



Appeal Decisions

Site visit made on 10 February 2022

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2022

Land at Chardanay, Woodland, Ashburton, Devon, TQ13 7JT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Miles Doran against two enforcement notice issued by Teignbridge District Council.

Appeal A Ref: APP/P1133/C/21/3287571

- The enforcement notice, numbered 20/00150/ENF, was issued on 2 November 2021.
- The breach of planning control alleged in the notice is without planning permission, the unauthorised change of use of the land from agricultural land to the storage of mobile homes, caravans, vehicles and various other items in the area edged red on the attached plan.
- The requirements of the notice are to:
 - (i) Cease using the land edged red on the plan attached to the notice for the storage of mobile homes, caravans, vehicles and any other items not associated with the permitted agricultural use of the land;
 - (ii) Remove from the land edged red on the attached plan all the mobile homes, caravans, vehicles and any other items not associated with the permitted agricultural use of the land.
- The period for compliance with the requirement is three months
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/P1133/C/21/3287573

- The enforcement notice, also numbered 20/00150/ENF, was issued on 2 November 2021.
 - The breach of planning control alleged in the notice is without planning permission, the unauthorised formation of an area of hardstanding in an area edged blue on the plan attached to the notice.
 - The requirement of the notice is to remove the area of hardstanding within the area edged blue on the attached plan.
 - The period for compliance with the requirement is 3 months
 - The appeal is proceeding on the ground set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decisions

Appeal A Ref: APP/P1133/C/21/3287571

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act, as amended.

Appeal B Ref: APP/P1133/C/21/3287573

2. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act, as amended.

The site and relevant planning history

3. The appeal site is in open countryside and is accessed from a narrow C Class road through a small, authorised caravan site having three pitches (3 static and 3 touring caravans) with a dayroom, toilet and store. Within the appeal site are five static and three touring caravans. A car was parked adjacent to one of the vans at the time of my visit. The site has a substantial area of hardstanding composed of stones/chippings/hardcore. There is fencing and a hedgerow along the highway boundary and fencing and established planting on the boundary with the authorised site. There is mature hedging on the south-west boundary, a grassed area beyond the south-east boundary of the site and a post and rail fence further behind that. There are overhead National Grid power lines crossing the site.
4. Separate applications for the extension of the authorised residential gypsy site for two additional pitches each on different sites were dismissed on appeal in January 2019 (APP/P1133/W/18/3196913 and 3196919) on the grounds that the proposals did not comply with sustainability criteria and policies relating to sites for the travelling community and for managing development in the open countryside as set out in the Teignbridge District Council Local Plan 2013-2033.
5. In August 2020 an application was refused for the extension to the approved gypsy site to provide two additional pitches with private storage areas and play area (20/00353/FUL).
6. In September 2021 an application was refused for the change of use of land for storage of static mobile homes and caravans (21/01422/FUL).

Appeal A: the appeal on ground (a)

7. An appeal on this ground is that planning permission should be granted for what is alleged in the notice.
8. The appellant considers that the use of the site to store up to 12 static/touring caravans as an ancillary commercial use to the adjacent permitted residential caravan site would be acceptable and would not impact on the area. It is stated that the site is remarkably well screened from public view by the planting on the roadside frontage, by the slightly rising land to the south-east and by the mobile homes on the approved site. He states that the visibility of the units can be supplemented by the provision of dense deciduous tree planting on the south-western boundary; and that the units can easily be moved from the highway into and out of the site via the authorised site.
9. The appellant provides little explanation of the commercial use in his appeal statement. I note however that in the report for the last application the Council state that they were advised that the use of the site would be ancillary to the appellant's management/occupation of the adjacent gypsy site and would not be operated as a separate business use. This implies that the use is to store mobile homes that may be used on the approved site, whereas a commercial use would be one where mobile homes are brought onto the land and then

removed, on a regular basis. It seems highly unlikely to myself that a site for the storage of 12 mobile homes and caravans would be necessary to serve an authorised site of three pitches.

10. As the nature of any commercial use in the last application was unclear, the Council assessed the development as a new business in the countryside against the criteria of Policy S22 which sets out where certain business uses may be acceptable. These criteria include impact on the character and visual amenity, highway safety and ecology/biodiversity.
11. The site lies in the Denbury Down Landscape Character Area which has high sensitivity. Although the site is screened, there are wider views of the site from a public right of way to the west and the site is visible from the public highway, as I saw on my site inspection and from the photographs attached to the Council's statement, albeit there may be greater screening in the summer months.
12. As the appearance of static and touring caravans are typically light coloured, they can be more easily noticeable because of this. The addition of further units would exacerbate the detrimental appearance of the site within the landscape. Whilst a condition suggesting additional landscaping on the southern boundary (assumed to be a reference to the south-west boundary) of the site was proposed in the last application which could mitigate the impact to some extent, the site would remain visible from the south-east.
13. The inspector for the dismissed appeals considered that the change of use of the field to two additional pitches would be detrimental to the character and appearance of the surroundings and would fail to comply with the aims of Policy S22. Nothing has been submitted in the current appeals that suggests a different conclusion should be reached. On the contrary, the impact from 12 caravans would be significantly greater than two.
14. Policy EN2A aims to protect the area's landscape and minimise adverse visual impacts. The use of the site for storage would be contrary to this policy.
15. Notwithstanding that the site is accessed through the authorised site, there is inadequate information to assess the highway safety implications of the development. The road network is of narrow country lanes with limited passing places and the types and number of vehicle movements associated with the development has not been submitted. Without such information it cannot be established that there would not be any highway safety implications arising from the development. This would be contrary to paragraph 111 of the National Planning Policy Framework (the Framework).
16. The Council is satisfied that biodiversity concerns regarding lighting and the planting of a new hedgerow could be addressed through the imposition of suitable conditions.
17. Numerous third party representations have been submitted opposed to the development, including those from the Woodland Parish Meeting. In particular reference is made to the length of time that there has been unauthorised development on the site, that the static vans are not being stored but are occupied for residential use, site access along narrow, rural lanes is inadequate, that the site is intrusive and visible from a number of properties and it encroaches into open countryside.

18. I conclude that the development through its impact on the character and appearance on the open countryside, and in the absence of highway information the development, is contrary to Policies S22 and EN2A of the Local Plan and to the Framework. It is also contrary to Policies S1 and S2 relating to sustainable development criteria and quality development.

19. The appeal on this ground fails.

Appeal B: the appeal on ground (a)

20. The appellant states that the layer of hardcore is commonplace when associated with farmyards and other rural establishments and that it has no visual impact. However, it follows therefore that as the use is unacceptable in Appeal A, the operational development of the formation of the hardstanding which facilitates that use is unnecessary and unacceptable in this location, where some harm to the character and appearance of the area is caused. Prior to the unauthorised development the site was a field of a totally different appearance to that of a site with an extensive area of hardstanding. It is contrary to Policy S22.

21. The appeal on this ground fails.

Appeals A and B: the appeals on ground (f)

22. An appeal on this ground is that the steps required to comply with the requirements of the notice are excessive, and that lesser steps would overcome the objections.

23. The appellant has not indicated what steps would be more appropriate.

24. The purpose of the requirements of a notice is to remedy the breach by discontinuing any use of the land or by restoring the land to its condition before the breach took place or to remedy an injury to amenity which has been caused by the breach. It is necessary for the requirements to match the matters alleged and therefore I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach. The requirements do not preclude the appellant doing what he is lawfully entitled to do in the future once the notice has been complied with.

25. The appeals on this ground fail in both Appeal A and Appeal B.

Conclusions

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

P N Jarratt

INSPECTOR