



Appeal Decisions

Site visit made on 9 May 2024

by Elaine Gray MA, MSc, IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th June 2024

Appeal A Ref: APP/X1355/C/23/3328034

Appeal B Ref: APP/X1355/C/23/3328035

Appeal C Ref: APP/X1355/C/23/3328036

Plot 2, Land lying to the North East of St Aidans Terrace, Trimdon Station, Durham TS29 6BT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Pamela Duddin (Appeal A), Mr Anthony Tiffin (Appeal B) & Miss Victoria Tiffin (Appeal C) against an enforcement notice issued by Durham County Council.
 - The enforcement notice is dated 17 July 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the material change of use from agricultural land to a mixed use comprising of agriculture and siting of static caravan, erection of structures, excavation works and creation of hardstanding areas within the subject site to accommodate access/egress arrangements.
 - The requirements of the notice are:
 1. Permanently and completely cease the use of the land for the siting of static caravan and associated paraphernalia, and reinstate the land back to agricultural use.
 2. Permanently and completely remove the caravan from the site.
 3. Permanently and completely remove the following structures from the site:
 - Timber animal shelters/stables located along the southern boundary of the site;
 - 2 small timber structures located adjacent to the static caravan along the northern boundary of the site;
 - Chicken coop located along the southern boundary of the site;
 - 2 small storage cabinets located within a small fenced off area along the southern boundary of the site.
 4. Excavate all hardstanding area(s) that have been created within the subject site and remove all resultant materials completely and permanently from the site and dispose of these materials accordingly. Backfill all these area(s) with earth and 10cm of topsoil and re-seed with grass seed.
 5. Backfill all trenches created within the subject site with earth and 10cm of topsoil and re-seed with grass seed.
 - The period for compliance with the requirements is: 12 weeks.
 - The appeals are proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeals have 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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Decisions

1. It is directed that the enforcement notice be corrected by the deletion of the text of the allegation and its substitution with the text: 'Without planning permission the material change of use from agricultural land to a mixed use comprising of agriculture and siting of static caravan for health and welfare purposes, erection of structures, excavation works and creation of

hardstanding areas within the subject site to accommodate access/egress arrangements.'

2. Appeals A, B and C are dismissed, the deemed planning application is refused, and the enforcement notice, as corrected, is upheld.

The notice

3. With regard to the wording of the notice, it alleges the material change of use of the land from agriculture to a mixed use comprising of agriculture and siting of static caravan...' However, caravans may be used for a variety of different purposes. Therefore, it is essential that a notice does not simply allege the siting of a caravan, but also specifies what use of land the caravan is sited for.
4. The evidence shows that the caravan was sited to provide health and welfare facilities. I have therefore directed that the enforcement notice be corrected to reflect this use of the caravan. I am satisfied that no injustice arises to the parties as a result of this correction.

Preliminary Matters

5. Since the enforcement notice was issued, the Government published a revised National Planning Policy Framework (NPPF) on 19 December 2023 and updated it on 20 December 2023. I have taken the provisions of the revised NPPF into account in my consideration of the appeal.

Ground (a), and the deemed planning application

Main Issue

6. The main issue is the effect of the development on the character and appearance of the surrounding countryside.

Reasons

7. The appeal site at Plot 2 is in the middle of a series of three plots of land that abut each other. The land is outside any development limits, and is in the open countryside for planning purposes.
8. The site lies in the East Durham Limestone Plateau County Character Area, which forms part of the larger East Durham Magnesian Limestone Plateau National Character Area. A Google Earth screenshot dated May 2020 shows that the land was grassed over, with little sign of any development. On my visit, I saw that the surrounding land is largely agricultural in nature.
9. On their visit of 5 July 2023, planning officers noted the presence on site of a green static caravan, two small timber structures, a larger timber shed, a chicken coop, a small trotting trailer and some tables and chairs. In addition, a fenced off hardstanding area had been created, containing two small storage cabinets. More substantial concrete hardstanding had been created for access/egress to the site. Officers saw two horses grazing within a fenced off section of the land. Furthermore, some excavation associated with what appeared to be an extensive trench was evident.
10. The appellant has provided some information on the use of the land in the Planning Contravention Notice dated 5 May 2021. At that time, the static caravan was used for security and as a drying room. It was also used as a

facility to monitor a mare and a foal due to a high risk pregnancy/birth. Also present on the land was a mobile stable block, and the land was used for grazing. In her statement of case, the appellant explains that part of the land is set aside for planting to encourage wildlife, including insects and bees.

