



Appeal Decision

Hearing held on 24 October 2023

Site visit made on 24 October 2023

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 06 November 2023

Appeal Ref: APP/P1615/C/22/3304038

Land North of Rookery Lane, 'Newjoy', Newland, Coleford, Gloucestershire, GL16 8NJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Lorna Ann Fisher against an enforcement notice issued by Forest of Dean District Council.
 - The notice, referenced EN/0066/20, was issued on 24 June 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from equestrian to a leisure plot with residential use and canine training/facility, use of stable block for storage and residential use, ancillary touring caravan and campervan with residential use and storage and associated paraphernalia.
 - The requirements of the notice are: 1) Cease the residential use of the site within the redline area marked on the site location plan. 2) Cease the use of the land for canine training/skills/scent courses and facility within the redline area marked on the site location plan. 3) Cease the use of the land for the storage of caravans and camper vans at the site outlined in red on the site location plan. 4) Remove from the land the ancillary touring caravan, washing line, seating area and toilet facility housed in the outbuilding and all other residential paraphernalia stored within the outbuildings and stable building from within the blue hatched area marked on the site location plan, as shown in the photographs in Appendix 2. 5) Cease the B8 use of the stable as residential storage from within the blue hatched area marked on the site location plan. 6) Remove from the land all resultant materials generated through compliance with steps 1-5 above.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f), (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. It is directed that the enforcement notice is corrected by deleting the words "from equestrian" from the allegation and by substituting the plan attached to this decision for the plan attached to the notice.
2. Subject to these corrections the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Applications for costs

3. Applications were made by the Council and by the third party representative and are dealt with in a separate decision.

Preliminary Matters

4. The background to the appeal is that the appellant, who has joint British and Australian nationality returned to the UK in 2015 to help her sister care for her aged parents who eventually passed away in 2017. She purchased the site in 2018. According to her written statement from October 2020, she has a background in farming and education and intended to turn it into a small holding. In order to raise funds she travelled all over the UK as, amongst other things, a property caretaker and pet sitter. Her plans were derailed by the Covid outbreak and her statement contains some rather broad brush proposals for the smallholding concept.
5. The 2020 statement is the most recent evidence from the appellant who, I was informed at the hearing, has now returned to live in Australia. It was clarified that she would return to the UK if she received planning permission for the dog training school on the site, otherwise she has no plans to return.
6. As I saw on the site visit the notice has effectively been complied with. There is no longer a residential use on the site and I was informed the touring caravan and campervan have been sold or given away. All the outdoor residential paraphernalia has been removed and the site is now just a series of paddocks with a stable/barn building, an outbuilding or log store nearby and further up the hill another shed or log store standing in an area of excavated ground.
7. Looking in the buildings there was some residual storage of random items, an old car, table and a fridge/freezer, plus sundry tools, fencing and other materials that would probably be ancillary to the lawful equestrian use. The amount of non-ancillary storage is so small as to be de minimis. The appellant has apparently shipped most of the furniture to Australia. All that remains is part of requirement 4 to remove the "toilet facility housed in the outbuilding", and this consists only of a bucket with a toilet seat fixed over it. Thus the only matter of genuine dispute at the Hearing was the suitability of the site for a dog training business.

The Notice

8. Various issues were raised concerning the notice and I shall deal with those here. Firstly the red line on the plan accidentally covered slightly too much ground, the most westerly 10m of the site were actually in the ownership of a Mr Bath, a nearby farmer. At the Hearing a letter from him was produced that explained he and the appellant had been involved in a land swap that affected the western end of the field. A revised plan was provided by the Council based on Mr Bath's statement. It is correct that no land registry or conveyancing evidence was provided to confirm this, but as it only affects a small part of the edge of the site, and the only person potentially affected is Mr Bath there would be no injustice in adopting the plan. I have no reason to doubt the accuracy of the plan and shall substitute it for the one attached to the notice.
9. The notice is not required to identify the previous use, but in this case it states it was equestrian. The appellant's agent pointed out the equestrian use had been granted in 2013 and only covered roughly a third of the appeal site so it was actually a mixed use of agriculture and equestrian. Nothing turns on this and I shall delete the reference to "equestrian" from the allegation.

10. The various concerns as to what exactly was alleged were misplaced as the allegation is clear, it is directed against a residential use involving part of the stable building, the campervan and the touring caravan, as well as the creation of a 'garden' or leisure plot. It is also directed against storage in the stable building and the campervan and tourer, the use of the land for a dog training school and the storage of vehicles, namely the campervan and tourer. There is some overlap between these items as it was far from clear (and remains uncertain) exactly what was going on at the site when the notice was issued.

