



Appeal Decision

Site visit made on 7 January 2020

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2020

Appeal Ref: APP/J0540/C/19/3225335

The Willows, Willow Drove, Borough Fen, Peterborough PE6 7QB

- 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 Darren Scott against an enforcement notice issued by Peterborough City Council.
- The enforcement notice, numbered 18/00165/ENFBUS, was issued on 7 February 2019.
- The breach of planning control as alleged in the notice is without planning permission making a material change in the use of the land from agriculture to a mixed use for:
 - I. Agriculture and,
 - II. the siting of a caravan for residential purposes (shown edged in green on the attached Plan A) and,
 - III. the repair of motor vehicles (in the building shown edged in blue on the attached Plan A) and,
 - IV. the storage of motor vehicles and,
 - V. the storage of landscape gardening equipment, materials and associated waste material and,
 - VI. the carrying out of operational development comprising the erection of a storage container (shown edged orange on the attached Plan A).
- The requirements of the notice are:
 - 1. Cease the use of the land for:
 - (i) The use of the caravan for residential purposes
 - (ii) The repair of vehicles
 - (iii) The storage of vehicles
 - (iv) The storage of landscape gardening equipment, materials and associated waste material
 - 2. Remove the caravan from the land
 - 3. Remove the shipping container from the land and all materials, waste material, trailer, vehicles and tools and paint used in connection with the landscape gardening business
 - 4. Remove all stored vehicles from the land
 - 5. Remove from the Land all equipment, materials and items (including all mechanics tools and ramps and car parts) associated with the repair of vehicles.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)[a] of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground [a] and the prescribed fees have been paid within the specified period, an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decisions

1. The appeal is dismissed, and the enforcement notice is upheld.
2. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matters

3. Appeals were made by both Mr Darren Scott and Mrs Tammy Scott against the enforcement notice on ground (a). A letter was sent to Mr Scott dated 5 June 2019 and to Mrs Scott on 8 January 2020 which confirmed that since the prescribed fees were paid by Mr Darren Scott only, the appeal by Mrs Tammy Scott on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act, as amended, had lapsed. Consequently, no further action will be taken on Mrs Tammy Scott's appeal. I will proceed in determining the appeal made by Mr Darren Scott only.
4. The appellant did not attend the site visit. However, as I entered the site to ascertain whether the appellant was present, I was able to observe the buildings, structures and residential caravan together with associated uses. The appellant was advised of this and has made no comments in respect of the site visit. The Council was represented but those officers took no part in the site visit save for confirming the site plan.
5. Since the notice was served, the Peterborough Local Plan 2016 to 2036 (the Local Plan) has been adopted. The Council has set out the Local Plan policies which it regards as of relevance to the appeal and the appellant has had the opportunity to comment on those policies.

Ground (a) and the Deemed Planning Application

6. An appeal under ground (a) is on the basis that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to have been granted.
7. The appellant has not directly responded to the Council's reasons for issuing the notice and he has not set out a case in support of the grant of planning permission for what is alleged in the notice. He has indicated an intention to submit a planning application for change of use of the land to domestic use, but I do not have any details of that application before me and in any event the decision to be made on the planning application lies with the Council in the first instance. Despite the wide powers of correction of the notice under case law there is no power for me to grant planning permission for something completely different from that enforced against as would be the case were I to consider change of use to domestic use.

Main issues

8. The Council's statement sets out the reasons why it considers that planning permission should be refused for the development as described on the notice. On the basis of this evidence, the main issues are:
 - The effect of the use of the land for vehicle repairs and for the storage of motor vehicles on the character and appearance of the area.
 - The effect of the use of the land for the siting of the residential caravan and the erection of a storage container on the character and appearance of the site and the surrounding area.
 - The effect of the use of the land for the storage of landscape gardening equipment, materials and associated waste materials and the use of the

land for vehicle repairs on the living conditions of the occupiers of nearby dwellings.

- Whether the appeal site is a suitable location for a residential caravan including having regard to local services and associated infrastructure and flooding.
- Whether the development provides acceptable living conditions for occupiers of the residential caravan with regard to outlook, privacy, noise and amenity space.

Reasons

Character and Appearance

9. Willow Drove is a typical example of the long straight roads which run through the fenland landscape and is characterised by large scale fields punctuated with sporadic development on deep plots facing the road. The character of the area is derived from the detached houses and the large-scale agricultural buildings which are evidence of the symbiotic relationship between the land use and the landscape.
10. The Willows is a detached house which is in the course of being extended and it falls outside the appeal site. Similarly, Oak Barn which has the appearance of a converted building, occupies part of the wider plot but falls beyond the appeal site boundary. The notice relates to land between and to the rear of The Willows and Oak Barn which accommodates a number of structures and outside storage uses.
11. The appeal site is separated from the surrounding fields by a mixture of fences and trees around some of its perimeter however there is a very limited discernible boundary treatment on the south side.
12. Whilst there were no vehicles undergoing repair at the time of my visit and some of the activities relating to vehicle repair would be within a building it would be impractical for all those activities to take place behind closed doors. Consequently, the visual impact of the vehicle repair use would be evident on site. Similarly, I saw only two cars on the site. Nevertheless, the use of the site for vehicle repairs and the storage of motor vehicles, without any association with the surrounding agricultural uses is out of keeping with the rural character and appearance of the area, as demonstrated by the photographs provided by the Council.
13. Setting aside the current appearance of the site, the land to the rear of The Willows and Oak Barn, contributes towards the openness of the site context in much the same way as the private space associated with those dwellings. The building which occupies this part of the site has the form and appearance of an agricultural building and is compatible with the character and appearance of the area.
14. The residential caravan and storage container which lie adjacent to the existing building on the site add to the bulk and massing of structures on the site and neither have the appearance of agricultural buildings. They adversely affect the openness of the site and consequently its contribution to the wider area. Moreover, the appearance of the residential caravan and the storage container

is at odds with the agricultural style of the building on the site and those in the surrounding area.

