
Appeal Decision

Hearing Held on 10 April 2018.

Site visit made on 10 April 2018.

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 05 June 2018

Appeal Ref: APP/T2350/C/17/3180028

Demesne Farm, Newsholme, Gisburn BB7 4JF

- 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 by William Oldfield against an enforcement notice issued by Ribble Valley Borough Council.
 - The enforcement notice was issued on 9 June 2017.
 - The breach of planning control alleged in the notice is the material change of use of the land from a use for agriculture to a mixed use of the land, comprising land used for agriculture and for the stationing of a static caravan on the land for residential use.
 - The requirements of the notice are to:
 1. Cease use of the land for residential purposes.
 2. Remove the static caravans from the land.
 3. Disconnect and make safe all services to the static caravans
 4. Remove the hardstanding beneath and adjacent to the static caravan hatched in green, and all other domestic paraphernalia, and reinstate it to its use as agricultural land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. The prescribed fees have been paid within the specified period, and the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended fall to be considered.
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Decision

1. I direct that the enforcement notice be corrected by:

DELETION of the words '*a static caravan*' from paragraph 3 of the notice - 'The Breach of Planning Control Alleged'; and,

SUBSTITUTION of the words '*two static caravans*'.

DELETION of the words '*the Forest of Bowland Area of Outstanding Natural Beauty*' from the third bullet point of paragraph 4 of the enforcement notice 'Reasons for Issuing the Notice'; and,

SUBSTITUTION of the words '*the open countryside*'.

DELETION of the words '*aims and enhancement of the Area of Outstanding Natural Beauty*' from the fifth bullet point of paragraph 4 of the enforcement notice 'Reasons for Issuing the Notice'; and,

SUBSTITUTION of the words '*aims for protection of the open countryside*'.

2. Subject to these corrections, the appeal is allowed with respect to the static caravan hatched in blue on the plan attached to the notice, and the enforcement notice is quashed in that regard.
3. Also subject to these corrections the appeal is allowed with respect to the static caravan hatched in green on the plan attached to the notice, and the enforcement notice is quashed in that regard. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the material change of use of the land from a use for agriculture to a mixed use of the land, comprising land used for agriculture and for the stationing of the static caravan for residential use - hatched in green on the plan attached to the notice - on the land shown edged red on that plan, subject to the following conditions:
 - i) The use hereby permitted shall be for a limited period, being the period of 3 years from the date of this decision. The static caravan hatched green on the plan attached to the notice shall then be removed, the use hereby permitted shall be discontinued, and the land restored to its former condition in accordance with a scheme of works, and a programme setting out a completion date for the works, that shall first have been submitted to and approved in writing by the Local Planning Authority.
 - ii) The occupation of the static caravan shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Application for costs

4. At the hearing the Council made an application for a partial award of costs against the appellant. This application is the subject of a separate Decision.

The enforcement notice

5. The appellant drew my attention to an inconsistency in the notice, in that the allegation refers to '*the stationing of a static caravan on the land*', whereas the second bullet point of paragraph 4 of the notice – 'Reasons for Issuing the Notice' – refers to '*two static caravans*', the third bullet point refers to '*The static caravans*' (plural), as does Step 2 of the Requirements.
6. It was explained that the Council did not become aware of the second caravan on the site until April 2017, when the appellant's response to a Planning Contravention Notice was made. This response made clear that there were two static caravans on the appeal site.
7. The Council accept that this accurately reflects the situation, and that the notice can be corrected by amending the allegation. I intend to make that correction, and do not consider any party would be significantly prejudiced by this action.
8. The appellant also pointed out that the fifth bullet point of paragraph 4 of the notice indicates that the appeal site is within the (Bowness Forest) Area of Outstanding Natural Beauty (AONB). The Council accept this is not the case, but note that the notice should refer to the site being within the open countryside. I consider I can correct the notice by omitting the reference to

the AONB, and substituting a reference to the open countryside, without causing significant prejudice to any party, and I intend to make this correction.