The Appeal on Ground (c)

11. This ground is that the matters alleged have planning permission. The agent originally argued that some of the matters were ancillary to the lawful use of the land. This clearly is incorrect, as neither residential use or storage of domestic goods or vehicles is ancillary to an equestrian/agriculture use and certainly a dog training school is not. This ground was not argued at the hearing.
12. There is a suggestion of a hidden ground (b) regarding the residential use as the appellant denies living at the site. There is very little actual evidence for or against this contention. However, she does say she lived in her campervan at the site until the nearby camp site opened (after Covid) when she took the van to sleep there, returning during the day. Neighbours and the Council argue that there was at least regular if intermittent use of the land for overnight stays. A 2021 visit by Council officers recorded the presence of the campervan and the appellant admitted to the officer she did stay at the site at weekends when she was not living elsewhere and there were chairs and a washing line outdoors on a piece of land that had been excavated to make it level.
13. The appellant clearly has an itinerant lifestyle and has no permanent residence. She uses her sister's address for post and has stayed there as well. However, bearing in mind the paucity of the evidence and given the way the site was set up for residential use, it seems to me on the balance of probabilities that she did live there as more than an occasional use, and the allegation of a mixed residential/leisure/storage and dog training use is correct.

The Appeal on Ground (a)

14. Originally this encompassed the storage use and a 2 year temporary permission was requested. Given the change of circumstances by the time of the Hearing it was agreed the ground (a) was only for the dog training facility.
15. The notice identified harm to the open countryside, to the rural character of the landscape, visual amenity and biodiversity. Later they added harm to the setting of the conservation area and nearby listed buildings. Given the statutory protection granted to conservation areas and listed buildings it is right to consider this and the appellant was given plenty of time to produce evidence of her own so there is no injustice in considering this issue as well.
16. A number of development plan policies are relevant. AP5 seeks to protect local character, especially the built form and setting of traditional forest settlements. The Core Strategy seeks to direct development to existing built up areas and this is made clear in CSP4. CSP1 requires the impact on the AONB to be taken into account when considering any development proposals, while CSP7, which deals with the local economy, requires any development to take account of the

spatial hierarchy as identified in CSP4. In other words there is a general presumption against any development that would detract from the character of the AONB or the local village or any heritage assets.

17. The site lies on the very southern edge of Newland in a stream valley, the land rises to the west giving views across the valley to the village. The village itself rises uphill to the north-west and the surrounding landscape is very attractive. The village contains several listed buildings, the nearest being Rose Cottage which can be clearly some 50m away as the site rises up the hill. The Newland conservation area boundary runs along Laundry Road close to the northern boundary of the site and touches the site boundary where the site meets the road. A track, which is also a cycle route, runs uphill to the south of the site and provides views across the site to the village.
18. In my view this is a sensitive location, prominent in views towards the village and the countryside beyond and any development would have to take considerable care not to damage the attractive landscape character of the AONB. As to the listed buildings I am not convinced the setting of Rose Cottage extends to the appeal site so there is harm to the listed building, but the impact on the conservation area is clearly greater. Views across the site into the village have the potential to be disrupted by activities on the site and so to cause less than substantial harm to the setting of the conservation area.
19. The problem with determining this appeal is the extremely vague nature of the appellant's proposal. At the Hearing it was suggested she just wants to continue with a low key, occasional dog training use, as had been undertaken in the last few years. However, this does not sit easily with the claim she will only return from Australia if permission is granted, which suggests she would need a rather more economically sound proposition than the occasional training course.
20. It was pointed out there was no budget, or business plan and no market research had been undertaken. The Council had no idea how many people were likely to turn up for the courses or how often they would run. Several have been held in the past as the appellant's Facebook posts show and the Council had photographs of parking at the site for three such courses. These photographs showed a variety of cars and vans on the site, in one case over a dozen vehicles parked on the rising ground clearly visible from the road.
21. I share the Council's concern that regular parking of vehicles in these numbers would be visually intrusive and harmful to the landscape character and the setting of the conservation area. The photographs were all taken on sunny days, but one Facebook post shows a course held in the snow. Parking on-site would be difficult in wet conditions without extensive hardstanding being laid. There is already a gravelled hardstanding on the site, which was allowed as part of the 2013 stables permission, though this is now mostly hidden beneath grass. However, the plans for that permission show an area somewhat smaller than that used for parking in at least one of the photographs. An extended hard surface would add to the landscape harm, while parking on the road into the village would be equally visually intrusive.
22. There is also the question of traffic movements in what is a quiet and somewhat remote location. I am not sure there would be any highway danger, but it would certainly be noisy and intrusive as might the barking of dogs. It might be possible to run a low key business/hobby here but it is far from clear

that is what the appellant would want, or what volume of business she would consider acceptable. It was suggested this could be left to conditions, but it is unclear what the eventual numbers and frequencies would be and such a condition would be hopelessly uncertain. I agree with Mr Fox that on such a sensitive rural site in the AONB and adjacent to a conservation area the material change of use for business purposes should be accompanied by the sort of details mentioned above concerning viability, purpose, and overall impacts.

