



Appeal Decision

Site visit made on 16 April 2024

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date 17 June 2024

Appeal Ref: APP/A0665/C/23/3326536

Home Farm, Chapel House Lane, Puddington, Neston, Chester, Cheshire, CH64 5SW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr H Houlbrook against an enforcement notice issued by Cheshire West and Chester Council.
 - The notice was issued on 20 June 2023.
 - The breach of planning control as alleged in the notice is material change of use of land for the storage of caravans, motorhomes, motorcars, boats or trailers.
 - The requirements of the notice are to: 5.1 Cease the use of the land for the storage of caravans, motorhomes, motorcars, boats or trailers. 5.2 Remove all stored caravans, motorhomes, motorcars, boats or trailers from the land as outlined in red on the attached enforcement plan.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (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: the deletion of 2 months and its substitution with 6 months as the time for compliance; and the substitution of the plan annexed to this decision for the plan attached to the enforcement notice.
2. Subject to the correction, 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.

Site History

3. Planning permission was granted for part of the appeal land in 2012 (Ref:12/03040/FUL) for change of use of buildings and land from use for the storage of caravans to use for the storage of caravans, cars, boats and trailers ("the 2012 Permission"). The most relevant conditions on the 2012 Permission for the purposes of this appeal are:

Condition 3

The use hereby permitted shall relate to the storage of caravans, motor vehicles, boats and trailers only and shall not be used for any other purpose within Class B8 to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Condition 4

The storage of items as specified in condition 3 of this permission shall take place only within the buildings or on the area shown as hatched on the plan submitted on 13 August 2012 and there shall be no storage on the area marked as green on that plan at any time.

Condition 6

The area shown as green on the plan submitted in (sic) the 13th August 2012 shall only be used for the collection and delivery and the items as specified in condition 3 of this permission to be stored in accordance with condition 4 of this permission between the hours of 8am and 8pm Monday to Saturday and 9am to 5pm Sundays and Bank Holidays and there shall be a maximum number of 5 items being collected or delivered in these areas at any one time between those hours. Outside those hours, there shall be no collection or delivery of items and no storage of items on the area shown as green whatsoever.

4. The planning unit has changed since the grant of the 2012 Permission and now includes the additional land to the south of the buildings. The 2012 Permission permits the storage use on the whole of the original site but restricts the operation of that use in relation to the land shown marked green on the approved plan (the external area to the front of the building). The land identified in the notice differs from that covered by the 2012 Permission because it only includes the external parts of the site. It does not include the areas on which the buildings are sited, and it also includes the more recently acquired land to the south.

The Notice

5. Section 173 of the 1990 Act requires that an enforcement notice shall state the matters which appear to constitute the breach of planning control and the paragraph of section 171A(1) within which the breach falls. In this case, the notice identifies all of the external land being used for storage but only alleges one breach, namely the material change of use. However, the land which was part of the planning unit when the 2012 Permission was granted already has a permitted storage use as part of the wider permission, albeit that Conditions 4 & 6 restrict the operation of that use so that storage, other than for collection or delivery, cannot take place outside on the original hardstanding at the front of the building.
6. Whilst the alleged material change of use is correct in relation to the more recently acquired land to the south of the building, the notice does not include necessary reference to the breach of conditions in relation to the outdoor land covered by the 2012 Permission. This means that it does not state both of the alleged breaches of planning control, or following on from that the correct paragraphs of s171A(1) (as both 171A(1)(a) and (b) should have been referenced).
7. Any defect, error or misdescription in the notice can be corrected as long as doing so with cause no injustice to the parties. I accept that the appellant understood that the purpose of the notice was to end the storage of caravans, motorhomes, motorcars, boats or trailers on the external areas to the front and side of the buildings on the site. However, the notice would have to be

fundamentally re-written in order to adequately describe both of the alleged breaches of planning control, not only to extend the description of the breaches but also to widen the land covered by the notice to include the buildings which form the main area of use under the 2012 Permission.

8. There is also an additional issue relating to the plan attached to the notice, and therefore the area covered by it. It is accepted that the plan includes an area of land which is in fact outside of the boundary wall of the site and agreed not to have been used as part of the storage use.
9. Correcting the notice to include an alleged breach of condition on the 2012 Permission would also lead to two separate deemed planning applications, one in relation to each breach. Whilst the main issues would be similar across both breaches, the matter to be considered in relation to the external land covered by the 2012 Permission would be whether permission should be granted without the relevant conditions attached. This ground of appeal can cover a range of issues, including whether the conditions in question are necessary or need to be changed, but also whether the condition is invalid, or the breach is immune from enforcement action.
10. I am not therefore satisfied that I can make this correction to the notice without causing injustice to the appellant in that it would deprive them of the opportunity to consider both the ground (a) and other potential grounds of appeal which could be brought in relation to an alleged breach of the conditions on the 2012 Permission.
11. However, I can remove this area of land (the external area included in the 2012 Permission) from notice so that it is corrected to only refer to the land to the south which was acquired after the 2012 Permission was implemented. I am satisfied that I can do so without causing injustice to either party as the alleged material change of use in relation to that part of the site is a correct description, and the appellant has had the opportunity to properly bring all relevant grounds of appeal and associated deemed planning application. The plan attached to the notice should therefore be corrected to identify just the additional land not included in the 2012 Permission to the south of the building.
12. Doing so deals with the appellant's ground (b) appeal and the issues raised regarding nullity so that it is no longer to consider this separately.

