



Appeal Decisions

Site visit made on 16 July 2024

by James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29 July 2024

Appeal A Ref: APP/E9505/C/22/3301919

Beauchamp Arms, Ferry Road, Carlton St Peter, Norfolk NR14 6DH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Raymond Hollocks of Carlton St Peter Properties Ltd against an enforcement notice issued by Broads Authority.
- The notice was issued on 1 June 2022.
- The breach of planning control as alleged in the notice is "Without planning permission, operational development comprising the construction of a raised, kerbed structure and the installation of 3 lighting columns as shown in the approximate positions marked, respectively, within the dotted red line and by 3 crosses on the attached plan of the Land".
- The requirements of the notice are:
 1. To take up the raised, kerbed structure.
 2. To take down the 3 lighting column columns.
 3. To permanently disconnect the electricity services which have been provided to the lighting columns and remove any cables which have been laid to provide these services.
 4. To remove all materials, structures and debris arising from the actions at (1), (2) and (3) from the Land.
 5. To make good the surface of the Land so it is flat and at the same level as the surface of the adjacent land.
- The periods for compliance with the requirements are 2 months from the date the notice takes effect for requirements (1), (2) and (3) and 3 months from the date the notice takes effect for requirements (4) and (5).
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 (as amended).

Summary Decision: The appeal is dismissed and the enforcement notice is upheld.

Appeal B Ref: APP/E9505/C/22/3301976

Beauchamp Arms, Ferry Road, Carlton St Peter, Norfolk NR14 6DH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr William Hollocks against an enforcement notice issued by Broads Authority.
- The notice was issued on 1 June 2022.
- The breach of planning control as alleged in the notice is "Without planning permission, operational development comprising the erection of a workshop building in the approximate position marked with a cross on the attached plan of the Land".
- The requirements of the notice are:
 1. To take down the workshop building.
 2. To remove the workshop building from the Land.
 3. To take up and remove any structures, fixtures or otherwise upon which it sits, including the concrete pad.
 4. To remove all materials or debris arising from the removal of the workshop building and any associated structures from the Land.

5. To permanently disconnect all the services which have been provided to the workshop building (including electricity) and remove any pipework and cables which have been laid to provide these services from the Land and make good the excavated trenches.
 6. To make good the surface of the Land so it is flat at the same level as the surface of the adjacent land.
- The periods for compliance with the requirements are 2 months from the date the notice takes effect for requirements (1) and (2) and 3 months from the date the notice takes effect for requirements (3), (4), (5) and (6).
 - The appeal is proceeding on the ground set out in section 174(2)(a). 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 Decision: The appeal is dismissed and the enforcement notice is upheld.

Appeal C Ref: APP/E9505/C/23/3316184

Appeal D Ref: APP/E9505/C/23/3316185

Beauchamp Arms, Ferry Road, Carlton St Peter, Norfolk NR14 6DH

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeals are made by Mr Raymond Hollocks of Carlton St Peter Properties Ltd (Appeal C) and Mr Jon Render (Appeal D) against an enforcement notice issued by Broads Authority.
- The notice was issued on 11 January 2023.
- The breach of planning control as alleged in the notice is "Without planning permission, the material change of use of the Land from land with use ancillary to a public house to land for a mixed use ancillary to a public house and the stationing and residential occupation of static caravan in the position marked (Z) for purposes not ancillary to the public house".
- The requirements of the notice are:
 1. To permanently cease the use of the Land for the standing and use of the static caravan marked with a Z for residential purposes.
 2. To remove the caravan and any structures, fixtures or otherwise upon which they sit from the land.
 3. To permanently disconnect all the services which have been provided to the static caravan (water and electricity) and remove the pipework and cables which have been laid to provide these services, from the Land and make good the excavated trenches to the same level as the surface of the adjacent land.
- The periods for compliance with the requirements are 3 months from the date the notice takes effect for requirement (1) and 4 months from the date the notice takes effect for requirements (2) and (3).
- The appeals are proceeding on the grounds set out in section 174(2)(c), (d) and (f) of the Town and Country Planning Act 1990 (as amended).

Summary Decisions: The appeals are dismissed and the enforcement notice is upheld with corrections and variations in the terms set out below in the Formal Decisions.

Preliminary Matters

1. The Beauchamp Arms is a public house, which is situated in a remote location on the south bank of the River Yare. The pub sits within a large plot, with an extensive open area to the rear, and a long driveway which connects it to the public highway.
2. The Council has issued three separate enforcement notices in respect of the site: the first relates to the erection of a kerbed structure which accommodates three lighting columns (Appeal A); the second relates to the erection of a workshop building (Appeal B); and the third relates to the stationing of a

caravan for residential use (Appeals C and D). Given each of these appeals relates to the same site, I have dealt with them in the same decision notice.