11. The appellant goes on to describe how Miss Tiffin was using the caravan for respite during her recovery from illness, and as a base from which to watch her children tend to their animals. The vehicle access was made because she was not able to walk the full length of the plot. Furthermore, the track avoided the grass being damaged by vehicle movements.
12. Policy 10 of the County Durham Plan (CDP) states that development in the countryside will not be permitted unless allowed for by specific policies in the plan, which are set out in footnote 56. Development may be allowed for by relevant policies within an adopted Neighbourhood Plan (NP), but there is no evidence that any such NP is relevant to this particular site. Policy 10 goes on to set out some further exceptions to the restriction on development in the open countryside, including economic development, infrastructure development, and development of existing buildings.
13. In terms of the use of the caravan for welfare and recuperation purposes, there is no policy support for this particular type of land use in this location. There is little evidence of the need for such a facility in this location that would justify the setting aside of the relevant policy requirements. The human health and welfare element of the new mixed use therefore conflicts with CDP Policy 10.
14. Of the exceptions noted above, the most relevant to the appeal scheme is the first limb of the economic development paragraph. In order to fulfil this exception, development must be necessary to support an existing agricultural or other existing rural land-based enterprise or associated farm diversification scheme, including the provision of new or the extension of existing building(s), structures or hard standings required for the functioning of the enterprise.
15. At paragraph 5.75 under CDP Policy 10, particular reference is made to the proliferation of modern agricultural building in the countryside. However, all proposals for 'agricultural' buildings in the countryside will be assessed to determine whether they are genuinely required for agricultural purposes and are of a commensurate scale for the intended purpose. Small scale non-commercial activity may also be acceptable where it is closely related to the appellant's existing residence.
16. All development should also be of a design, construction and scale which is suitable for and commensurate to the intended use. Any buildings, other structures and hard standings must be well related to the associated farmstead or business premises unless a clear need to ensure the effective functioning of the business for an alternative location can be demonstrated by the applicant.
17. In addition, CDP Policy 39 requires that new development will be permitted where it would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views.
18. In this case, the appeal site is not closely related to any existing residence, and so none of the development would fall within this category. CDP Policy 10 requires justification for the presence of new agricultural buildings in the open countryside, and no such evidence has been provided with the appeal

submissions. In the absence of the required information, the development of the timber structures, shed and chicken coop conflict with CDP Policy 10. The trailer may well relate to the keeping of horses on the land, but similarly, there is no justification as to why it needs to remain stored on the appeal site.

19. Turning then to the visual effect of the development, the static caravan, the structures, stored items and domestic paraphernalia appear as a notable intrusion on a rural site where previously no development existed. The track and the areas of hardstanding also change the open, pastoral quality of the land, and add to the intrusion of the unauthorised mixed use. These features are at odds with the open, verdant character of the site and the wider area. They have an urbanising quality that is out of keeping with the established landscape character of the surroundings.
20. It is the case that Plot 2 is not readily visible from the main road to the south. However, it is still visible to surrounding land users. In any event, paragraph 5.411 of the text below CDP Policy 39 is clear that the intrinsic character and beauty of the countryside are important both to the quality of life of local communities and the economic prosperity of the county as a whole. Therefore, although the site is in a relatively secluded position, the requirements of CDP Policy 39 remain applicable to the appeal scheme.
21. I acknowledge the concerns over the need for safe access to the plot, and the requirement to keep the access in good repair. However, no surfaced track is apparent in the screenshot of May 2020, and there is little evidence that the ground conditions could not be addressed through a more sympathetic intervention than laying down concrete on the land.
22. Furthermore, the site is located on the former Deaf Hill Colliery site and therefore there is the potential for 'made ground' and contamination to exist. The excavation of parts of the subject site may have inadvertently caused cross contamination of materials resulting in pollutants being released onto the land. In the absence of evidence to the contrary, this factor brings this element of the development in conflict with the aims of CDP Policy 31, which relates to amenity and pollution.