Background matters

9. The appeal site is a substantial area of land of about 20 hectares lying on the north-western side of the A682 Settle Road. The remainder of the land belonging to Demesne Farm – of about 52 hectares – lies immediately opposite, on the south-eastern side of the road.
10. The caravan hatched in green on the enforcement notice plan is to the west of the northern end of the farm buildings. It has been occupied by the appellant's brother, Michael Oldfield since January 2017. The other static caravan stands to the east of the northern end of the farm buildings, and is hatched blue on the plan attached to the notice. It is currently vacant, but was previously occupied by Michael Oldfield from March 2012 until January 2017. For the purposes of this decision I have referred to the caravans as 'the green caravan' and 'the blue caravan'.
11. As noted above, Michael Oldfield lives in the 'green' caravan, which is also occupied by his partner and young son. William Oldfield lives in Whinhill House, about 120 metres to the south-west of the farm entrance next to The Barn.
12. Michael and William Oldfield use the Demesne Farm land under licence from their father John Oldfield. Their total land holding, which extends over both Demesne Farm and land at Painley Farm – some 1.5 kilometres to the south – is about 150 hectares. Demesne Farm comprises about 72 hectares, and Painley Farm, which has been recently purchased, is about 78 hectares. The farm buildings are all on Demesne Farm, and comprise those on the north-western side of the Settle Road, together with modern farm buildings and structures on the opposite side of the road.
13. There is a range of white rendered farm buildings on the north-western road frontage, with wings extending back to form a courtyard. Behind this are two substantial and more modern agricultural buildings and a smaller storage building. The green caravan is close to this storage building. There are two site accesses on this side – one between the white rendered building range and The Barn to its south-west – a stone built traditional barn, owned by the late John Layland. The other access is via a gate directly to the front of an archway leading to the courtyard. At the time of my visit the buildings on this side of the road were mainly in use for keeping sheep and lambs, as well as a shed for about 20 young cows. I understand there are about 400 breeding ewes in total, producing some 640 lambs annually.
14. The buildings on the south-eastern side of the road mainly comprise 3 substantial dairy cattle sheds and smaller lean-to cattle shed, a feed store, a shed for calving and 'dry' cows, a covered silage clamp, a general storage building, and an open silage clamp enclosed by an earth bund. At the time of my visit there were about 300 cows in the dairy sheds, and 10 in the 'dry' cow and calving shed. The entire herd is about 330 cattle.

The ground (c) appeal

15. This ground is that there has not been a breach of planning control. It is argued with respect to the blue caravan. This caravan is on agricultural land,

which is therefore used in part as a caravan site. The Council accept that the caravan is now used for accommodating a seasonal agricultural worker.

16. Class A of Part 5 to Schedule 2 of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO) permits the use of land as a caravan site in certain circumstances. The circumstances are those specified in paragraphs 2 to 10 of the First Schedule to the Caravan Sites and Control of Development Act 1960 as amended – that is, cases where a caravan site licence is not required. Paragraph 7 sets out that:

'a site licence is not required for the use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation'.

17. The Council accept that the blue caravan is used in this way. It follows that its siting should, on the balance of probabilities be regarded as permitted development under Class A of Part 5 to Schedule 2 to the GPDO. There has not therefore been a breach of planning control, and the appeal on ground (c) succeeds with respect to this element of the development. There is therefore no need for me to go on to consider the appeals on grounds (a), (f) and (g) in relation to the blue caravan.

The ground (a) appeal and deemed planning application

18. This ground is that planning permission should be granted for the alleged breach.
19. Development plan policy from the Ribble Valley Borough Council Core Strategy 2008-2028 adopted in 2014. Policy DMG2 sets out strategic considerations for location of development. In the case of development outside defined settlement areas, one of the considerations is whether it is needed for the purposes of forestry or agriculture. Furthermore, within the open countryside development should be in keeping with the character of the landscape, and acknowledge the special qualities of the area by virtue of its size, design, use of materials, landscaping and siting.
20. Core Strategy Policy DMH3 includes aims to control dwellings in the open countryside, where residential development will be limited to, amongst other things, residential development which is essential for the purposes of agriculture. Furthermore, a functional and financial test should be applied in assessing any proposal for an essential agricultural workers dwelling.
21. From all that I have heard and read, and from my inspection of the appeal site and surroundings, I consider the main issues to be:
- The effect of the development on the character and appearance of the appeal site and its countryside surroundings; and,
 - Whether the development would be justified by an essential agricultural need for a rural worker to live permanently at or near his place of work in the countryside.
22. The green caravan stands to the rear of the storage shed adjacent to the building in use for lambing at the time of my visit. It is a static structure, with rendered walls and low pitched roof. It has 2/3 bedrooms, living area, kitchen and shower room. It has water and electricity supply, and is attached to a previously existing septic tank.

