



Appeal Decisions

Site visit made on 27 April 2021

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2021

Appeal A Ref: APP/A2335/C/20/3262928

Appeal B Ref: APP/A2335/C/20/3262929

Land at Thwaite End Barn, Main Road, Bolton Le Sands, LA5 9TN

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr William Mason (Appeal A) and Mrs Dawn Mason (Appeal B) against an enforcement notice issued by Lancaster City Council.
 - The enforcement notice was issued on 8 October 2020.
 - The breach of planning control as alleged in the notice is, without planning permission:
1) the use of land (excluding the portal framed building) for access, storage and parking of commercial vehicles, plant, machinery, and trailers and 2) the siting of a container.
 - The requirements of the notice are:
 - a) To cease the use of the Land (excluding the portal framed building), for the parking and storage of commercial vehicles, plant, machinery and trailers and for any purpose in connection with the operation of a driveway/paving/landscape business, including the parking of staff private vehicles, associated with that use.
 - b) To remove the container.
 - The period for compliance with the requirements is 2 months.
 - Appeal A is proceeding on the grounds set out in section 174(2) (a), (b), (c) and (d) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on the grounds set out in section 174(2) (b), (c) and (d) of the Town and Country Planning Act 1990 as amended
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Summary Decisions: the appeals are dismissed and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision

Procedural matters

1. The breach of planning control as alleged in the notice includes the use of the land for access, storage and parking of commercial vehicles, plant, machinery, and trailers. Two points flow from this allegation and the attendant requirements to comply with the notice.
2. Firstly, the notice alleges the 'use of land' for access, storage and parking of commercial vehicles, plant, machinery, and trailers. The meaning of development for the purposes of the 1990 Act is defined at Section 55(1) of that Act as meaning:

...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any building or other land (emphasis added)

3. It follows from this definition that the use of land, as alleged in the notice, is not in itself development requiring planning permission for the purposes of section 55(1) of the 1990 Act. The notice should properly allege the *material change of use* of that land. The appellants have not taken that point in relation to their appeal on ground (c) and it is clear that the appellants have understood the notice to be alleging the making of a material change in the use of land. I am therefore satisfied that the notice can be corrected in this respect without causing injustice.
4. Secondly, the requirements to comply with the notice at paragraph 5(a) include to cease the use of the Land (excluding the portal framed building) for the parking and storage of commercial vehicles, plant, machinery and trailers and for any purpose in connection with the operation of driveway/paving/landscape business, including the parking of staff private vehicles, associated with that use (emphasis added).
5. The latter part of those requirements (those after the word 'and') forms no part of the breach of planning control alleged in paragraph 3 of the notice. There is, therefore, a clear mismatch between the breach of planning control alleged in the notice and the requirements to comply with it. Moreover, the requirements go beyond the breach of planning control that is alleged and are therefore more onerous for the appellant. The notice is therefore defective in this respect.
6. The phrase used in the notice is "for any purpose in connection" with the operation of a driveway/paving/landscape business. Although not entirely clear, on my reading that must be taken as including the actual operation/running of a driveway/paving/landscape business from the land. It is evident from the appeal on ground (b) that it is also how the appellants have interpreted that phrase.
7. Although raised briefly in the context of the appeal on ground (b), the appellants' case in relation to the appeals on grounds (a), (c) and (d) is entirely predicated on the breach of planning control alleged in the notice. In my view, the appellants would be caused injustice if I were to correct the breach of planning control to include any purpose in connection with the operation of a driveway/paving/landscape business.
8. Similarly, because the wording is not entirely clear, I cannot be certain that correcting the notice to allege any purpose in connection with the operation of a driveway/paving/landscape business is what the Council intended. It follows that correcting the notice in that way would cause the Council injustice if it transpires that is not the breach of the planning control that it was intending to attack.
9. The alternative, then, is to vary the requirements of the notice to delete reference to the operation of a driveway/paving/landscape business. Given that the operation of a driveway/paving/landscape business would be an entirely separate breach of planning control, and one against which the Council has not previously purported to take enforcement action, it would be open to the Council to serve a fresh enforcement notice attacking that use should it be considered expedient to do so. The appellants would have the right of appeal against any such notice. I am therefore satisfied that no injustice would be caused to either party. Accordingly, I will vary the notice to that effect.