15. I conclude that the use of the land for the siting of a residential caravan and the erection of a storage container have a harmful effect on the character and appearance of the site and the surrounding area and that the use of land for vehicle repairs and the storage of motor vehicles has a harmful effect on the character and appearance of the surrounding area. Therefore, the development is contrary to Policy LP16 of the Local Plan which amongst other things requires that all development proposals positively contribute to the character of the area and respond appropriately to local character and distinctiveness.

Living conditions (Neighbours)

16. Whilst the sporadic character of development results in dwellings being generally far apart from one another, the Willows and Oak Barn occupy separate parts of the wider plot and are located in close proximity to the appeal site.
17. The container is located close to the gable end of Oak Barn and the access to the container, the building used for motor vehicle repairs and the wider site runs between The Willows and Oak Barn. The comings and goings of vehicles and people accessing the site would disturb the enjoyment of outdoor space associated with The Willows and Oak Barn. Whilst this may be satisfactory to the occupiers of the Willows who include the appellant, this may not always be the case. Oak Barn is a separate dwelling and its occupiers would be adversely affected by noise which would be outside their control. Given the comparatively secluded location of the dwellings, the expectation of a quiet enjoyment of outdoor space would be much higher than in an urban area. Consequently, the degree of noise and disturbance would be harmful to the occupiers of Oak Barn in this context.
18. I conclude that the use of the land for the storage of landscape gardening equipment, materials and associated waste materials and for vehicle repairs has a harmful effect on the living conditions of the occupiers of Oak Barn. The development is therefore contrary to Policies LP16 and LP17 of the Local Plan. These policies jointly amongst other things require that development respects the context of the site and does not result in noise which disturbs the occupiers of nearby property. I do not find Policy LP11 of the Local Plan which addresses development in the countryside and the rural economy as of relevance to this main issue.

Location of residential caravan

19. Policy LP11 of the Local Plan requires that planning applications for temporary and mobile homes are considered in the same way as applications for permanent dwellings and sets out criteria against which limited new dwellings in the countryside for agricultural workers, forestry and other enterprises will be assessed. The appellant has not submitted any evidence to demonstrate that the occupation of the caravan meets any of the criteria set out in Policy LP11.
20. There is no dispute between the parties that the appeal site falls outside the village envelope for Newborough which is defined as a 'Medium Village' by the Council's Settlement Hierarchy set out in Policy LP2 of the Local Plan. Policy

LP2 sets out the Council's overall hierarchical development strategy which seeks to direct most new housing to larger more accessible settlements.

21. The Council's settlement strategy is broadly consistent with the aims of the National Planning Policy Framework of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities.
22. The Council says that Newborough is 2km away and this settlement provides some facilities which would meet the day to day needs of the residents of the caravan. However, access to Newborough is via Willow Drove which is a single carriageway road with limited passing places. It has no pavements or street lighting and the national speed limit applies to it. Given the constraints of the access the use of sustainable modes of transport, such as walking or cycling, would be impractical particularly in the hours of darkness or during inclement weather. Consequently, it is likely that future occupants of the development would be heavily reliant on motor vehicles to access local shops and services. It is therefore not a location where a new dwelling would be well served by sustainable modes of transport and this is a significant factor weighing against the siting of a caravan in this location.
23. The Council say that the caravan is located within Flood Zone 2 where there is a high probability of flooding. The appellant has not provided any evidence to contradict this view. The countryside around the site is flat and there are drainage channels in the area and ditches alongside Willow Drove. On this basis there is potential for flooding and the appellant has not demonstrated through a site-specific flood-risk assessment that the site is suitable as a location for a vulnerable residential use.
24. I conclude that the site is not a suitable location for a new dwelling having regard to local services and associated infrastructure and subsequent likelihood of car-based travel or in relation to flood risk. The development is therefore contrary to Policies LP1, LP11 and LP32 of the Local Plan which establishes a presumption in favour of sustainable development, restricts development in the countryside and development located in areas known to be at risk from flooding.

Living conditions (occupants of residential caravan)

25. The residential caravan did not appear to be occupied at the time of my site visit and was open to the elements. Nevertheless, it is located in close proximity to the storage container, the building used for vehicle repairs and the outside storage of materials and waste, resulting in a poor outlook from the windows. Furthermore, in common with the impacts on the Old Barn, which I have identified above, the comings and goings associated with the uses on the site would have an adverse effect on the occupants of the caravan in terms of noise and disturbance.
26. The lack of any defined amenity space around the residential caravan represents a failure to provide adequate living conditions for the residents of it and the high potential for overlooking of private space by visitors to the site reduces the degree of privacy available to the occupants to a harmful extent.
27. I conclude that the development does not provide acceptable living conditions for occupiers of the residential caravan with regard to outlook, privacy, noise

and amenity space. The development is therefore contrary to Policy LP17 of the Local Plan which requires that development proposals should be designed and located to ensure the needs of future occupiers are provided for including privacy, noise attenuation and private amenity space.

Conclusion in respect of ground (a) and the DPA

28. For the reasons given above, I conclude that the appeal on ground (a) should fail and the deemed planning application should be refused.

Conclusion

29. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Sarah Dyer

Inspector