



Appeal Decision

Site visit made on 9 July 2024

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/Z3635/C/23/3334551

Land to the East of Moor Lane, Staines upon Thames, TW19 6EG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Adam Saed Abu Warda against an enforcement notice issued by Spelthorne Borough Council.
 - The notice was issued on 27 October 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change in use of the Land to a mixed use of agriculture, a leisure plot, open storage and the storage of motor vehicles.
 - The requirements of the notice are: 1. Cease the leisure plot, open storage and storage of motor vehicle elements of the mixed use; 2. Remove from the Land the mobile home, associated septic tank, all vehicles, structures and stored items west of Wraysbury River; and 3. Remove the hard surfaces from the areas marked hatched on the attached plan along with the path marked on the attached plan from the southern area of hardstanding to the river, and remove all resultant debris from the Land.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (d) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. It is directed that the enforcement notice is corrected and varied by: the deletion of the words "*a leisure plot*" from the allegation and the deletion of the requirements and their substitution with the following: "*1. Cease the use of the land for open storage and the storage of motor vehicles. 2. Remove from the land all stored or broken vehicles, except for those being used for agricultural purposes, and all open storage of non-agricultural items, or items being used as ancillary to the primary use of the land as agricultural. Remove all resultant debris from the land.*" Subject to the corrections and variations, the appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

2. The site has a long and contested history of planning and enforcement issues. It was purchased by the appellant in 2013 from Thames Water, and it seems it was used by the previous owners for various purposes, some of which could possibly have been operational, as there is a large concrete base buried in the land, possibly to support a crane or similar machinery.
3. Since then the appellant claims he has used it solely for agricultural purposes but this is disputed by the Council. The site was flooded in 2013 and in 2014 a substantial amount of hardcore had been laid on the land and a bund created along the river edge. The Council's contemporaneous notes of the site visit in August 2014 record that the appellant agreed he had constructed a bund but had been told by the EA this was acceptable. Even so this would require

- planning permission from the Council. The note also records that part of the land was covered with hardcore rubble. This is supported by a photograph which clearly shows dumped rubble, rather than some long-standing sub-surface that was beneath the grassy field.
4. In September 2014 the appellant sought advice on the suitability of using the site for vehicle storage and was advised this was unlikely to be acceptable. By the summer of 2015 the bund and hardcore had been removed and this is confirmed by a visit from the enforcement officer. In 2016 the appellant sought advice on possible further uses of the site, although what they were is unspecified. This seems to have been prompted by the discovery of some residual hardstanding and the concrete base mentioned above. The Council noted any development would be severely limited by its green belt and flood zone location.
 5. The Council then allege from 2017 a more intensive use of the site with vehicles parked and some random storage. In February 2018 an enforcement visit noted vehicles were stored on the land, some had been broken up and parts were being stored, all on a new hardstanding. After several warnings the appellant claimed the site had been cleared, but a visit in July 2018 revealed it had not been. A planning application was submitted, ostensibly to regularise the situation, but in fact was for a large barn. A site visit recorded no animals on the land but there was a caravan with residential paraphernalia plus various vehicles (2 vans, 5 cars and a digger) as well as 2 portaloos. 2 further vehicles in a state of disrepair were the remains of the previous unauthorised use. Eventually, following an appeal the barn was refused because of harm to the green belt, character and appearance of the area and danger of flooding. Permission was refused for a High Court challenge.
 6. An enforcement notice followed but this was quashed on appeal in June 2020 because the allegation of 'stationing a caravan' was too vague. In July 2020 officers visited the site and noted various cars, a flat bed lorry and other items stored on the site and the appellant agreed to remove them. In November 2020 Officers noted large amounts of waste were being dumped on the land and this is shown in a photograph. A temporary stop notice was issued and a PCN, the response to which agreed 100 cubic metres of soil had been imported, but only to repair a bund damaged by the Environment Agency. However, the EA subsequently visited the site and noted that waste trommel fine waste had been spread over the land and burning had been undertaken both of which were an offence. I note that waste trommel is material that comes from the mechanical treatment of waste. The appellant argues this was just leftover hardstanding from the Thames Water days but this was not the view of the EA or the Council or what is shown in the photographs.
 7. According to the Council the first evidence of animals being kept on the land is in March 2021. Following that in February 2022 a large mobile home was brought onto the land and the Council accused the appellant of storing the mobile home along with 6 motor vehicles and an amount of scrap metal. The appellant argued the mobile home was needed as a rest room for him, his family and workers on the farm. The cars belonged to the workers and the scrap was fencing. However, photographs clearly show piles of scrap metal that in no way could be described as fencing material. By the time of a site visit in April 2022 a raised deck had been constructed outside the mobile home along with considerable domestic paraphernalia, with gazebos, pathways, a

BBQ area, plants, poly tunnels and numerous vehicles stored. Photographs again show large amounts of scrap metal. The appellant's response to the subsequent PCN was that the only use on site was agricultural and that was the only use that had ever been on the land. The mobile home was ancillary to that use and not used for sleeping except occasionally during lambing season. The decking outside the mobile home was for access purposes. The scrap metal was used for animal pens and fencing. The appellant also accused the Council officer of racial harassment, a charge he said had been upheld, although this turns out not to be true.