The appeals on ground (b)

10. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters have not occurred. An appeal on this ground is one of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that the matters alleged in the notice have not occurred.
11. The appellants refer to the phrase "akin to a depot use" in paragraph 4.2 of the notice, and consider this to be incorrect. However, this phrase is used in the context of the reasons for issuing the notice rather than describing the breach of planning control that is alleged. The breach of planning control is derived from the actual allegation, and that is clearly stated in the notice.
12. The owner of the adjoining property describes commercial vehicles, plant, machinery and trailers owned by four separate companies being parked or stored overnight on the area of hardstanding, as well as those same vehicles using the access. This includes weekdays and at weekends over the year immediately before the notice was issued, and is supported by photographic evidence. I am therefore satisfied that the matters stated in the notice have occurred.
13. Accordingly, the appeals on ground (b) fail.

The appeals on ground (c)

14. The ground of appeal is that, in respect of any breach of planning control that may be constituted by the matters stated in the notice, those matters do not constitute a breach of planning control. This is another of the 'legal' grounds of appeal, in which the burden of proof is on the appellant to show, on the balance of probability, that matters stated in the notice do not constitute a breach of planning control. This ground of appeal is made both in respect of alleged use of the land and the siting of the container.
15. The appellant's case under this ground of appeal is that the hardcore apron to the portal framed building forms part of the domestic curtilage of the dwelling. The appellants contend that the legitimate use of that hardstanding includes use for the parking and turning of vehicles in association with the dwelling house. In the appellant's view, the use of the site for the parking vehicles belonging to their son is not, as a matter of fact and degree, materially different from the lawful planning use of the land and in that context is considered to be "de minimis." It is therefore the appellants' view that the breach of planning control alleged in paragraph 3(1) of the notice does not constitute development for the purposes of Section 55(1) of the 1990 Act.
16. Two points immediately flow from appellant's case in relation to the definition Section 55(1) of that Act. Firstly, the breach of planning control alleged in paragraph 3 (1) of the notice is more than just the parking of vehicles owned by their son. It also includes the storage of plant, machinery and trailers. The appellants have provided no reference to these other elements.
17. Secondly, the Council have provided an extract of the site plan that accompanied the original planning permission for the conversion of Thwaite End Barn into a dwelling granted in April 1991 under Council Reference 01/90/1188 (the 1991 permission). The 'red line' area to which that

permission relates is relatively tightly drawn around land to south and west of the dwelling. Comparison with the plan attached to the enforcement notice reveals that none of the land subject to the 1991 permission falls within the land subject to the enforcement notice.

18. At the time of my site visit, the situation was somewhat different to that shown on the plan accompanying the 1991 permission. There are parking spaces and a landscaped area immediately adjacent to the dwelling but beyond that much of the land to the south and west of the dwelling is laid to grass. The vehicular access granted permission on appeal runs through this grassed area¹. On the northern boundary of the appellants' land is a small structure which, as I understand it, is a holiday cottage. The grass across all of this area is mowed short and has a well-kept appearance. It is no part of my remit to determine the lawful planning use of that land, and I make no comment on that. Neither is it necessary for me to decide whether that land forms part of the residential curtilage of Thwaite End Barn.
19. The salient point for the purposes of this ground of appeal is that the character of that area of land is very different from that which forms the majority of the land to which the enforcement notice relates. The latter is mostly covered in gravel, with some areas of tarmac/concrete. The portal framed building specifically exempted from the enforcement notice stands within this area, and has an overtly commercial/agricultural appearance. The land therefore has no visual association with the main dwelling.
20. Furthermore, whilst I understand that this land is occasionally used by the appellants' son when the parking spaces immediately adjacent to the main dwelling are occupied, the written and photographic evidence before me is that this area is regularly used to park or station a variety of vehicles and equipment employed in the operation of a driveway/paving/landscape business². The pattern of vehicular movements revealed in the log kept by the occupier of the neighbouring property reveals that the drivers/operators of that equipment are not resident at Thwaite End Barn. I therefore consider that, as a matter of fact and degree, there is no meaningful functional relationship between this land and the main dwelling. For these reasons, I consider that this land does not form part of the residential curtilage of Thwaite End Barn.
21. The log kept by the occupier of the neighbouring property also reveals that the parking of these vehicles takes place on a daily basis, and not just at weekends. It also involves other vehicles arriving at and leaving the site, again on a daily basis. The scale of this activity cannot be considered to be de-minimis, and as such constitutes a material change in the use of the land.
22. In relation to the siting of the container, the Council has approached this as a building operation rather than a material change of use of the land. In the particular circumstances of this case, I see no reason to take a different view. It is settled case law that there are three primary factors to take into account when determine whether a 'temporary' or moveable structure is a building: size, degree of permanence and physical attachment.