APPEAL A

Ground (b)

3. Pursuant to ground (b), the appellant says the breach of planning control alleged in the EN, being the erection of a raised kerbed structure and three associated lighting columns, has not occurred as a matter of fact. Whilst not entirely clear, it appears that the appellant's argument on this ground is based on the lighting columns being replacement structures, and not new development. To succeed on this ground, the evidential burden rests with the appellant to demonstrate their case, on the balance of probability. Planning merits are not relevant.
4. Photos taken by the Council on a site visit in March 2022 clearly show the raised kerbed structure and three lighting columns all in situ at this time. Photos of the site taken in October 2018 and October 2020 do not show the structure, nor do they show anything equivalent or similar in that same location. These photos indicate that the kerbed lighting structure is not a replacement structure, but instead new development. Previous lighting installed elsewhere in the site would not change this position.
5. The development has clearly occurred as a matter of fact, and the appeal on ground (b) fails.

Ground (c)

6. Pursuant to ground (c), the appellant says there has been no breach of planning control, because the kerbed structure and lighting columns are permitted development. As above, the evidential burden rests with the appellant to demonstrate their case, on the balance of probability. Planning merits are again not relevant.
7. Although not disputed between the parties, I am satisfied that the kerbed structure and lighting columns would constitute development, in accordance with s55 of the 1990 Act. Whilst the appellant says the kerbed structure and lighting columns would be permitted development, they have not explained how the structure would be permitted, nor the particular permitted development rights relied on.
8. Permitted development rights are set out in Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). As a public house, the wider site is understood to have a sui generis use. It does not appear there are any rights within the GPDO which would permit the construction of the raised kerbed structure and associated lighting columns within a sui generis site, and the appellant has presented no evidence to suggest otherwise.
9. On the evidence before me, the matters alleged in the EN therefore comprise operational development, and there are no applicable permitted development rights for their construction. Given planning permission was not obtained, the matters alleged in the notice constitute a breach of planning control.
10. The appeal on ground (c) therefore fails.

Ground (f)

11. Pursuant to ground (f), the appellant contends that the steps required to be taken in the EN exceed what is necessary to remedy the alleged breach of planning control. Whilst the basis of this ground is not entirely clear, the appellant says that it is in the public interest for the structures to remain.
12. As per s173(4) of the Town and Country Planning Act 1990, the purpose of the EN is to remedy the breach of planning control. The requirements set out in the EN must therefore achieve this purpose.
13. In this instance, the steps require the raised kerbed structure and associated lighting columns to be removed and permanently disconnected. The steps also require resulting materials and debris to be removed, and the ground levelled in line with adjacent land. These steps go no further than remedying the breach of planning control, and any lesser steps would fail to achieve this same purpose.
14. Any suggestion that the lights are needed for the safety of the site would primarily be relevant to the planning merits of the structure under a ground (a) appeal (or deemed planning application). The same is true of comparisons drawn with other illuminating structures and sites in the local area. Without a ground (a) appeal before me, these factors are of limited relevance.
15. For these reasons, the appeal on ground (f) fails.

Conclusion (Appeal A)

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

APPEAL B

17. Appeal B, which concerns the workshop building, has been appealed on ground (a) only, being the deemed planning application. The main issues are informed by the Council's reasons for issuing the EN and their appeal statement. They are:

- the effect of the development on the character and appearance of the area; and
- whether the principle of the development is acceptable by reference to development plan policy.

Reasons

Character and Appearance

18. The workshop is located along the western side of the driveway which leads up to the Beauchamp Arms. The pub itself sits close to the riverbank. Other outbuildings and associated structures are sited close to the pub, which means most built form within the site is focused within this same area. The remainder of the site is very open, which allows it to assimilate well with the open character of the surrounding rural landscape.
19. The workshop is located away from the pub and its associated development, and sits within the open land to its rear. Given its isolated location, the workshop fails to integrate effectively with the built fabric of the pub. Instead,

it appears as a prominent and disruptive feature, which interrupts the sense of openness which characterises the rest of the site and surrounding land.

