



Appeal Decision

Site visit made on 20 August 2020

by J A Murray LLB (Hons), Dip.Plan Env, DMS, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

APP/D2510/C/20/3250712

**Land to the south of St. Peters Church, Langrick Road, New York,
Lincolnshire, LN4 4XH**

- 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 Miss Tamara Lloyd against an enforcement notice issued by East Lindsey District Council.
 - The enforcement notice was issued on 19 March 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of land for the storage of tyres and siting of 2no. static caravans for the keeping of dogs.
 - The requirements of the notice are:
 1. Cease the use of the land for the siting of static caravans and the storage of tyres.
 2. Remove the 2no. static caravans from the land as shown on the plan marked as 'appendix one' attached to the Notice.
 3. Remove all the tyres from the land.
 - The period for compliance with the requirements is 28 days after the notice takes effect.
 - The appeal was made on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. It is directed that the enforcement notice be varied by substituting "three (3) months after this notice takes effect" as the period for compliance in section 6 of the notice. 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.

Procedural matters

2. This appeal was initially linked to appeal Ref 3248853. Whilst both appeals relate to the same site, they should not have been linked. The decision on this appeal was delayed pending resolution of this procedural matter, and because of my illness during the intervening period. Appeal Ref 3248853 is the subject of a separate decision.
3. The allegation in the enforcement notice includes the storage of tyres. The appellant says the tyres are not stored but constitute a tyre wall. This amounts to a hidden ground (b). The Council has addressed the appellant's claim that this is a wall and I am therefore satisfied that it will not be prejudiced if I consider ground (b).

Ground (b)

4. To succeed on ground (b), the appellant must prove, on the balance of probability, that the matters alleged in the notice have not occurred. In this case, that relates only to the tyre storage element of the use.
5. The appellant says the existing fencing was inappropriate and so tyres have been stacked to form a wall. The Council maintains that, at the time of its investigation, there was no indication that the tyres formed a wall; the manner in which they were placed did not seem to have the function of an enclosure, but rather the tyres had the appearance of being "stored" or "dumped."
6. I saw the site from surrounding land some 5 months after the notice was issued. The position at the date of the notice is what matters for ground (b), and it is possible that there had been changes by the time I saw the site. However, even at that stage, whilst tyres were stacked against the full length of the southern boundary fence and against a relatively short section of the northern boundary fence, the stacks were irregular and at varying heights and there were loose tyres in the field. (I note the appellant's statement made no reference to tyres on the southern boundary at that stage).
7. A photograph provided by the appellant with her statement only shows a very short section of the northern boundary, near the site entrance. In any event, it is undated and there is no photographic evidence to prove the existence of any clearly constructed tyre wall at the time of the notice, or shortly before it was issued. As a matter of fact and degree, I am not persuaded on the balance of probability that the placing of tyres on the land amounted to the construction of a wall, rather than storage.
8. The appellant has therefore failed to prove on the balance of probability, that the matters alleged in the notice have not occurred. Ground (b) therefore fails.

Ground (a)/the deemed application for planning permission

Main Issue

9. The main issue is the effect on the character and appearance of the area and the setting of a listed building (St. Peters church) of the use of the land for the storage of tyres and the siting of 2 no. caravans for the keeping of dogs.

Reasons

10. Neither party suggests the appeal site is anything other than a single planning unit, in use for both alleged purposes. However, I will assess the impact of both elements of the use separately.
11. Dealing first with the caravans, the Council noted in its statement that they had been removed, and so the notice had been partially complied with. The caravans were not on the site when I viewed it, but their siting is still part of the allegation and therefore part of the deemed application from planning permission.
12. The officer report concerning a retrospective planning application for the siting of 2 static caravans noted that they were located some 420m south-west of the listed church and concluded that they did not cause any harm to, or loss of, the significance of the immediate setting of the church. The National Planning Policy Framework (the Framework) defines the setting of a heritage asset as,