¹ APP/A2335/A/99/1026723

² Including vehicles/equipment described by the occupier of the adjoining dwelling as a lorry, a twincab lorry, a lorry with grab, vibrating roller, open cab excavator and closed cab excavator on trailer.

23. In terms of size, it is apparent that the container was brought onto the site in its completed state. The container is not physically attached to the land, but rests on timber sleepers. Both of these factors point to the container not being a building as defined in Section 336(1) of the 1990 Act. However, although moved relatively recently, the evidence before me is that prior to that the container remained in the same place between being first brought onto the site in late 2016 and the date on which the enforcement notice was issued. In that context, the Courts have held that 'permanence' does not necessarily connote that the state of affairs is to continue forever or indefinitely. On that basis, given that the container remained in one position for a considerable period of time, I consider that the container constitutes a building for the purposes of Section 336(1) of the 1990 Act.
24. I conclude that both elements of the breach of planning control alleged in the notice, the alleged use of the land and the siting of the container, constitute development for the purposes of Section 55(1) of the 1990 Act. Section 57(1) that 1990 Act provides that planning permission is required for development. No planning permission is in place for that development. Consequently, the matters alleged in the notice do constitute a breach of planning control.
25. Accordingly, the appeals on ground (c) fail.

The appeals of ground (d)

26. The appeal on this ground is that, at the date on which the notice was issued, no enforcement action could be taken in respect of any breach of planning control that may be constituted by those matters. The appellants rely on this ground only in relation to the use of land for access, storage and parking of commercial vehicles, plant, machinery, and trailers. In order to succeed, the appellant must show that the use had been continuous for a period of ten years beginning with the date of the breach. The test in both regards is the balance of probability and the burden of proof is on the appellant.
27. One of the appellants, Mr William Mason Snr, has provided a sworn affidavit in which he sets out the background and history of the use of the site. His son, Mr William Mason Jnr, has also provided a sworn affidavit. The other appellant, Mrs Dawn Mason, has provided a letter setting out her recollections of the use of the site, but this is not in the form of a sworn affidavit.
28. I have some difficulty with the affidavits submitted by Mr William Mason Snr and Mr William Mason Jnr. Although apparently made in the presence of a Solicitor, neither affidavit is accompanied by an oath sworn by the person making it. Furthermore, the word "affadavit" is spelt incorrectly in the header and the document is described as being a "Statutory Undertaking", which is also incorrect. These obvious errors lead me to question the efficacy of these documents and I am not satisfied that these affidavits are properly made in the correct format. For these reasons, I do not attach the full weight to those documents usually attributed to sworn affidavits.
29. The two affidavits and the letter from Mrs Mason are consistent in their description of the use of the site. They explain that Mr & Mrs Mason purchased and first occupied Thwaite End Barn in or around 2005. It is their

evidence that the area of hardstanding was in existence when they purchased the land, having been used for parking and as a helicopter landing pad by the previous owner. It is their further evidence that this area of hardstanding has remained unchanged: – it is specifically stated that this area of hardstanding has not been extended since they purchased the site.