23. The caravan cannot be seen from the road. Although it stands on the plateau at the top of the steep south-eastern side of the Ribble Valley, it is well-contained by farm buildings in close proximity on its north-eastern and south-eastern sides. As a result it is quite inconspicuous when seen in views further down the valley from Neps Lane, and from Paythorne on the other side of the Ribble. Furthermore, it is of relatively small scale as compared with the adjacent farm buildings in such close proximity. It has little impact in comparison with these very much larger buildings, and in this context has little effect upon the character of the landscape.
24. Although it can be seen from the garden of Demesne House – immediately next to The Barn – views are somewhat oblique, and the caravan is at a distance such that it does not overly dominate the outlook from the house. Furthermore, it is reasonably well screened by trees in the Demesne House garden and a high fence on the north-eastern boundary.
25. Overall, I consider the green caravan has limited impact, and causes no significant harm to the character and appearance of the appeal site and its countryside surroundings. The development accords with development plan policy, in particular with the aims of Core Strategy Policy DMG2 insofar as they relate to the landscape character.
26. Turning to the second main issue, the Oldfield brothers have invested heavily in their enterprise in recent years – principally construction of the substantial new dairy cattle building and the slurry store, and installation of three new robotic milking machines, of which there are now five. The total recent investment is in the region of £1.5 million.
27. The total labour requirement for the holding, calculated using two widely accepted methods, is in the region of 1800 to 2000 man days per year – equivalent to the employment of 6 to 7 full time workers. The Council did not dispute that this was a reasonable estimate. Nevertheless, the appellant accepts that on family run farms such as this, the family members often work extremely long hours, so that fewer full time workers are likely to be needed than the estimates suggest.
28. It is accepted that the appellant himself lives within sight and sound of the main farm buildings, can be aware when out-of-hours emergencies arise, and can be available to respond to them. It is argued that given the size of the enterprise, and the relative frequency of situations requiring attention at unpredictable times, the work is excessive for a single individual and another permanent on-site presence is needed.
29. I understand the critical periods and situations where emergency attention to animals may be needed are the lambing season, which extends through April and May each year; calving, and cattle emergencies. Accommodation for a seasonal worker is already available in the 'blue' caravan, which effectively covers the need for additional help during the lambing season.
30. Calving occurs throughout the year, there are about 300 born each year, and the timing of births is unpredictable. Supervision is required over an extended period, and on frequent occasions.
31. Milking clearly proceeds throughout the year. A principal emergency that arises results from problems with the robotic milking machines, particularly if a