23. There is no question in my mind that the proposal, such as it is, is contrary to the policies referred to above. I have borne in mind the fallback which would be an agricultural/equestrian use, but this would be on a modest site and would be highly unlikely to generate the amount and frequency of traffic or noise that would be likely to be associated with a dog training business. The appeal on ground (a) fails.

The appeal on ground (f)

24. It was agreed at the Hearing the requirements had all been met except for removing the toilet from the shed. It was also agreed that the notice did not prevent the lawful use of the site for agriculture or equine purposes and any associated vehicles. What it did do was prevent the *storage* of vehicles on the land, which would not be ancillary to any of the lawful uses. Consequently there was no ground (f) to consider.

25. For similar reasons the ground (g) was unnecessary.

Conclusion

26. I shall dismiss the appeal and uphold the notice subject to correcting the allegation to remove the reference to the previous use and substituting a new plan.

Simon Hand MA

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Tuffnell – agent
Mary and Nigel Dutson – sister and brother-in-law of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Colegate – Principal Planning Officer
Robert Fox – Agricultural consultant
Minette Matthews – Conservation Officer

INTERESTED PARTIES:

Sean Hannaby – representing local residents

DOCUMENTS

1. Letter from Mr Bath
2. Revised enforcement notice plan
3. Application for an award of costs by the Council



Plan

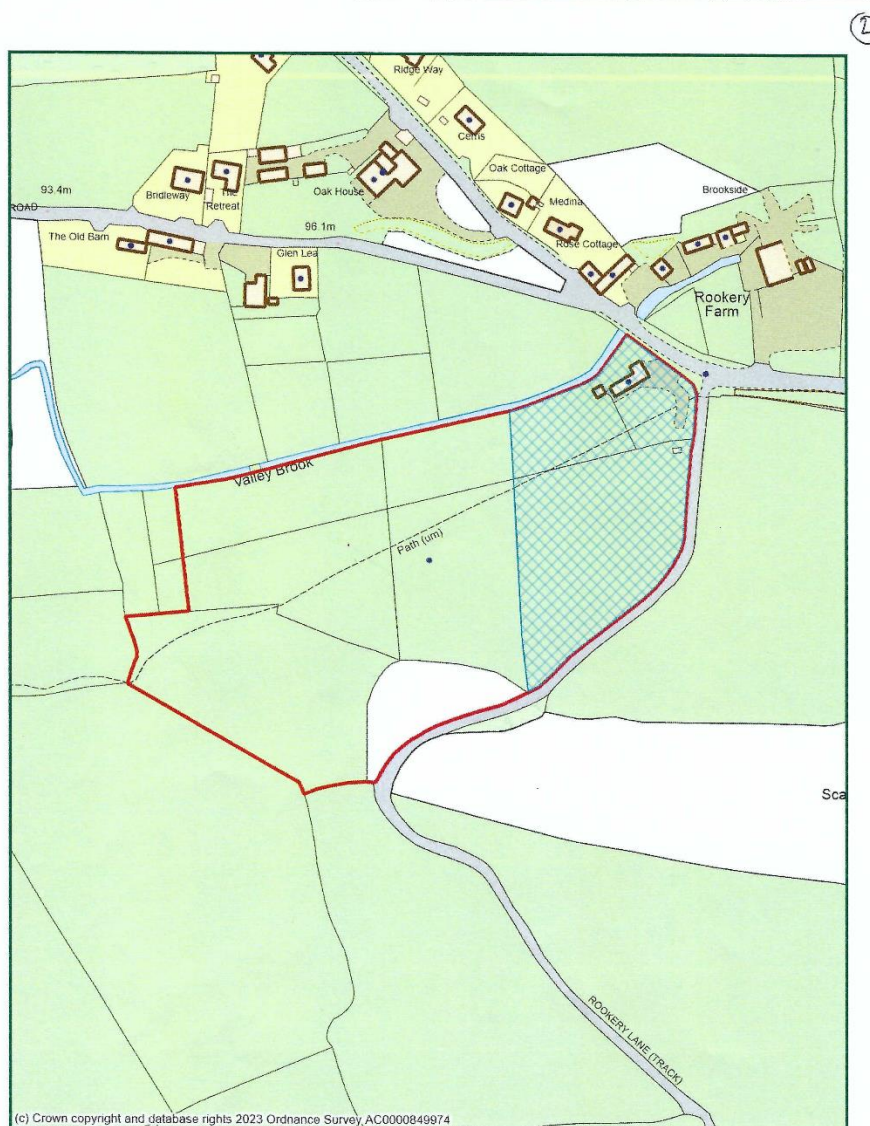
This is the plan referred to in the enforcement appeal decision dated: 06 November 2023

by **Simon Hand MA**

**Land at: Land North of Rookery Lane, 'Newjoy', Newland, Coleford,
Gloucestershire, GL16 8NJ**

Reference: APP/P1615/C/22/3304038

Scale: not to scale



Appendix 1 - Enforcement Notice Plan

Land North of Rookery Lane, Newland

Scale: 1:2000
19 October 2023