30. They go on to explain that Mr Mason Jnr is the owner of a paving business known as All Seasons Paving Ltd and that from first occupation of the property he parked an occasional works vehicle on the hard core area. Owing to concerns about leaving valuable machinery on site over weekends, this gradually built up and by 2009 it was customary to leave several vehicles on the hardcore area over weekends and holidays. It is estimated that this takes place on approximately 65% of weekends in any one calendar year, and approximately 30-40% of weekdays. This evidence is supported by copies of photographs showing vehicles operated by All Seasons Paving Ltd parked on the appeal site in 2016, 2018 and 2019.
31. The appellants evidence is, on the whole, short in detail. I recognise that the parking of vehicles owned by Mr William Mason Jnr on the appeal site is a private arrangement and as such not subject to contracts, invoices or other records that would typically provide documentary evidence to support this ground of appeal. Nevertheless, the absence of any supporting documentary evidence does not assist the appellants in discharging the burden of proof that falls upon them.
32. This is significant because the Council has evidence of its own to counter that of the appellants. In the first instance, the Council produces an aerial photograph dated May 2006 which clearly shows that the area of hardstanding was approximately half the area than at present. A second aerial photograph, dated September 2011, shows the area of hardstanding to be extended and the same as when the enforcement notice was issued. I simply cannot accept as plausible the appellants' assertion that the aerial photograph is misleading and that it is grass/moss growing through the hardstanding that gives the false impression that the hardstanding was not in existence at that time.
33. Furthermore, this photographic evidence is corroborated in a letter from the occupier of an adjoining property, known as Thwaite End Farm, who explains that the hardstanding was extended by Mr Mason Snr and Mr Mason Jnr in the summer of 2006. This is consistent with the dates of the aerial photographs, and with the opening of an enforcement investigation relating to the creation of a hardstanding at around that time (Council Ref: 06/00235/UNAUTD). This same letter also states that the hardstanding is straddled by a power line and was never used as a helicopter landing pad, the helicopter instead being landed in a large open field to the south and towed to the portal farmed building. Although neither a sworn affidavit nor a Statutory Declaration, this letter is both highly detailed and precise. For that reason, I attach significant weight to it.
34. This latter evidence clearly points to the hardstanding not being in place when Mr & Mrs Mason first purchased the property. This then casts wider doubts about the veracity of the evidence provided by Mr Mason Snr and Mr Mason Jnr, as well as that of Mrs Mason.

35. The letter from the occupier of an adjoining property then goes on to state that the hardstanding as expanded was then extensively used, first by a company called Acorn Trading (North West) Limited for the storage and sale of trailers. Then, according to the author of this letter, from 2009 the hardstanding was used by a company called WJM Trading Limited for the sale of cars, vans and HGV vehicles. Both of those companies, again according to the author of this letter, were owned by Mr Mason Snr. The use of the site for the sale of vehicles and trailers culminated in the issuing of an enforcement notice in 2012 which, I understand, was not appealed.
36. The appellants acknowledge the use of the site for car sales in their Final Comments, but in my view it is instructive that the primary evidence put forward by Mr Mason Snr (his affidavit) is entirely silent on this use of the area of hardstanding.
37. It is also instructive that the Council carried out several enforcement investigations relating to the use of this site, including that in 2011/2012 which led to the issuing of the above-mentioned enforcement notice. One of these investigations, in 2009, was in relation to the use of the site as a transport yard (Council Ref: 09/00325/UNAUTU). This is significant because it is the appellants' evidence that, by 2009, it was customary to leave several vehicles on the hardcore area over weekends and holidays.
38. The Council has on two occasions purported to take enforcement action against the operation of a driveway/paving/landscape business and/or the use of land for access, storage and parking of commercial vehicles, plant, machinery, and trailers. On the first occasion, in November 2018, the enforcement notice was quashed on appeal³. The second is the enforcement notice subject to this appeal. Given the previous propensity to initiate enforcement proceedings against this use, to my mind it is more likely than not that the Council would have pursued enforcement action in 2009 if the use had been taking place to the same level/intensity as now. Given, then, the investigation undertaken in 2009 resulted in the case being closed, that should be taken as an indication that the use was not occurring at that time or, if it was, it was being carried out at a lower intensity than now.
39. My reasoning in this respect is reinforced by the letter from the occupier of the adjoining property. The author of that letter indicates that vehicle sales continued on the site during 2012 and that it was not until November of that year that plant and machinery belonging to All Seasons Paving Limited; Masons Resin began to appear. The author explains that the level of usage then increased until, by 2016, the site resembled what is described as "tarmacking and paving business yard". The author identifies four separate companies using the site, specifically named as: All Seasons Paving Ltd; Masons Resin Driveways; The Cheshire Paving Company Ltd and WJM Trading Ltd. The author's version of events is supported by detailed descriptions of the vehicles parked on the land and the way in which the use incrementally increased over time. Vehicles belonging to All Seasons Paving Ltd and Masons Resin Driveways are also clearly visible in photographs taken during 2019 and 2020.