20. The workshop is a large rectangular building which measures approximately 15m in length and 5m in width. It is relatively tall, incorporating a mezzanine floor and a shallow pitched roof. On account of its dimensions, it appears as a substantial and bulky structure, which exacerbates its prominence within the landscape.
21. Whilst not yet complete, the choice of materials appears poor in quality, with much of it built from plyboard (or similar). Mismatched doors and windows, which appear domestic in appearance, have also been used. These features give the building a shoddy and haphazard appearance, which further undermine its overall aesthetic.
22. Soft landscaping along the side of the building does help soften its impact. Timber cladding is also proposed, which would further improve the building's appearance. However, these factors would not overcome the harm arising from its isolated and prominent location and general design quality. Similarly, the presence of workshops on other sites in the area would not justify the identified harm.
23. For these reasons, the development harms the character and appearance of the appeal site and the surrounding area. It conflicts with policies DM16 and DM43 of the Local Plan for the Broads (2019) (Local Plan). Both policies seek to ensure new development achieves a high-quality design which complements its surrounding landscape, through appropriate siting, size, scale and design.

Principle of Development

24. Policy SSPUBS of the Local Plan specifically relates to development associated with pubs in the district. This policy provides support for certain types of pub development, provided it contributes to the retention and viability of the pub business, and enhances its appearance.
25. The appellant says the workshop will be used to support the pub business. It is suggested it will provide storage, help tidy up the site and provide a "test site" for ecological systems that will then be installed in the main building. However, very limited detail in terms of how these factors would contribute to the pub's viability have been given. This is problematic, particularly as the appellant has also said "*this is a private workshop connected with the residential flat not the commercial business*". Without further information, it is difficult to conclude whether the workshop would support the viability of the pub business, as required by Policy SSPUBS.
26. As set out above, the workshop also harms the character and appearance of the area, which means it fails to enhance the overall appearance of the pub and its surroundings. Notwithstanding any potential contribution to the pub's viability, the workshop therefore conflicts with the requirements of Policy SSPUBS in any event.
27. The principle of the development is therefore unacceptable, as it conflicts with the objectives of Policy SSPUBS of the Local Plan.

Conclusion (Appeal B)

28. For the reasons given, the development conflicts with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework (2023), that outweigh this finding. In turn, the appeal on ground (a) fails. I shall therefore uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

APPEALS C AND D

Ground (c)

29. Pursuant to this ground of appeal, the appellants say the stationing of a caravan for residential use does not constitute a breach of planning control. They contend this is because the caravan is occupied in conjunction with the primary pub use of the appeal site. To succeed on this ground, the evidential burden rests with the appellants to demonstrate their case, on the balance of probability. Planning merits are again not relevant.
30. In their response to a Planning Contravention Notice (PCN) in November 2022, the appellants confirmed the caravan was occupied on a residential basis by Mr Jon Render. Notwithstanding this position, the appellants suggest the caravan is used to support the pub business, and therefore claim its use is ancillary to the pub. However, very little information has been provided to explain the basis on which the caravan is occupied, nor how such occupation relates to the pub.
31. Notably, in their response to the Council's committee report, the appellants say *"people have lived in them rotating as the business requires. What is the relevance of it people live in them use them for work purposes or as holiday accommodation to support a struggling business"*. This suggests the basis on which the caravan has been occupied for residential use has varied over time, and has not always been directly linked to the pub.
32. Even if the caravan was occupied on a permanent basis by someone working in the pub, this would still constitute a residential use. In the absence of information to the contrary, permanent residential occupation would most likely be a primary, and not ancillary, use of the appeal site.
33. The introduction of a primary residential use within the appeal site would have resulted in a material change of use of the site, from a use ancillary to the pub, to a mixed use comprising ancillary land to the pub and the stationing of a caravan for residential use. There are no permitted development rights which would authorise this material change of use, which means it would have needed planning permission to be lawful. Given that planning permission was not obtained, the MCU constituted a breach of planning control.
34. The appeals on ground (c) therefore fail.

Ground (d)

35. Pursuant to ground (d), the appellants say the development was immune from enforcement on the date of the EN, and therefore lawful. As per s171B(3) of the 1990 Act, no enforcement action can be taken in respect of the alleged breach of planning control after ten years beginning with the date of the

breach. This means the appellants would need to demonstrate the alleged mixed-use had been ongoing continuously and uninterrupted since 11 January 2013 (or earlier), and for a period of at least ten years. Once again, planning merits are not relevant to this ground of appeal, and the burden of proof falls on the appellants, on the balance of probability.

