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# Appeal Decision

Site visit made on 19 September 2023

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> October 2023**

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**Appeal Ref: APP/D2320/C/22/3313751**

**Land at Culshaws Farm, Holker Lane, Ulnes Walton, Leyland PR26 8LL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr David Wrennall against an enforcement notice issued by Chorley Borough Council.
  - The notice was issued on 23 November 2022.
  - The breach of planning control as alleged in the notice is without planning permission the unauthorised material change of use of the land and associated unauthorised operational development consisting of raised land levels and installation of hardstanding to facilitate that material change of use to a use for parking and storage purposes.
  - The requirements of the notice are to:
    - i) cease the use of the land for parking and storage purposes.
    - ii) remove from the land all vehicles, trailers, equipment and materials either parked or stored upon the land.
    - iii) remove all hardcore and material used to raise the land levels and form the hardstanding areas and restore the land back to the condition and level it was in before development commenced.
  - The periods for compliance with the requirements are:
    - a) in respect of 5.i) and 5.ii) within 1 (one) month after the notice takes effect.
    - b) in respect of 5.iii) within 4 (four) months after the notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (g) 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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## Decision

1. The appeal is dismissed, and the enforcement notice is upheld.

## Reasons

### The appeal on ground (e)

2. An appeal under ground (e) is that the enforcement notice was not properly served on everyone with an interest in the land.
3. The enforcement notice relates to a parcel of land broadly to the southwest of, and adjacent to Culshaw's Farm. The notice was served on an individual at the farm, and the company secretaries of three separate companies.
4. The appellant submits that the notice was not served on the owner and on the occupiers of the land which it relates to, and it is therefore invalid. On the other hand, the Council say that the land is owned and operated by Daniel John Wrennall and the three companies which he is director of.
5. According to the Title registered with the Land Registry, which the appeal site forms part of, none of the people or companies whom the notice was served have a legal interest in the land. The registered owner is the appellant. The notice was not served upon him even though a planning application, refused by

the Council relating to the appeal site was seemingly made by him. Yet, the notice appears to have been served on persons the Council considered to have an interest in the land which is materially affected by it.

6. Section 176(5) of the Act sets out that, where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.
7. In response to the appellant submitting their appeal under ground (e), the Council asked the appellant whether he had been substantially prejudiced by the failure to serve him with the notice. The Council was open to withdrawing the notice before re-serving it. In reply, the appellant stated that he had suffered material prejudice, and that the people who the notice has been served on do not have the legal right to enter the land owned by the appellant to carry out any work to comply with the requirements of the notice.
8. The appellant has not explained how or why they have been substantially prejudiced. Although they were not directly served with the notice, they have known about it given that they were able to make their appeal within time. As such, I am satisfied that they have not been substantially prejudiced by the Council's failure to serve the enforcement notice correctly. The appeal on ground (e) therefore fails.

### **The appeal on ground (a)**

#### **Main Issues**

9. The main issues in this case are: (a) whether the proposal is inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework); (b) the effect of the proposal on the character and appearance of the area; (c) the effect of the proposal on the living conditions of nearby residents, with particular regard to lighting; and (d) if the proposal is inappropriate development 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 inappropriate development*

10. The enforcement notice relates to operational development and a change of use. The appellant claims that the land subject of the notice is an additional farmyard area at Culshaws Farm, and it is for the purpose of agriculture. The appeal site is next to the farmyard which has been extended previously towards the appeal site.
11. The farming enterprise at Culshaws Farm is described by the appellant as a mixed grass and arable farming system. Grass and arable crop such as maize and wheat/barley is harvested from the land and stored at the farm along with agricultural vehicles and equipment such as tractors, trailers, mowers, forage harvesters which are used to provide the grass and arable crops.
12. Before the development took place, the land was an open, grassed agricultural field. By raising the ground levels and forming areas of hardstanding that facilitates the parking and storage of machinery and vehicles there has been an extension of the farmyard to the south and west. An engineering operation has therefore taken place.