³ APP/A2335/C/18/3217915/6

40. This is a situation in which there is detailed evidence from the Council and the occupier of an adjoining property that covers a period of time in relation to which the appellants' evidence is silent, or at best sketchy. On the basis of the evidence before me, it appears more likely than not that the use of the land for access, storage and parking of commercial vehicles, plant, machinery and trailers has been taking place continuously at present levels since 2016. The evidence before me suggests that the use commenced in November 2012, at the earliest, albeit initially at a lower intensity. Prior to that, it seems to me that the appeal site was being used for vehicle sales. It therefore seems to me that, on the balance of probability, the breach of planning control alleged in the enforcement notice began less than 10 years prior to the notice being issued.
41. This is therefore not a situation where the local planning authority has no evidence of its own to contradict that of the appellant or make his version of events less than probable. On the contrary, I find that the appellants' evidence is not sufficiently precise to counter the documentary evidence produced by the Council and the occupier of the adjoining property. I conclude that, on the balance of probability, the Council was in a position to take enforcement action in respect of the breach of planning control alleged in the notice, namely the use of the land for access, storage and parking of commercial vehicles, plant, machinery and trailers.
42. Accordingly, the appeals on ground (d) fail.

**The appeal on ground (a) and the deemed planning application
(Appeal A only)**

43. The ground of appeal is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
44. The appeal site is within the North Lancashire Green Belt. The Council has stated two substantive reasons for issuing the enforcement notice, from which the main issues raised are:
- whether the breach of planning control alleged in the notice is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (Framework) and the development plan
 - the effect of the development on the character and appearance of the area
 - the effect of the development on the living conditions of the occupiers of the adjacent residential dwellings, specifically in relation to noise disturbance; and
 - if the breach of planning control alleged in the notice is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework and the development plan

45. Paragraph 145 of the Framework indicates that, with some exceptions, the construction of new buildings is inappropriate in the Green Belt. Paragraph 146 of the Framework indicates that certain other forms of development are not inappropriate in Green Belt provided they preserve the openness of Green Belt and do not conflict with the purposes of including land in Green Belt. The latter includes material changes in the use of land.
46. The development plan for the area reflects the guidance in the Framework. Policy DM50 of the Review of the Development Management Development Plan Document (Local Plan) indicates that proposals within the North Lancashire Green Belt will be considered in accordance with national planning policy and inappropriate development will be resisted.
47. I have found that the container subject to the enforcement notice constitutes a building for the purposes of Section 336(1) of the 1990 Act. Containers are not included in the list of exceptions set out at paragraph 145 of the Framework. The Courts have held that this is a closed list, and it therefore follows that the container constitutes inappropriate development for the purposes of paragraph 145 of the Framework and by extension Policy DM50 of the Local Plan.
48. In relation to the material change of use, paragraph 146 of the Framework requires an assessment of the openness of the Green Belt in this location. In that context, the Courts have held that the effect on openness is not confined solely to permanent physical works and that uses such as car parks might have an effect on openness. The Courts have also held that openness can have a spatial aspect as well as a visual aspect.
49. At the time of my site visit, the hardstanding was devoid of vehicles but two trailers were present. However, the photographs provided by the Council and the occupier of the adjacent dwelling consistently show vehicles/trailers/plant/machinery parked/stored along the north-east boundary of the hardstanding. The amount of vehicles/trailers/plant/machinery shown in these photographs varies considerably, but in some of them vehicles, trailers and other plant/machinery can be seen lined along practically the full length of that boundary⁴. Some of the vehicles/trailers/plant/machinery shown in these photographs, including a 'grab' lorry and an excavator, are relatively bulky. By reason of a combination of the number, size and position of the vehicles/trailers/plant/machinery that are sometimes parked/stored, and the extent of the hardstanding that they sometimes occupy, the material change of use alleged in the notice significantly erodes the openness of the Green Belt in this location.
50. The appeal site lies within an area of open countryside between Carnforth and Bolton Le Sands. To the extent that the material change of use alleged in the notice fails to assist in safeguarding the countryside from encroachment, I consider that the breach of planning control does conflict with the purposes of including land in Green Belt.
51. I therefore conclude that the breach of planning control alleged in the enforcement notice is inappropriate development in the Green Belt in the