- "The surroundings in which a heritage asset is experienced." Having regard to this, provided the caravans were located in the far south-west of the appeal site, I see no reason to disagree with the District Council on this score, notwithstanding the opinion expressed by the Widmore Parish Council.
13. Nevertheless, though there are substantial agricultural buildings in the second next field to the south, and a haulage and storage facility to the north of Chapelry Farm, the appeal site lies within attractive open fenland countryside. The appellant acknowledges that, ordinarily the siting of static caravans is not something you would expect in a rural location. Despite their distance from the road, 2 static caravans would appear intrusive in this open flat landscape and at odds with the rural character and appearance of the area.
 14. The appellant draws attention to caravans stationed at other properties on Langrick Road. However, they are close to buildings and one is also adjacent to a mature hedge. As such, their visual impact is much reduced, compared with the appeal development, which would cause harm to the character and appearance of the area. This results in conflict with Policies SP10 and SP23 of the East Lindsey Local Plan Core Strategy (CS), adopted July 2018, notwithstanding that the site is not covered by any specific landscape designations.
 15. The appellant operates her 'Alternative Animal Sanctuary' for the care of abandoned animals from her property at Chapelry Farm, to the north of the church. She says shortcomings have been identified in the facilities she provides for animals in her care and the siting of the static caravans, which would be used to house 4 dogs, is the first step in remedial action to improve the facilities offered. However, there is no cogent explanation for why static caravans located at the far end of a field, a significant distance from the animal sanctuary, would be suitable for housing 4 dogs. Furthermore, there is no explanation as to why the dogs could not be adequately accommodated within the existing sanctuary site.
 16. Turning to the storage of tyres, whilst noting again that the area is not covered by any specific landscape designation, it is an attractive rural, fenland landscape of open fields bounded typically by hedges and ditches or post and rail/post and wire fences. In this open landscape, whether stacked along the boundaries, or across the site generally, large numbers of tyres represent an alien and detrimental feature. This is despite the existence of large farm buildings, a haulage/storage operation and other commercial operations in the wider area.
 17. Furthermore, although the reasons for issuing the notice made no reference to St Peters Church, the Council's statement does cite the detrimental impact on the setting of this grade II listed building. The listing details indicate that the church, which dates from 1816, is one of 7 built when the Fen was drained. The chair of the Church Council adds that it is one of only 5 remaining Fen Chapels.
 18. The church, and its significance as a heritage asset, can be experienced on approach through the open landscape along Langrick Road from the south and the north, and of course from within the church yard itself. Given its location adjacent to the church yard, the use of the appeal site for the incongruous storage of tyres detracts from the setting of the church, even though, at the time of my visit, the tyres were stacked no higher than 1 – 2 metres.

19. CS Policy SP11 indicates that proposals will be supported where they preserve or enhance heritage assets and their setting and proposals will be expected to demonstrate their compatibility with the significance of a listed building and its setting. By s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I must have regard to the desirability of preserving the setting of the listed building. In this case, the harm to the significance of the heritage asset is less than substantial, but the Framework nevertheless indicates that great weight should be given to the asset's conservation and the harm should be weighed against and public benefits of the proposal.
20. Whilst I have already found that the tyres are stored, rather than that they constitute a wall, the appellant says they enhance the safety and security of the site. She says the field is used for her horses and sheep to graze and the existing fencing was inappropriate due to the poor drainage conditions and high water table, which resulted in gaps appearing.
21. Even if the provision of effective boundary treatment could be properly characterised as a public benefit, the appellant produces no evidence to demonstrate, on the balance of probability, that stacking tyres on the site is the only, or even the best solution. In this regard, I note the comments of a local resident, who has over 50 years' experience of dairy farming in the locality. He says the high water table never caused a problem with fencing erected to keep cows in; it was simply necessary to dig the posts in slightly further.
22. No conditions have been suggested, but I am satisfied that none would overcome the identified harm. Whilst it might be possible to screen the caravans, or indeed the stored tyres, effective screening could also be obtrusive in this open landscape.

Conclusion on ground (a) and the deemed application

23. For all the reasons given, I conclude on the main issue that the use of the land for the storage of tyres and the siting of 2 no. caravans for the keeping of dogs causes unacceptable harm to the character and appearance of the area and the setting of the grade II listed St. Peters church. Accordingly, the development conflicts with the development plan, CS Policies SP10, SP11 and SP23 being the key policies for this appeal. It also conflicts with the Framework, which seeks to ensure that developments: add to the overall quality of the area; are sympathetic to local character; and conserve heritage assets. There are no material considerations which indicate that planning permission should be granted and therefore ground (a) and the deemed application must fail.

Ground (g)

24. This ground is that the 28 day period specified for compliance with the notice is unreasonably short.
25. Whilst the caravans have already been removed, the appellant seeks a period of 6 months to secure the necessary funds and arrange for a contractor to remove the tyres. Nothing of substance is advanced to justify that request, but the Council acknowledges that the appellant could face some difficulty in engaging a contractor in the context of Covid-19 restrictions. In these circumstances, the Council suggests a period of 3 months would be reasonable.

I am satisfied that it would. Ground (g) therefore succeeds to this extent and I will vary the notice accordingly.

Overall conclusion

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

J A Murray

INSPECTOR