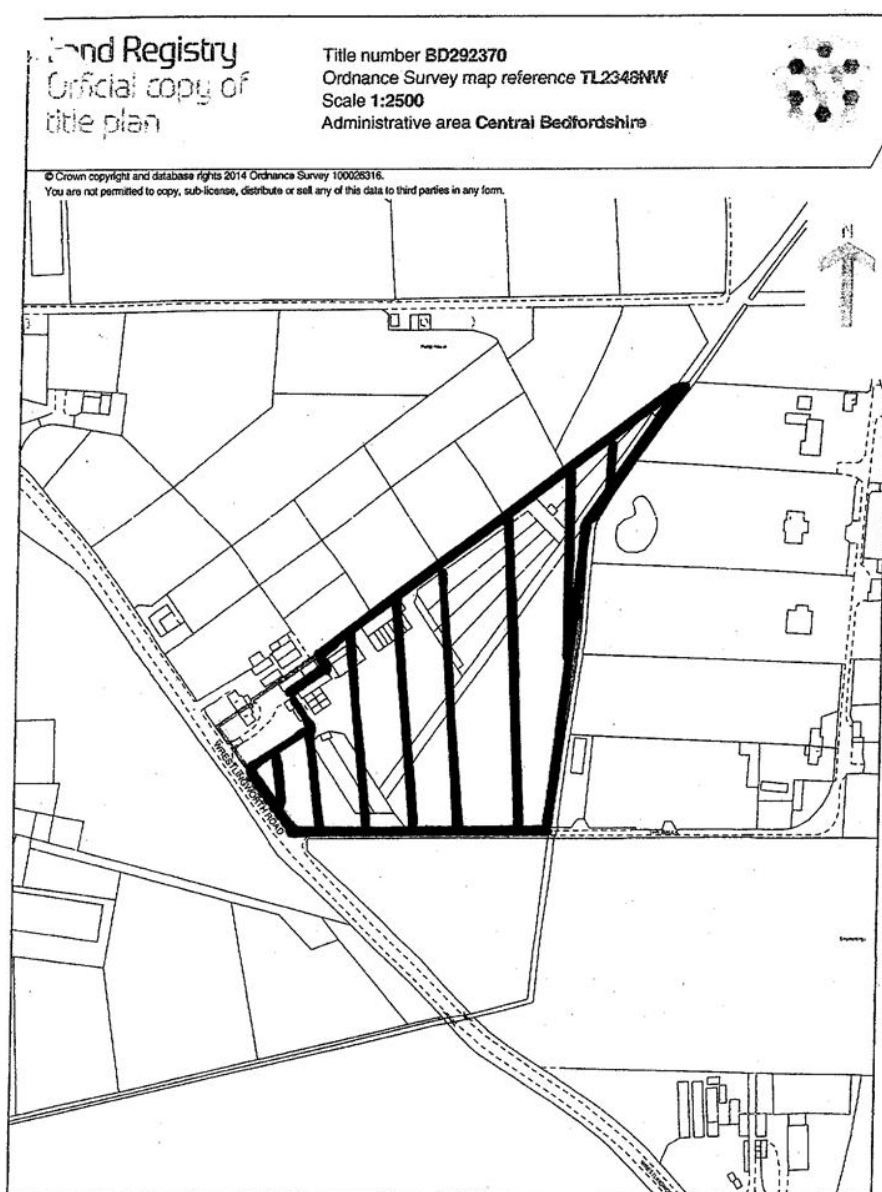
This is the plan referred to in my decision dated: **14 December 2016**

by **Simon N Hand MA**

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Reference: APP/P0240/C/16/3152191

Scale: Not to scale



This official copy issued on 6 February 2014 shows the state of this title plan on 6 February 2014 at 17:32:50. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries. This title is dealt with by Land Registry, Peterborough Office.