



Appeal Decisions

Site visit made on 11 September 2023

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 05 October 2023

Appeal A: APP/E2340/C/22/3313082

Appeal B: APP/E2340/C/22/3313083

Land South of Heights House, Heights Lane, Fence

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mrs Lorraine Jones and Appeal B is made by Mr Mark Jones against an enforcement notice issued by Pendle Borough Council.
- The enforcement notice was issued on 28 November 2022.
- The breach of planning control as alleged in the notice is the unauthorised development of land by close formation of a hardstanding area and engineering operations by the alterations of an access. The unauthorised change of use of land by the siting of a caravan used for non-agricultural purposes.
- The requirements of the notice are:
 1. Permanently remove the caravan from the land and cease using the land for non-agricultural use.
 2. Remove all the hardstanding and sub-base material and reinstate the grassed field.
 3. Reinstall the wall to its former condition.
- The period for compliance with the requirements is one month.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on the grounds set out in section 174(2)(b) of the Town and Country Planning Act 1990 as amended.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld.

Appeals A and B on ground (b)

1. The ground of appeal is that the matter alleged in the enforcement notice has not occurred. In order to succeed on this ground it would need to be demonstrated that the formation of a hardstanding area and engineering operations by the alterations of an access and the unauthorised change of use of land by the siting of a caravan used for non-agricultural purposes had not occurred on the land.
2. The appellants' evidence is that the access has been widened, that a hardstanding has been laid and at the time the Notice was served, a small caravan was sited on the land. Therefore, in the absence of detailed evidence with respect to the use of the caravan, as a matter of fact those matters had occurred and the appeals on ground (b) cannot succeed.

Appeal A on ground (a)

3. The ground of appeal is that planning permission should be granted. The main issue is the effect on the character and appearance of the Trough of Bowland Area of Outstanding Beauty (AONB).

AONB

4. Paragraph 176 of the Framework considers the potential impact of development within an AONB and notes that *"great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas"*.
5. The appeal site is situated adjacent to the corner of Noggarth Road and Heights Lane near to the village of Fence. The roads are important gateways into the AONB and are extensively used for that purpose. It is positioned on the southern boundary of the AONB and the land rises upwards in a northerly direction and to the north and west is agricultural land.
6. Policy ENV1 of the Local Plan for Pendle – Core Strategy 2011-2030 Adopted 17 December 2015 (the CS) relates to protecting and enhancing the natural and historic environment, stating that great weight will be given to conserving the landscape of the AONB and proposals should be in scale with, and have respect for their surroundings. Policy ENV2 seeks to achieve quality in design and conservation and requires development to be attractive to look at and contribute to a sense of place.
7. The original gated entrance onto the land was relatively simple and unintrusive within its agricultural landscape setting. In addition, it appears that it may have only been used as a relatively narrow secondary access onto Noggarth Road with little evidence of vehicular access or wear and tear near the entrance to the field. In contrast, the access has been significantly widened and altered with an area of hardstanding created in the field. The overall composition conflicts greatly with the attractive rural surroundings and appears as a visually prominent and intrusive development at odds with the countryside.
8. The appellant has stated that the access is required to allow larger vehicles to access the site to assist deliveries of large amounts of animal feed and hay for winter feeding and to deliver large water containers for animals as there is no water supply. There is another access onto the land and there is insufficient evidence why this cannot be used for deliveries and, furthermore, there is little evidence of current and future livestock numbers and agricultural activities taking place on the land, more generally. Consequently, there is insufficient evidence to justify the altered access arrangements which are harmful to the landscape setting.
9. The appellant has also argued that the hardstanding area is drainage which was required because the land was flooding and animals were getting stuck in the resultant water-logged area. However, the photographs submitted and my own observations show that an area of hardstanding was laid on site to facilitate storage. There is no evidence of any other drainage works on site which form a comprehensive solution to any flooding problems and there is no clear justification of how the development was designed and is used to improve drainage. As such I give this little weight on the planning balance of this case.
10. The appellant contends that the caravan was required for health and safety requirements of staff and to store medication and sprays for animals. However, there are very few details of any agricultural business activities and the evidence before me is that the land was acquired relatively recently and

does not form part of another agricultural enterprise. There is currently a small number of livestock on site and I understand this was the case at the time the Notice was served. I have no details of staff numbers or activities and consequently, there is no clear justification for the caravan. In addition, even if there is a need for some kind of staff accommodation or shelter, there is no evidence before me of other options explored which may be less visually prominent and intrusive within the sensitive landscape. I understand that the caravan the subject of the Notice has been removed, but that forms part of the development before me and therefore that is what I am considering under ground (a) the deemed planning application.

11. I am also aware that the appellant has recently applied for a two-horse stable on the land which would not be considered agricultural activity but more likely to be hobby related equestrian activity which would not justify the accommodation provided.
12. Therefore, on this issue I conclude that the development has a harmful effect on the character and appearance of the Trough of Bowland AONB and conflicts with Policies ENV1 and ENV2 of the CS and the Framework.

Other matters

13. The appellant has stated that a wider access is required for delivering goods to the site and the adjacent road is narrow and frequently blocked by passing vehicles, wagons and buses. However, I have also noted the concerns expressed on behalf of the Highway Authority, Lancashire County Council. There are clearly some concerns about aspects of the access arrangements including the material used between the rear carriageway edge and the internal field gates, drainage, lack of swept path analysis and visibility splays. There is insufficient evidence provided to allow the Authority to fully assess the impact of the intensification of the use of the access on the surrounding highway network. That being the case, although there are no records of collisions outside the field access within the last five years, I am not satisfied that the development would not lead to harmful effects on the safe, convenient and efficient movement of highway users in the vicinity of the new access.

Conclusion

14. I have found that, on the basis of the evidence before me, the development is harmful to the character and appearance of the AONB. In addition, there are concerns regarding highway safety. I have taken account of the evidence submitted but there are no considerations which outweigh the concerns I have expressed above. Therefore, the development conflicts with the development plan as a whole and the appeal on ground (a) does not succeed.

Formal Decision

15. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

A A Phillips

INSPECTOR