36. The appellant says the caravan has been on the site since 2005. However, irrespective of how long the caravan has been situ, the appellants have provided little evidence to demonstrate that the caravan had been used continuously for residential purposes for at least ten years prior to the date of the EN.
37. Investigations by the Council in 2021 concluded that the caravan was unoccupied. During a later visit in November 2022, the Council found that the occupier of another caravan on the site had just moved into the caravan which is subject to this appeal. The appellants do not appear to dispute these findings. This suggests that any occupation of the caravan for residential use was continuous or uninterrupted during the ten years preceding the EN.
38. Moreover, whilst the appellants say the caravan has been occupied on a "rotating" basis since 2005, they have not presented evidence to demonstrate any other ten-year period of continuous residential use since the caravan's inception on the site.
39. The appellants have therefore not demonstrated, on the balance of probability, that the caravan had been occupied for residential purposes continuously and uninterrupted for a period of ten years prior to the date of the EN. On the evidence before me, the alleged mixed-use was therefore not immune from enforcement on the date of the EN.
40. The appeals on ground (d) therefore fail.

Ground (f)

41. Pursuant to ground (f), the appellants contend that the steps required to be taken in the EN exceed what is necessary to remedy the alleged breach of planning control. Whilst the basis of this ground is not entirely clear, the appellants say that any objections to the development could be resolved.
42. As per s173(4) of the Town and Country Planning Act 1990, the purpose of the EN is to remedy the breach of planning control. The requirements set out in the EN must therefore achieve this purpose.
43. The requirements require the cessation of the unauthorised use. They also require the caravan and associated structures and fixtures to be removed, and associated services to be disconnected. These requirements will ensure that the unauthorised residential use does cease, and are proportionate steps which go no further than remedying the original breach of planning control. Any lesser steps would not properly achieve this purpose, noting that if the caravan was to remain, it is likely that residential use would continue in some capacity.
44. Notwithstanding the above, whilst the steps of the notice require the residential use to cease, they do not require the mixed-use, as alleged in the notice, to cease. Given that a mixed-use constitutes a separate use in its own right, the steps should require this mixed-use to cease. I have therefore varied the first

requirement, to ensure the cessation of use corresponds accurately to the mixed-use, as alleged.

45. Given the requirements already require the caravan to be removed, the existing residential use of the site will be precluded in any event. The variation would also not prevent the appellants from reverting back to the established public house use of the site. I am therefore satisfied that the variation does not prejudice either party.
46. Given there is no ground (a) appeal before me, any argument that planning permission could be granted for the development is irrelevant.
47. For these reasons, and subject to the variation highlighted, the appeals on ground (f) fail.

Human Rights Considerations

48. Failure to succeed on grounds (c), (d) and (f) will in all likelihood, require the current occupier of the caravan to vacate their home. This represents an interference with their property (Article 1) and their home and family life (Article 8), which are afforded protection under the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.
49. Nonetheless, there is no substantive evidence before me to demonstrate that the occupier would not be able to secure alternative residential accommodation elsewhere. Notably, the committee minutes say the Council is working with South Norfolk District Council, as the housing authority, to ensure the occupier would be rehoused in accordance with their legal obligations.
50. Compliance with the EN will ensure the spatial strategy of the district is protected, whilst also ensuring development achieves good design quality and adequate living conditions for occupiers. It has not been shown that these legitimate aims can be achieved by means which would interfere any less with the appellants' rights. In turn, the requirements of the EN are proportionate and necessary in the circumstances, and do not result in a violation of the appellants' rights under Articles 1 and 8.

Conclusion (Appeals C and D)

51. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with corrections and variations.

Other Matters

52. The Council is responsible for planning control within its district area, and any suggestion that the Council does not have the authority to take enforcement action is baseless. The service of enforcement notices to ensure planning controls are upheld helps safeguard the environment from unacceptable development, which is a legitimate public interest aim.

Formal Decisions

Appeal A

53. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

54. 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.

Appeals C and D

55. It is directed that the enforcement notice is corrected by substituting paragraph 3 with the following new paragraph 3:

THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the material change of use of the land from land with use ancillary to a public house to a mixed-use comprising land with use ancillary to a public house and the stationing of a static caravan for residential use in the position marked (Z) on the attached plan.

56. It is directed that the enforcement notice is varied by substituting paragraph 5 with the following new paragraph 5:

WHAT YOU ARE REQUIRED TO DO

- 5.1 Permanently cease the mixed-use of the land comprising land with ancillary use to a public house and the stationing of a static caravan for residential use in the position marked (Z) on the attached plan.
 - 5.2 Remove the caravan, together with all associated structures, fixtures, fittings and domestic paraphernalia from the Land.
 - 5.3 Permanently disconnect all services which have been provided to the static caravan (including water and electricity) and remove all associated pipework and cables which have been laid to provide these services, and reinstate the excavated trenches which facilitated these services to the same level as the surrounding land.
57. Subject to these corrections and variations, the appeals are dismissed and the enforcement notice is upheld.

James Blackwell

INSPECTOR