⁴ For example, photographs taken in the week commencing 6 April 2020

context of paragraphs 145 and 146 of the Framework, as well as Policy DM50 of the Local Plan. Paragraph 143 of the Framework confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on the openness of the Green Belt

52. Although I have assessed above the effect of the openness of the Green Belt in relation to the alleged material change of use in the context of paragraph 146 of the Framework, paragraph 145 does not require a similar assessment in relation to new buildings. It is therefore necessary for me to consider the effect on the openness of the Green Belt resulting from the container separately here.
53. The container is a standard-sized shipping container located, at the time of my site visit, relatively close to the portal framed building. By reason of its size and position in relation to permanent built structures, I consider that the container has only a moderately adverse effect on the openness of the Green Belt in this location. However, by definition, even a moderately adverse impact fails to preserve the openness of the Green Belt.

Character and appearance

54. The appeal site lies within an attractive rural landscape characterised by fields and paddocks interspersed with areas of woodland, all set within gently undulating terrain. The site itself is adjoined to the north-west by the West Coast railway line, which at this point runs on an elevated embankment and features the typical infrastructure associated with the railway. To the south is the A6 road, also elevated in relation to the appeal site, and houses on the outskirts of Carnforth are visible in long-distance views. Nevertheless, and notwithstanding the presence of these urbanising features, the landscape retains a generally open and rural character and appearance.
55. I recognise that the parking and storage of vehicles/trailers/plant/machinery occurs on an existing hardstanding that forms no part of the enforcement notice, and relatively close to the portal framed building. Nonetheless, the presence of lorries, trailers, diggers and other machinery is wholly out of character with the generally open and rural character and appearance of the surrounding landscape. I am also mindful that the photographic evidence shows these vehicles and trailers to be typically aligned along the north-east boundary of the hardstanding, from where they are visible from the surrounding landscape, including in glimpsed views from the public footway beside the elevated A6 road. The parking and storage of vehicles/trailers/plant/machinery subject to the enforcement notice is therefore to character and appearance of the surrounding rural landscape.
56. Similarly, the container is an alien feature in this landscape. Due to the location of the container close to permanent built structures, at the time of my site visit the harm caused to the character and appearance was limited.
57. I conclude that the breach of planning control alleged in the enforcement notice harms the character and appearance of the surrounding area. I therefore conclude that the development is contrary to Policies DM29 and DM46 of the Local Plan which, amongst other things, indicate that the Council will seek to protect valued non-designated landscapes.

Living conditions

58. Although the reasons for issuing the enforcement notice refer to “adjacent residential dwellings” in the plural, those reasons go on to specifically identify just one neighbouring property, that known as Thwaite End Farm. Given the location of other residential properties nearby, I am satisfied that Thwaite End Farm is the only property affected by the breach of planning control.
59. The occupiers of Thwaite End Farm have described in considerable detail the impact that the breach of planning control has on the living conditions enjoyed at their property. In summary, they describe tools and equipment being distributed between vehicles, an activity that they say occurs between 7.30 – 8.30 am most weekday mornings. In the relation to the evenings, they describe activity involving vehicles and trailers being manoeuvred into position for the purpose of parking overnight, an activity that utilises the entire area of the hardstanding. It is explained that the lorries have reversing alarms that can be heard in their house with the windows closed, and that the alarms and the revving of engines often disturb them as late as 22:00 at night.
60. I am struck by the detail within the evidence provided by the occupiers of Thwaite End Farm, and accordingly attach significant weight to that evidence. Having regard to the evidence, I am persuaded that the breach of planning control does significantly detract from the living conditions that they might reasonably be expected to enjoy in their home, not only in respect of the scale of the activity, but also the unsocial hours during which that activity takes place.
61. In reaching that conclusion, I acknowledge that their property is situated between the West Coast mainline and the A6 road, both sources of intermittent noise. However, the noise disturbance caused by the breach of planning control is specifically identified by the occupiers as being a source of disturbance in the context of an ambient noise environment that includes noise generated by the West Coast mainline and the A6 road. For that reason, I consider that neither the West Coast mainline nor the A6 road provide any justification for harm caused by the activity associated with the parking and storage of vehicles and trailers.
62. I also acknowledge that Thwaite End Farm is located some 50 metres from the area used for parking/storage of vehicles/trailers/plant/machinery and is screened from that area by buildings. I am also mindful that all vehicular movements take place from the private drive serving the Thwaite End Barn. Nevertheless, for the reasons stated above, I am persuaded that the occupiers of that property do experience unacceptable levels of noise disturbance resulting from the parking/storage of vehicles/trailers/plant/machinery on that land, notwithstanding the mitigating factors identified by the appellant.
63. I conclude that the breach of planning control unacceptably harms the living conditions of the occupiers of the adjacent residential dwelling known as Thwaite End Farm, specifically in relation to noise disturbance. I therefore conclude that the development is contrary to Policy DM29 of the Local Plan which, amongst other things, indicates that the Council will ensure that there is no significant detrimental impact to amenity in relation to (noise) pollution.

