
Appeal Decision

Site Inspection on 27 May 2022

by Graham Self MA MSc FRTPI

Inspector appointed by the Secretary of State

Decision date: 9 June 2022

Appeal Reference: APP/F1610/C/22/3292522

Site South of Meadow View, Bourton on the Water, GL54 2EZ

- The appeal is made by Mr T Aldridge under section 174 of the Town and Country Planning Act 1990 as amended against an enforcement notice issued by Cotswold District Council.
- The council's reference is 21/00026/COU. (A reference 02/1761/FUL is also stated in brackets. The reference as stated by the appellant's agent is DS/C/21/434/SA).
- The notice is dated 10 January 2022.
- The breach of planning control alleged in the notice is: "Without planning permission, the change of use of the land from equestrian to a mixed use, consisting of the open storage of cars and other vehicles, the erection of ancillary buildings/structures and the formation of bunding on the land ('the unauthorised use')".
- The requirements of the notice and periods for compliance are:
 - (i) Permanently cease the unauthorised use of the land for the parking and storage of cars and other vehicles within six months from the date this notice takes effect;
 - (ii) Permanently remove from the land the unauthorised ancillary buildings/structures and bunding within six months from the date this notice takes effect; and
 - (iii) Restore the land to its authorised use within nine months from the date this notice takes effect.
- The appeal is proceeding on ground (f) as set out in section 174(2) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.

Summary of Decision: The enforcement notice is varied and upheld as varied. The appeal is dismissed.

Procedural Matters

1. The two-word name "Meadow View" in the heading above is taken from the enforcement notice. In some documents (including Appendix A of the Cotswold District Local Plan) the name is "Meadowview". The statement submitted for the appellant has page-headings "Meadowlands".
2. The site lies on the south-east side of the A429 road north-east of Bourton-on-the-Water. The north-western boundary next to the roadside verge is marked by

a high hedge, except in the northern part of the site where the access off the road is bordered by high walls.

3. My site inspection was “unaccompanied” (that is to say, it was arranged without the need for either the appellant or the council to be represented), and entry to the site was barred by a gate and a vehicle parked sideways across the entrance. As far as I could see, much of the site was grassed. A dwelling stood near the southern corner. Nearby there were four vehicles, and what appeared from a distance to be some pieces of timber or wooden containers.

Ground (f)

4. This ground of appeal claims that the requirements of the enforcement notice exceed what is necessary to remedy a breach of planning control.
5. The appeal site has evidently been the subject of various past planning applications, permissions and refusals. An extant enforcement notice (issued in 2014) also evidently applies to the site. The requirements of this notice included: cease the unauthorised use of the land as a permanent residential caravan site; remove the unauthorised caravans; cease the use of the land for parking and storing lorries, lorry trailers and lorry bodies. The compliance period was one month. This 2014 notice is in force (an appeal was apparently made but withdrawn).
6. The appellant, through his agent, has confirmed that the unauthorised use for parking and storing vehicles (paragraph 5(i) of the notice subject to the present appeal) will cease, that the ancillary buildings associated with storage and the bunding (paragraph 5(ii) of the notice) will be removed, and that the land will be restored (paragraph 5(iii) of the notice). The main argument raised on the appellant's behalf is that the enforcement notice is not clear on all matters at the site, because it does not clearly or directly identify the caravans or hardstanding to the front of the site. It is submitted for the appellant that it would be reasonable for the caravans to remain on the site taking into account a Local Plan policy identifying the site for the provision of four pitches, and that this could be regularised through the submission of a planning application.
7. The council has welcomed the appellant's intention to comply with the enforcement notice, and states that the other matters referred to in the appellant's statement are already the subject of an enforcement notice.
8. Some of the points raised on the appellant's behalf appear to be aimed more at the requirements of the earlier extant enforcement notice than the notice subject to this appeal. The suggestion that existing caravans should be permitted to remain and that their presence “can be regularised through submission of a formal planning application” is misguided, since there is no such application before me. The appellant's suggestion also seems to ignore the fact that the 2014 enforcement notice requires the use of the land as a permanent residential caravan site to cease.
9. In summary, I do not see any reason for finding that the requirements of the enforcement notice are excessive. Mr Aldridge's agent has accepted on the appellant's behalf that all of the steps specified as requirements will be carried out. No real case has been put forward to support the appeal on ground (f). I conclude that the appeal does not succeed.
10. Irrespective of that finding, there is a flaw in the notice. The requirement to “reinstate the land to its authorised use” goes beyond what is necessary or

reasonable because it purports to require the owner or occupier to use the land. Owners or occupiers of land cannot reasonably be forced to use their land for any purpose, as opposed to leaving the land unused. However, it would be reasonable to require the land to be restored to its *condition* (not its *use*) prior to the unauthorised development. I shall therefore make a suitable variation, using the powers available to me under Section 177(5) of the 1990 Act.

Formal Decision

11. I direct that the enforcement notice be varied by deleting the words "to its authorised use" from sub-paragraph (iii) of the requirements and substituting: "to its condition before the unauthorised development occurred". Subject to that variation, I dismiss the appeal and uphold the notice as varied.

G F Self

Inspector