



Appeal Decisions

Site visit made on 13 August 2024

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2024

Appeal A Ref: APP/E2340/C/23/3333075

Land at Green End Smallholding, Lenches Road, Colne, Lancashire BB8 8ET

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Herbert Taylor against an enforcement notice issued by Pendle Borough Council.
- The notice was issued on 4 October 2023.
- The breaches of planning control as alleged in the notice are (1) Without planning permission and within the last 10 years, the material change of use of the land from agricultural to a mixed use of agricultural and the storage of caravans for residential occupation.
(2) Without planning permission and within the last 4 years, the unauthorised engineering of agricultural land to form an unnatural steep embankment and hard standing.
- The requirements of the notice are to:
 - 1) Permanently remove the caravans.
 - 2) Cease using the land for non-agricultural use.
 - 3) Remove all the hardstanding and subbase material and reinstate the land.
- The periods for compliance with the requirements are one month in respect of requirement numbers one and two, and three months in respect of requirement number three.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended).

Appeal B Ref: APP/E2340/W/23/3329006

Green End Smallholding, Lenches Road, Colne, Lancashire BB8 8ET

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Herbert Taylor against the decision of Pendle Borough Council.
- The application Ref is 22/0856/FUL.
- The development proposed is the siting of a static caravan to be used as a permanent dwelling with associated landscaping.

Decisions

Appeal A - APP/E2340/C/23/3333075

1. It is directed that the enforcement notice is corrected and varied by:
 - 1) Deleting the word *storage* between *the* and *of* in section three of the enforcement notice (the matters which appear to constitute the breach of planning control) and replacing it with the word *siting*.
 - 2) Deleting requirement numbers one and two in section five of the enforcement notice and replacing them with the following requirements:

- (1) *Cease using the land for the siting of caravans for residential occupation.*
- (2) *Permanently remove the caravans.*

3) The deletion of one month as the time for compliance with requirement numbers one and two and the substitution with six months; and

4) The deletion of three months as the time for compliance with requirement number three and the substitution with eight months.

- 2. Subject to the correction and variations, 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.

Appeal B - APP/E2340/W/23/3329006

- 3. The appeal is dismissed.

The Enforcement Notice

- 4. The allegation refers to the storage of caravans for residential occupation. However, storage takes place when something is put away for a period because it is not needed, or its use is not contemplated in the short term. Accordingly, the caravans cannot be both stored and in use. However, since it is evident that the notice intended to target the residential use of the caravans and there is nothing to indicate that the appellant did not understand that, I shall correct the allegation as set out in my decision.
- 5. The scope of an enforcement notice is limited by section 173(4)(a) and (b) of the Act, such that the recipient cannot be required to undertake works that would go beyond remedying the breach. In this case the requirement to *cease using the land for non-agricultural use* is excessive. Since the requirements of an enforcement notice should follow logically from the allegation, I shall vary the requirements to bring them in line with the allegation.

Preliminary Matters

- 6. Ground (a) is that planning permission should be granted for the matters stated in the notice. The caravans subject of Appeal A are touring caravans, whereas Appeal B proposes the siting of a static caravan. However, the reason for issuing the notice and refusing planning permission relate to character and appearance. Accordingly, since the considerations in Appeal A are the same as for Appeal B I have considered the appeals together.
- 7. The Colne Neighbourhood Development Plan 2022-2030 (Final Version June 2023) (Colne Neighbourhood Plan) has been adopted since planning permission was refused and the enforcement notice issued. The Council referred to policies from the plan in their submissions, upon which the appellant has had the opportunity to comment. I have therefore had regard to those policies in my assessment.

Appeal A on ground (a) the deemed planning application and Appeal B

- 8. The main issue is the effect of the existing and proposed development on the character and appearance of the area.