Other considerations

64. The appellant explains that allowing this appeal would assist in protecting four local jobs and, without prejudice to his primary case, advances this as a justification for overriding the restrictions that normally apply within the Green Belt. No further detail is provided in support of that claim. Moreover, it is also explained that the business owned by Mr Mason Jnr is based in Preston with a satellite office in Morecambe. It is no part of the appellant's evidence that dismissing this appeal would result in the closure of the business owned by Mr Mason Jnr based in Preston and Morecambe. In the absence of that assertion and the evidence to support it, in this case I attach only limited weight to the protection of local jobs.
65. The appellant has also referred to a recent extension of the car park to the Bay View Garden Centre on Mill Lane, Bolton Le Sands, a site that is also within the Green Belt and open countryside. The appellant explains that this was part of a general redevelopment of this commercial site which resulted in car park being more than doubled in size and also involved other alterations that (in his view) give the site an urbanised appearance in an open countryside location. I have been provided with a plan that shows the extent of the enlarged car park, but no other details have been provided⁵.
66. It is a fundamental principle of development control that each case must be considered on its own merits. Whilst there are similarities between the site occupied by the Bay View Garden Centre and the appeal site, such as a location within the Green Belt and open countryside, there are also some significant differences. For example, I understand that the Bay View Garden Centre was already an established complex within the Green Belt comprising buildings, open displays and an existing car park. Furthermore, in the absence of further details concerning the background to the development, including the Green Belt balancing exercise undertaken by the Council in granting planning permission, I cannot be certain the extension of the car park to the Bay View Garden Centre is directly comparable to the breach of planning control subject to the enforcement notice. For that reason, I attach very limited weight to that development as a material consideration in this case.
67. I have carefully considered whether the harms that I identified above could be overcome by the imposition of conditions. In particular, it occurs to me that the impacts on the living conditions of the occupiers of Thwaite End Barn could potentially be mitigated by the imposition of a condition restricting the hours of operation. The impact on the character and appearance of the area could also be potentially mitigated by a landscaping condition. However, whilst the harm in both these respects could potentially be reduced by the imposition of those conditions, in my view they could not be entirely overcome.

Green Belt balancing exercise and conclusion on the ground (a) appeal

68. In accordance with paragraph 144 of the Framework, I attach substantial weight to the harm to the Green Belt by reason of the inappropriate nature of the development. I further conclude that the development subject to the enforcement unacceptably harms the character and appearance of the area and the living conditions of the occupiers of the adjacent residential dwelling known as Thwaite End Farm.

⁵ For example, I have not been provided with a copy of the relevant planning permission or officers report.

69. Against this, I attach limited weight to the protection of local jobs and only very limited weight to the extension of the car park to the Bay View Garden Centre.
70. Consequently, the harm by reason of inappropriateness and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist.
71. For the reasons set out above, the breach of planning control alleged in the notice is also contrary Policies DM29, DM46 and DM50 of the Local Plan. I have not been advised of any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan.
72. Accordingly, I conclude that planning permission ought not to be granted for the matters stated in the notice.

Conclusion

73. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

74. It is directed that the enforcement notice is corrected by:
- in paragraph 3 of the notice, deleting the words "the use of land for" and substituting there the words "the material change of use to"
75. It is directed that the enforcement notice is varied by:
- in paragraph 5(a) of the notice, deleting the words "and for any purpose in connection with the operation of a driveway/parking/paving/landscape business, including the parking of staff vehicles, associated with that use"
76. Subject to that correction and variation, the appeals are dismissed and the enforcement notice is upheld.

Paul Freer
INSPECTOR