8. In May 2023 another site visit was undertaken and photographs show piles of scrap metal, wood, doors, and general rubbish, some of it stored in a poly tunnel. There were chickens and other fowl in pens. The mobile home was not lived in according to the appellant nor did it have electricity, although it contained a TV, microwave, Henry vacuum cleaner, electric fan and other electrical items. In a response to a follow up PCN in June 2023 the appellant said animals were first on the land in 2017, he was running the site as a hobby farm for him and his family and on average only 2 vehicles visited the site and at most there would be 3 cars there, his, his wife's and son's. There also was electricity on the site. Oddly he also claimed all the animal pens were on site when he bought the land in 2013, despite it being used by Thames Water. As the Council point out these answers contradict others given before and in this appeal. Especially as the photographs taken on the next site visit in July 2023 show at least 6 cars on the site and in October 2023 a large marquee was in place.
9. I have described this complicated history in detail as it provides context for the appellant's assertion that all he has ever carried out are agricultural operations. That is clearly not the case. There have been two instances of dumping of waste on the land, one of storing broken up cars and car parts. Constant storing of vehicles, above the number that can be satisfactorily explained by the appellant's family use of the land, as well as storing of scrap metal and random rubbish. None of this relates to a hobby farm use by the appellant and his immediate family.

Main Issues

10. There is no ground (a) so the issue of flooding is irrelevant as are the uses that are carried out by neighbours. The notice alleges only a mixed use of agriculture, leisure plot, open storage (the scrap metal and rubbish) and storage of vehicles. The Council are not alleging a residential use of the mobile home but require it to be removed as it is ancillary to the leisure use allegation and I shall deal with that later.
11. The appeal form ticks grounds (c) and (d). The former is that the uses alleged benefit from planning permission, but that cannot be the case as the appellant denies any of those uses have taken place. In any case storage of scrap and vehicles definitely requires planning permission, as does a material change of use to a leisure plot and no such planning permissions have been granted. There is therefore (as recognised by the Council) a hidden ground (b), that the matters alleged have not taken place, as everything on the site is purely agricultural. The ground (d) argument concerns the placing of the caravan, but as that is ancillary to the agricultural use (the appellant's argument) or the leisure use (the Council's argument) then how long it has been on site is

irrelevant. No attempt is made to argue the other elements of the mixed use have been on site for 10 years or more as their existence is denied. However, the appellant does, again as noted by the Council, raise a hidden ground (f), that the requirements are excessive. I shall therefore deal with the appeal as made on grounds (b) and (f). This does not cause injustice to either party as it clearly benefits the appellant and has been commented on by the Council.

The Appeal on grounds (b) and (f)

12. On my site visit I saw that the site was indeed being used for agricultural purposes. The site is split into two, a smaller triangle by the entrance and then across a makeshift bridge a large area of open land. On entering the site there is a loose gravel hardstanding by the gate. The main grassed area of the smaller triangle was almost under water due to flooding and rain. On the right is a marquee structure used for storing animal feed and various agricultural implements and a gazebo, also used for storage with plants in pots around it. There was also a van being used for storage that has been on site for many years. The large Thames Water concrete block is being used as a BBQ station. There is a pen for a dog and some pet birds.
13. Opposite this conglomeration is the mobile home which has a small, raised decking area in front, to enable access. The mobile home has all the facilities necessary for residential use but does not appear to be lived in and this is not alleged by the Council. I saw the fridge was used for animal medicines, and there were various folders of agricultural administrative papers stored in the living room. Further round was a large pen for assorted geese, hens etc. Next to that was some agricultural storage in an old poly-tunnel and a horsebox that was used for random storage, including numerous toilet seats in decaying boxes.
14. Across the bridge a large area of rough grazing was available for a herd of sheep and goats. The rest of the land (the majority of the site) was thoroughly overgrown and appeared to support a few cows and a bull. Much of the land was boggy and poor quality. The stored vehicles and most of the scrap and rubbish had been removed. There was no sign of any hardstanding except the loose gravel area around the entrance.
15. Apart from the leisure plot element, the appellant would now appear to be using the site for the purposes he has always claimed, namely as a hobby farm. The leisure use is more complicated. There clearly are some leisure activities going on, farmers do not usually have BBQs or flowerpots or pet birds, but on the other hand these are not unusual for a hobby farm run by a family. There is no evidence of actual leisure activities that would normally gain the attention of the Council's enforcement arm, namely, laying out of a garden, children's play area, holding of parties and so on. It is not unreasonable to have a caravan on site and as long as the primary use of the site is agricultural then it also not unreasonable to occasionally entertain one's family with a BBQ etc. It seems to me the Council's main concerns have been the storage of scrap and vehicles and dumping of waste, and while there is still some residual non-agricultural storage it is either contained in the horse-box or is bordering on the de-minimis.
16. In my view the current use is lawfully that of agricultural and the other uses could genuinely be said to be ancillary to that. There clearly has been a history of unlawful activity on the land, and it would seem those activities were going

on either when the notice was issued or just prior to it. I shall uphold the notice but correct the allegation to remove the reference to a leisure plot. I do not think it unreasonable to have a mobile home for use as a day room and the various storage areas are largely being used for agricultural purposes except for the horse box which needs to be removed. What hardstanding and paths there are seem perfectly reasonable to me, especially given the boggy nature of the ground. I shall vary the requirements to bring them more closely into line with the evidence of storage uses. The effect of this is that the appellant does not need to do anything now to comply with the notice, other than remove the horse box, as it has already been complied with. However, it remains valid and will enable the Council to deal more expeditiously should there be any breaches in the future.

Simon Hand

INSPECTOR