Ground (a) and deemed planning application

13. The main issues in relation to the deemed planning application for the remaining land are:
 - Whether the development is inappropriate development in the Green Belt having regard to the NPPF and any relevant development plan policies.
 - The effect of the development on the openness of the Green Belt.
 - The effect of the development on the landscape.
 - The effect of the development on the Puddington Conservation Area.
 - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Whether the development is inappropriate

14. The Framework advises that the essential characteristics of Green Belts are their openness and permanence.
15. Policy STRAT9 of the Cheshire West and Chester Council Local Plan ('the CWCCLP'), which forms part of the development plan for the area, advises that restrictions will apply to any development of land in the Green Belt in line with the Framework. It therefore complies with national policy.
16. Paragraph 155 of the Framework provides that material changes of use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
17. Views of the outdoor storage from outside of the site due to the boundary treatment and bund on the adjoining land are limited. However, openness has a spatial as well as a visual aspect to it and it is possible to see that the external areas are being used for storage which causes harm to the openness of the Green Belt. In addition, the development is in conflict with the purpose of Green Belt of assisting in safeguarding the countryside from encroachment.
18. The development is therefore inappropriate in the terms set out in the Framework, and in accordance with paragraph 153 I afford this harm substantial weight.

The effect of the development on the landscape

19. The development causes harm to the character and appearance of the area as the number and scale of stored vehicles and other items are incongruous in the countryside setting. This is also in conflict with Policy STRAT9 which provides that the intrinsic character and beauty of the countryside will be protected by restricting development to that which requires a countryside location. There is no operational need for a countryside location in this case, and whilst the 2012 Permission allowed rural diversification through the use of the buildings for storage, the external use was restricted in order to protect the character and appearance of the area. Nothing has changed in this respect, and permitting outdoor storage would cause visual harm, and be in conflict with the Framework and Policy STRAT9.

The effect of the development on the Puddington Conservation Area

20. The appeal site is within the Puddington Conservation Area ("the CA") which is a designated heritage asset. The appeal site and its immediate vicinity have changed greatly since its inclusion in the CA in 2009. It is evident from the aerial photographs submitted that several large agricultural buildings have been removed since that time.
21. However, the statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. This duty is reflected in Policy DM46 of the CWCCLP, and should be applied considering the effect of the development on the character or appearance of the area at the date of the determination.
22. The Puddington Conservation Area Appraisal 2008 states that :"*Its general character is one of restfulness due to its long-established rural character with*

its open landscapes in agricultural use, but also a sense of aristocratic grandeur imparted by the important agricultural legacy of the Massey estate in this settlement." There is a long history of a feudal village and associated agriculture, and this is married with a flat topography. The CA's significance therefore primarily arises from its historic and cultural interest, and of which agriculture has been an integral part. The area around Home Farm, in which the appeal site is located was included in the CA in 2009 in view of the buildings of merit surrounding the area, and the Edwardian built brick outbuildings are specifically highlighted.

23. The development adversely effects the CA by introducing permanent outdoor storage which can be seen from outside of the site within the wider landscape, and which is clearly not part of an agricultural use. The character and appearance of the external storage is at odds with the predominantly agricultural use of the immediate vicinity, and which is part of the defining characteristic of the CA.
24. The Framework advise that great weight should be given to the conservation of a designated heritage asset, which includes the CA. The harm caused in this case is less than substantial in the terms set out in the Framework, and it is therefore necessary to weigh this harm against the public benefits of the development. The most obvious benefit of the development is the expansion of the existing commercial business, and this is clearly of more benefit to the appellant privately than to the public overall, and does not outweigh the considerable importance and weight given to the harm caused to the CA as a heritage asset.
25. The harm caused to the CA is therefore in conflict with the Framework and Policy DM46.

Other considerations

26. The other considerations raised by the appellant are that the development is behind a fence, planting and bund, and so does not affect the openness or appearance of the area. I have already addressed these points earlier in my decision, and find that the openness and character and appearance of the area are adversely affected.
27. As such, there are no other considerations in this case which outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The appeal on ground (a) and the deemed planning application do not therefore succeed.

Ground (f)

28. The purpose of the notice was to remedy the breach of planning control, and the requirement to cease the use of the land for storage and remove the stored items does not exceed what is necessary to remedy the breach. The lesser steps suggested by the appellant by way of potential conditions would not remedy the breach of planning control.
29. The appeal on this ground does not therefore succeed.

Ground (g)

30. The appellant seeks 12 months for the compliance period. Whilst the appellant has submitted that the commercial contracts for storage are for 12 months this is not evident from the terms and conditions document provided which is contradictory in that it refers to both an annual rent being payable in advance, but also that "Rent is payable on the 1st of the month as per your contract until the end of your term." The terms and conditions provided do not guarantee a particular plot within the site.
31. There is nothing before me to show that the appeal site is currently being used at full capacity. The external area covered by the corrected notice and plan is proportionally much smaller than the internal storage available. It is therefore proportionate to extend the period to 6 months for compliance as items can be moved indoors as space becomes available or contracts come to an end.

Conclusion

32. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall correct and vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Zoë Franks

INSPECTOR



The Planning Inspectorate

Plan

This is the plan referred to in my decision dated 17 June 2024

by Zoë Franks, Solicitor

Land at: Home Farm, Chapel House Lane, Puddington, Neston, Chester, Cheshire, CH64 5SW

Reference: APP/A0665/C/23/3326536

Scale: not to scale