13. Although the land is used to park and store agricultural machinery and materials in connection with the existing farm, it is also used to park and store a variety of agricultural related machinery, other heavy-duty machinery, HGV's and vehicles that are for hire as part of the agricultural contractor's business operating from the farm. Consequently, there has been a change in the character of activities taking place on the land, and hence the land is in mixed use as alleged.
14. Having regard to Framework paragraph 150 there has been a material change of use of the land, and engineering operations have taken place. Those are other forms of development that are not inappropriate in the Green Belt, providing they preserve its openness and do not conflict with the purposes of including land within it.
15. The development extends the farmyard into the countryside and has increased the area available to station and park machinery and vehicles which can be seen from the road and at least one public right of way in the area despite the presence of hedgerows and other landscaping. Although the development abuts the existing farmyard, it has caused a spatial and visual loss of openness. Thus, the proposal does not preserve the Green Belt's openness.
16. With regards to the purposes of the Green Belt, there may not have been any changes to the field boundaries, but the development has encroached into the countryside by increasing the envelope of the farm considerably with additional built form. Although ground levels are fairly flat, the nature of machinery and equipment stored on the land means that the use of the land is evident from the surrounding area and identifies the extension of the farmyard into the countryside. Therefore, the proposal conflicts with a purpose of including the land in the Green Belt.
17. The appellant says that the additional farmyard will be used for agricultural purposes only, but that is not what the evidence suggests. There may also be a real prospect of the land being used as a temporary car park. However, that could, under permitted development rights, be for a temporary 28 day period each year. Using the land in this manner would cause impacts to the openness and purposes of the Green Belt, but those effects would be time limited, unlike the permanent harm that is caused by the proposal. As such, the fallback position would be less harmful than the proposal and thus does not justify it.
18. The proposal is inappropriate development in the Green Belt, and conflicts with Framework paragraph 150. This is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The harm by reason of its inappropriateness carries substantial weight.

#### *Character and appearance*

19. The extension of the farmyard is of considerable scale and the hardcore base laid down to form the area, whilst functional in its layout and form, facilitates the storage and stationing of numerous large vehicles and large pieces of equipment, among other things. That said, the changes to the ground levels are not readily apparent in the surrounding area due to the topography of the area and the mature hedgerows to the north, south and western boundaries. Moreover, the use of hardcore means that less debris is transferred to the highway. However, the land protrudes away from the cluster of farm buildings and associated hardstanding, resulting in the open storage of machinery, vehicles and agricultural materials.

20. Although the existing farmyard is part of the character and appearance of the locality, the use of the land for parking and storage means that a harmful and jarring impact is caused on the surrounding area's character and appearance due to its siting and layout. I recognise vehicles and equipment can be moved around safely and the size of the area involved provides flexibility for the appellant, but these matters do not change my conclusion on this issue that the proposal has a significantly detrimental impact on the character and appearance of the area and conflicts with Policy BNE1 of the Chorley Local Plan 2012 – 2026 (Local Plan).

*Living conditions*

21. The development may be visible from residential properties, but these are some distance away and long-range views of the site are in conjunction with the existing farmyard and existing landscaping. Floodlighting could potentially mean that the development's effect would continue into the hours of darkness. However, there was no lighting on the land relating to the appeal site. As a result, the proposal does not cause a significantly detrimental impact on residents' living conditions, and no conflict arises with Local Plan Policy BNE1 in this regard.

*Other considerations*

22. The appellant says that the land in question was unproductive agricultural land. That may be so, but as there is no substantive evidence to support that view, this matter carries little weight.
23. The land is said by the appellant to be necessary for the business at Culshaws Farm as without it there would not be sufficient land to park and store agricultural vehicles, equipment and crops with the existing farmyard area already used to its full extent. This may be the case, but there is no analysis before me to support this and how the demand for space within the existing farmyard fluctuates throughout the year as is suggested. It is also unclear whether some vehicles or machinery could potentially be stored within the existing farmyard at certain times of year, either within buildings or around the yard itself. Nor is there any substantive evidence before me of the other locations which are said to have been considered by the appellant, or why they were rejected. I therefore attach limited weight to the need for the proposal.

Conclusion on ground (a)

24. The proposal is inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Green Belt harm attracts substantial weight. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
25. I consider that the other considerations do clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, I conclude that the proposal would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this.

**The appeal on ground (g)**

26. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed.

27. The time periods for compliance with the enforcement notice are either one or four months. The appellant considers a year is reasonable to comply with the notice based on the need for ecological surveys for protected species as the site is boarded by mature hedgerows, and as specialist contractors are required to undertake the groundworks.
28. Mature hedgerows extend along the site's north, south and western boundaries. There is no substantive evidence to confirm that birds use any of the hedgerows, but they could be due to their location next to agricultural fields and the nearby watercourse. However, the machinery and equipment on the land could be moved off the land without affecting the habitat that they may offer. Furthermore, given the time of year and the compliance periods, the hardcore could be removed outside of the bird breeding season and done so sensitively without affecting the habitat that the hedgerows may provide.
29. Requirements i) and ii) do not require specialist contractors to carry them out. Requirement iii) does involve removing hardcore and materials used to form the hardstanding and altering the site's ground levels, but even if the appellant needs to employ a ground contractor to do the work, no detailed evidence has been submitted by the appellant explaining why a ground contractor could not be employed and carry out the work involved to comply with requirement iii) within the four month time period.
30. According, I do not consider the time periods specified in the notice to fall short of what should reasonably be allowed, and the appeal on ground (g) fails.

### **Conclusion**

31. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Andrew McGlone*

INSPECTOR