- cow becomes trapped in the milking pen, which sets off an alarm. This can occur at more or less any time, since milking is carried out around the clock.
32. It appears to me that, given the number of stock, the out of hours attendance needed is such that a single individual would be unable to cope with the demands, and that another experienced person is required to share the workload.
33. The Council argued that William Oldfield lives on site, and that if his brother lived for instance in Gisburn - which is about 3 kilometres from the farm – he could be called upon to attend to out-of-hours emergencies. However, in many situations – such as calving problems that would require William to assess the situation, and then alert his brother. While the journey from Gisburn may be only a matter of 10 minutes the object of the exercise would have been defeated, since both brothers would effectively be on duty. It was also suggested that a rota could be devised whereby one or other brother would be on duty on any given day. However, this would entail Michael being on site and away from home, without proper accommodation on the farm during his allocated shifts.
34. Regarding the possibility of other nearby suitable dwellings being available, I heard that at the time of the Council's response to the appellants' hearing statement there were 4 houses available in Gisburn at what I consider could be reasonable prices. However, for the reasons above I do not consider that to be a location that would satisfy the requirement to attend to many of the emergency situations. Although it was claimed there were properties within about 400 metres of Demesne Farm available for as little as £24,000, no detail of these was put forward. Some examples in nearby Paythorne put forward by the Council were, on inspection of the details, houses restricted to holiday use.
35. As to the suggestion that use could be made of the blue caravan for the second worker, this would be available only when unoccupied by the additional seasonal worker, and could not therefore provide the degree of cover needed. In terms of functionality, I consider the need for a second permanent on-site presence has been demonstrated.
36. While this enterprise has been in existence for about 10 years, no accounts have been put forward to show profitability in recent years, and it could be expected that these should be provided to show the soundness of the business. There has been very significant recent investment, but little information has been provided about the nature of any loans or security, and how these are reflected in the business accounts. Profitability may have changed radically since the investment was made.
37. It was submitted that the business was well established, and that its size, and recent expansion were adequate demonstration of its continued viability. Nevertheless, the possibility of failure must be taken into account. It was argued that if the business were to fail, this would hardly be a result of investment in the caravan, since that had been provided at relatively small cost, and its loss would not be critical. However, the principal consideration in planning terms is whether the need for a dwelling in a countryside location such as this might no longer exist as a result of business failure.
38. I consider this situation could be accommodated by granting a temporary permission for 3 years, with the use of the caravan tied to the agricultural use

of the land. During that period the financial basis of the operation could be properly demonstrated through submission of annual accounts, and it would be open for the appellant to make an application for permanent planning permission for siting a residential caravan, or as is the stated intention, for a permanent dwelling.

39. I conclude on the second main issue that the appellant has adequately shown that there is an essential agricultural need for a rural worker to live permanently at or near his place of work in the countryside. In those terms the development would accord with the development plan, particularly with respect to Core Strategy Policy DMH3 insofar as it requires application of a functional test. However, inadequate information has been put in to show there is a sound financial basis for permitting a permanent dwelling, and I do not consider the proposal accords with the development plan insofar as Policy DMH3 requires application of a financial test.
40. However, given the functional need for a second permanent agricultural worker on or close to the appeal site, I consider grant of a temporary planning permission would be appropriate in order to give the opportunity to apply the financial test. The appeal on ground (a) therefore succeeds with respect to the caravan hatched green on the plan attached to the notice. I intend to quash the enforcement notice and to grant a temporary planning permission for this part of the development subject to conditions. Given this success on ground (a) there is no need for me to give consideration to the grounds (f) and (g) appeals.

Conclusions

41. For the reasons given above I conclude that the appeal on ground (c) in respect of the static caravan hatched blue on the plan attached to the notice should succeed, and I intend to quash the notice in that regard. I also conclude that the appeal on ground (a) in respect of the static caravan hatched green on the plan attached to the notice should succeed, and I intend to quash the notice in that regard and to grant temporary planning permission subject to conditions.

Stephen Brown

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gary Hoerty BSc MRICS FAAV	Chartered Surveyor, Principal of, Gary Hoerty Associates, Chartered Surveyors.
Michael Oldfield	Appellant
Farrah Burns	The appellant's partner.

FOR THE LOCAL PLANNING AUTHORITY:

John Macholc BSc(Hons) DipTP	Head of Planning
DMS	Ribble Valley Borough Council.
Kenny Dhillon BSc(Hons)	Principal Town Planner
PGCertTP MRTPI	RSK ADAS Ltd.

INTERESTED PERSONS:

Mr Timothy & Mrs Sally Brash	Nearby residents.
John Bower	Executor to the Estate of the late John Robert Muir Layland, owner of The Barn, Newsholme.

DOCUMENTS

- 1 Attendance list.
- 2 The Council's letter of notification of the appeal, dated 9 March 2018, with the circulation list.
- 3 Letters of representation.

PLANS

- A Map showing location of the appeal and other sites.