

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/23/3334628

Appeal B Ref: APP/X1355/C/23/3334629

Appeal C Ref: APP/X1355/C/23/3334630

Plot 3, 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 9 November 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission the material change of use of the Land from agricultural to a mixed use for agriculture and storage purposes, including storage of caravans, and scrap material, domestic and leisure items and paraphernalia. Without planning permission the operational development consisting of the construction of hardstanding areas within the Land to accommodate access/egress arrangements.
 - The requirements of the notice are:
 1. Permanently cease the use of the Land for the storage of caravans, removing all caravans from the Land.
 2. Permanently cease the use of the land for storage of scrap materials.
 3. Permanently cease the use of the Land for storage purposes.
 4. Permanently cease the use of the land for recreational and leisure use.
 5. Permanently remove the following structures and paraphernalia from the Land:
 - small aluminium storage container;
 - all furniture and chairs, and domestic items and paraphernalia;
 - all wooden planks, pallets and fence panels; and
 - filing cabinets.
 6. Excavate all hardstanding area(s) that have been created within the Land and remove all resultant materials from the site and dispose of these materials accordingly. To reinstate the Land backfill all the excavated area(s) 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 first sentence of the allegation in full, and its substitution with the text:
'Without planning permission the material change of use of the Land from agricultural to a mixed use for agriculture, leisure and recreation, and storage purposes, including storage of caravans, and scrap material, domestic and leisure items and paraphernalia.'

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. The allegation refers to the material change of use of the land to agriculture and storage purposes, including storage of caravans, and scrap material, domestic and leisure items and paraphernalia.
4. In addition, the evidence shows that there is a clear element of leisure and recreational use within the new mixed use of the appeal site. This is reflected in the fourth requirement of the notice, which is to 'Permanently cease the use of the Land for recreational and leisure use.' However, the allegation is less specific, referring only to the storage of leisure items. Therefore, in the interests of clarity, I have directed that the allegation be corrected to encompass the leisure and recreational use of the land. The wording of the fourth requirement will then flow more logically from the allegation. I am satisfied that no injustice arises to any party from this change.

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 3 is at the western end 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 previously grassed over, with little sign of any development. On my visit, I saw that the surrounding land is largely agricultural in nature, with the exception of some development to the south-east, close to the access track. The majority of Plot 3 remains as open pasture, with the physical elements of the development concentrated in the north-east corner of the plot.
9. The appellant provides some further information about the development in the Planning Contravention Notice response dated 9 March 2021. She describes the use of the site as being for leisure and recreational purposes for herself, her family and her pets. She has planted conifers and fruit trees to encourage wildlife and nature. In her statement of case, the appellant also confirms that horses belonging to family members use the land for grazing.
10. The touring caravan, which I saw on site, is described as a small space for the appellant and her dogs to rest. Areas of hardstanding and a number of tables

and chairs are present which facilitate the leisure and recreational uses described. A larger caravan is referred to, which has been used for changing when spending leisure time at the site or working the field for personal use, and for storage. A number of other items appeared to be stored on the land.

11. 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.
12. The last limb of the economic development paragraph deals with the undertaking of non-commercial agricultural activity. However, such activity should be located within or directly adjoining the applicant's existing residential curtilage which is of a scale commensurate to the incidental enjoyment of that existing dwelling. In this case, the land has no association with any dwelling or domestic curtilage, and so the appellant's activities relating to the planting and working of the land for recreation does not fall within this exception. There is no evidence that the storage element of the mixed use relates to any economic or infrastructure development.
13. 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.
14. The caravans, 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.
15. I acknowledge the concerns over the need for safe access to the plot. 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.
16. I agree that the site 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.

Other Matters

17. The appellant argues that both the caravans are on wheels and can be moved off site as needed. Nonetheless, were I to grant planning permission for the appeal scheme, the caravans could remain there indefinitely. In view of the

harm I have identified, the fact that they could be removed at some unspecified time in the future would not justify a grant of permission in this particular case.

Conclusion on ground (a)

18. In summation, I conclude 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.
19. The development conflicts with the development plan as a whole. Therefore, the appeals on ground (a) fail, and the deemed planning application is refused.

Ground (f)

20. Ground (f) is that the steps required to comply with the requirements of the notice are excessive.
21. 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.
22. The appellant argues that some of the steps required 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 appeal is necessary to achieve this aim.
23. 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.
24. The appeals on ground (f) fail.

Ground (g)

25. Ground (g) is that the time given to comply with the notice is too short.
26. The appellant explains that she previously requested an extension of time due to the postal system and not receiving letters in good time. However, the original enforcement notice was withdrawn, and a second enforcement notice was issued. She tried to get ecology surveys done, but all of the companies approached were unable to supply within the time frame given. 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.
27. The enforcement notice that is the subject of the appeal gives 12 weeks for the carrying out of the requirements. The appellant does not indicate a time frame

that she considers would be more reasonable for the work to be done. 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.

28. I note that the appellant wishes to wait to remove the materials stored on the field once it dries out. As it is now early summer at the time of writing, the time period will cover the drier summer months, making access easier.
29. Taking these factors into account, I find that 12 weeks is a reasonable time scale to allow the carrying out of the requirements.
30. The appeals on ground (g) fail.

Conclusion

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

Elaine Gray

INSPECTOR