Other Matters

23. When the land was purchased, the appellant was given to understand that equestrian use was permitted. However, even where that is the case, it does not negate the need for planning permission for buildings or other development related to that use if they fall outside the limits of permitted development.
24. The appellant refers to planning permission ref: DM/22/00887/FPA, that has been granted on a similar plot of land near the appeal site. She suggests that, if the existing structures were altered to appear more agricultural, this would be justified as she has animals, a holding number and a DEFRA registration. Whilst such a proposal may be acceptable when it has been shown to meet policy requirements, no alternative scheme is before me for consideration. This factor therefore has not led me to a different conclusion on the main issue of the appeals.

Conclusion on ground (a)

25. In conclusion, I have found that the development unacceptably harms the character and appearance of the appeal site and the surrounding area. It

therefore conflicts with CDP Policy 10, which restricts development in the countryside, and with CDP Policy 39, which protects the character and quality of the landscape.

26. The development therefore conflicts with the development plan as a whole. Therefore, the appeals on ground (a) fail, and the deemed planning application is refused.

Ground (f)

27. Ground (f) is that the steps required to comply with the requirements of the notice are excessive.
28. The purposes of an enforcement notice are set out in section 173 of the Act. They are either to remedy the breach of planning control or to remedy injury to amenity. Since the notice requires the cessation of the mixed use of the site and the removal of the unauthorised development, the purpose is to remedy the breach.
29. The appellant feels that some of the steps required by the notice are excessive as any harm to the land is insufficient and she feels that she has only improved the area by creating a nature haven for a variety of wildlife and animals. Steps to increase biodiversity on the land are of course to be welcomed. However, there is little evidence to show that the development that is the subject of the appeals is necessary to achieve this aim.
30. The requirements are to cease the unauthorised mixed use of the site, and to remove all the physical items that facilitate the new mixed use. That being the case, and in the absence of any other obvious lesser steps that would remedy the breach, I find that the requirements of the notice are commensurate with its aims.
31. The appeals on ground (f) fail.

Ground (g)

32. Ground (g) is that the time given to comply with the notice, in this case 12 weeks, is too short.
33. The appellant previously requested an extension of time from the enforcement officers due to the postal system and not receiving the letters in good time, working away, work commitments and health issues, but the request was refused. However, the making of the appeals has stopped the clock in terms of the enforcement notice taking effect. The 12 week time frame will therefore come into force following the date of this decision, and is unaffected by any previous timescales discussed between the parties.
34. I note that Mr Tiffin works away and only returns home occasionally on a weekend. Miss Tiffin has health conditions, as indicated above. Mrs Duddin is working three jobs full time and also assisting Miss Tiffin with her ongoing health conditions in work and personal life. Whilst I acknowledge these difficulties, the appellant does not indicate a time frame that she considers would be more reasonable for the work to be done.
35. In practical terms, the majority of the requirements are to remove the unauthorised items from the site. This work should not be particularly complex or time consuming, and would not require any specialist skills. There is no

indication that it would take more than 12 weeks for the excavation of any hardstanding areas and reseeding them.

36. Taking these factors into account, I find that 12 weeks is a reasonable time scale to allow the carrying out of the requirements.

37. The appeals on ground (g) fail.

Overall conclusion

38. Appeals A, B and C are dismissed, the deemed planning application is refused, and the enforcement notice, as corrected, is upheld.

Elaine Gray

INSPECTOR