
Appeal Decision

Site visit made on 28 May 2024

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2024

Appeal ref: APP/T2350/C/23/3318459

North-West side of Pendleton Road, Wiswell, Clitheroe BB7 9BZ

- The appeal was made by Mr T McSorley under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Ribble Valley Borough Council.
- The notice was issued on 8 February 2023; reference SB/SMS.
- The breach of planning control was: Without planning permission, the carrying out of engineering operations and other installations on the Land including creation of areas of hardstanding, installation of CCTV on a building, erection of a free standing post for CCTV, installation of infrastructure for a stand-alone solar array of dimensions which exceed that permitted by the Town and Country (General Permitted Development) (England) Order 2015 (as amended) ("the Order").
- The requirements of the notice are:
 - (i) Remove the hardstanding, CCTV, CCTV post, solar panels, and associated infrastructure, except that which would be permitted under Schedule 2 of the Order.
 - (ii) Remove from the land all building materials and rubble arising from compliance with requirement (i) above, and restore the land to its condition before the breach took place by levelling the ground and re-seeding it with grass.
- The periods for compliance with the steps set out above are:
 - (i) 12 weeks from the date this notice takes effect.
 - (ii) 26 weeks from the date this notice takes effect.
- The appeal was made on grounds (a), (c) and (f) as set out in the amended Act. 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.

Summary of decision: The enforcement notice is upheld.

Appeal

1. The appeal concerns an enforcement notice issued in respect of the construction of a hardstanding, CCTV installations, an array of solar panels and associated equipment on a parcel of 1.6ha of open grassland on the north-west side of Pendleton Road, Wiswell.

The appeal on ground (c)

2. The appeal on ground (c) asserts that the matters set out in the notice's allegation did not constitute a breach of planning control. The Appellant, Mr McSorley, said he had bought the appeal site to create a self-sufficient small

holding to provide food for himself in the future through the growing of crops and the limited breeding of animals. Inert wastes had been imported to construct an access and to form a hardstanding. According to the Council, Mr McSorley had said a hardstanding area measuring 110m² was needed to form an access to his agricultural land. However, the Council pointed out that a 350m² area of hardstanding had been laid. Further works had also been added to the access.

3. The ground (c) appeal was limited to the lawfulness or otherwise of the hardstanding. Mr McSorley said the hardstanding works were development permitted by Schedule 2, Part 6, Class B(e) and B(f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, that applied to his 1.6ha holding, (units of more than 0.4ha but less than 5ha). He said the ground (c) appeal development consisted of hardstanding at the entrance to the site measuring 350m² which was below the 1000m² permitted.
4. Class B permitted development requires, however, that the development is reasonably necessary for the purposes of agriculture within the unit. In my view, the Council were right to say that had not been demonstrated. The large timber building on the land was empty when I was there, there were no animals on site, no plants or crops in the wind damaged small greenhouse and no horticultural plants in the several overgrown raised beds. The field was open grassland, with no evidence of a grazing or silage crop use. The open entrance to the land was unsecured. In all, there was no visible evidence of an active agricultural use of the land.
5. Mr McSorley needed to show the hardstanding was reasonably necessary for the purposes of agriculture within the unit. In my view, that was not done. Nothing other than an aspiration that the 1.6ha parcel of land was to become a self-sufficient small holding was forthcoming. No evidence to how this was to be done, financed or justified was submitted. It was not shown how the hardstanding works were reasonably necessary for the purposes of agriculture. They were not works permitted by Class B, Part 6 of the Order. The appeal on ground (c) fails.

The appeal on ground (a)

6. This appeal asks that planning permission is granted for the construction of the area of hardstanding in excess of that permitted, the CCTV installations and for the array of solar panels and associated equipment on Mr McSorley's land.
7. The hardstanding formed with inert building wastes, particularly as shown in the 22 December 2022 photograph taken close to the site's north-eastern boundary, (Appendix 3, Council's statement), including broken brick and crushed concrete, appeared ill-fitting and misplaced in the surrounding otherwise pleasant open grassland. Some of this hardstanding has been covered by new grass growth, but the harmful intrusion to the immediate area remains. As the Council said, it is not in keeping with the rural character of the landscape. That is contrary to Policies EN2, DMG1 and DME2 of the Ribble Valley Adopted Core Strategy, drawn up to help protect the rural landscape from harmful development.

8. The CCTV cameras fixed to the timber building are small. They could be painted to match the building they are fixed onto. But they, and the pole mounted 3 further cameras seemed unnecessarily excessive, more appropriate to an urban or industrial site. They appeared out of place and unhappily discordant. Although it was said that the building on the land was to store animal feeds, medicines, tools and machinery to maintain the site and to keep fencing wire and posts, no such materials were seen on site to justify the unusual number of security cameras. I agree with the Council that the CCTV cameras on the appeal land appear excessive and unjustified quite unsuited to the rural setting.
9. The solar panel array set up close to the north-eastern boundary of Mr McSorley's land is a conspicuous and ill-fitting feature. It was said that the electricity generated was for a wide range of uses: charging batteries of a tractor, car, excavator and dumper; charging electric all terrain vehicle; use of electric power tools: strimmer, mower, chainsaw, hedge trimmers, kettle, microwave, CCTV for security; greenhouse lighting and heating; heated propagators; grow lights for germination; water pumps and irrigation and heat lamps for chickens. However, there was almost none of those items to be seen on the land during the appeal site visit.
10. It was suggested that had the stand-alone solar array been positioned within the curtilage of the building, it would have been permitted development under Schedule 2, Part 14, Class K of the Order. Whilst it was not shown how all the other conditions and limitations of Class K would have been met, it is prominent and unsightly, failing to meet condition K.2(a) that the stand-alone solar panels unit must, so far as practicable, be sited so as to minimise its adverse effect on the visual amenity of the area.
11. There was a distinct disconnect with the appeal site as seen and the wide range of aspirations by Mr McSorley for its future development. In my view, there appears to be no reasonable justification for the retention of the unsightly installations that the enforcement notice seeks to have removed. They have added a range of features more suited to an industrial location than to this open field in the countryside.
12. The appeal on ground (a) fails. Planning permission is not granted for the hardstanding, CCTV, CCTV post, solar panels, and associated infrastructure enforced against.

The appeal on ground (f)

13. An appeal on ground (f) asserts that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
14. Mr McSorley said the hardstanding areas were permitted development. I considered that in the ground (c) appeal above. Although Mr McSorley contended that the requirement to remove the hardstanding area exceeded what was necessary to remedy any injury to amenity, in view of the harm I assessed in the ground (a) appeal above, save for the area of hardstanding at the entrance to the site permitted as part of the 2018 planning

application, the requirement to remove the hardstanding is apt and not excessive.

15. Mr McSorley said the CCTV system and solar array and infrastructure were appropriate to ensure the energy efficiency and security of the site. That goes to the planning merits of the installation, considered above in the ground (a) appeal. The CCTV system and solar array have caused harm to the visual amenity of the area. Their removal is appropriate. The requirements of the notice are not excessive. The appeal on ground (f) fails.

FORMAL DECISION

16. 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 1990 Act as amended for the development already carried out, namely the construction of the hardstanding, the erection of CCTV, CCTV post, solar panels, and associated infrastructure on the North-West side of Pendleton Road, Wiswell, Clitheroe BB7 9BZ.

John Whalley

INSPECTOR