Reasons

9. The appeal site is located on the outskirts of the settlement of Colne, in an open countryside location. Broadly west of the site is a small holding which consists of a number of somewhat dilapidated agricultural buildings and to the broadly east and south is countryside interspersed with properties. Broadly northwest is a terrace of traditional houses and a relatively short distance away, on the opposite side of Lenches Road, a fairly large group of buildings, of varying appearance, in use for business purposes.
10. Images in the Council's submissions show the site was previously grassed over. Notwithstanding the nearby dwellings and buildings, the previously open and agricultural characteristics of the site had a rural appearance, and the immediate context in which the appeal site is viewed is distinctly rural in character.
11. There is a relatively large static caravan site further along Lenches Road. However, such caravan sites are not necessarily unusual in countryside locations. The caravan/s subject of these appeals are and would not be viewed in the same context, but in isolation. In the absence of contrary evidence, individual residential caravans are not characteristic of the area.
12. The development of the site including the formation of the hardstanding to accommodate the caravan/s has encroached into the countryside and significantly changed the appearance of the site. The touring caravans and proposed static, although of more muted colour, have a modern engineered appearance and are and would be visually conspicuous features on this rural site.
13. Moreover, the development has introduced residential activity and comings and goings associated with residential living to this part of the countryside. I saw there was a Portaloo, small shed type building and washing line, which together with any additional storage facilities or other domestic paraphernalia which may be required, would only exacerbate what is already an unacceptable impact on the landscape from the inappropriate land use.
14. The site is screened from some closer range public views by the adjacent buildings and topography of the locality. However, it can be seen from the edge of town and whilst such views are reasonably distant, the development nevertheless will be seen as, and represents a harmful intrusion in this countryside location.
15. The appellant proposed planting on the broadly northern and southern boundaries. Whilst the exact nature of any planting could be secured by condition and in the longer term may soften and screen the development, such landscaping measures would take a considerable period to become fully established and harm to the character and appearance of the area would result in the meantime. Furthermore, in general terms, it would be poor planning to rely solely on planting to hide unsatisfactory development.
16. I therefore conclude that the existing and proposed development causes and would cause harm to the character and appearance of the area. As such, they conflict with Policy ENV 2 of the Local Plan for Pendle Core Strategy 2011-2030 (Adopted 17 December 2015) (Core Strategy) and Policy CDNP3 of the Colne Neighbourhood Plan which together seek high quality design and development

which contributes to the sense of place and makes a positive contribution to the historic environment and local identity and character.

17. They also conflict with the aims of the National Planning Policy Framework which requires planning decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other matters

18. I acknowledge that the planning officer recommended approval of the application. However, planning authorities are not bound to accept the recommendations of their officers.
19. The Council referred to Policy CDNP6 of the Colne Neighbourhood Plan which relates to future housing growth. It is a positively worded policy which sets out where new housing development *will be* [my emphasis] supported. I find no conflict with this policy; it therefore weighs neither for, nor against the developments.

Conclusion on Appeal A on ground (a) and Appeal B

20. For the reasons given, neither the existing or proposed development accord with Policy ENV 2 of the Core Strategy or Policy CDNP3 of the Colne Neighbourhood Plan and are therefore contrary to the development plan when taken as a whole.
21. In this case, there are no material considerations of sufficient weight to indicate that the appeals should be determined other than in accordance with the development plan. I therefore conclude that Appeal A on ground (a) and Appeal B fail, planning permission will not be granted.

Appeal A on ground (g)

22. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable. The appellant suggested a period of six months for compliance with requirements one and two, and eight for requirement three, on the basis that the occupants would be rendered homeless and would need to find alternative accommodation.
23. It is reasonable to ensure anyone who will be deprived of their home is given a reasonable period to look for other housing. I have little detail about the occupants and the appellant has not provided any evidence regarding the availability of alternative accommodation. Nevertheless, I have no doubt that compliance with the requirements of the enforcement notice would represent a significant inconvenience to the occupants.
24. Whilst the Council's decision to enforce was legitimate and in the public interest given the harm caused by the development, the notice does not afford the occupants reasonable time to look for alternative accommodation.
25. Having regard to the above, I consider that six and eight months would be reasonable and pragmatic periods for the occupants to find alternative accommodation and for the necessary works to be completed. To this extent the appeal on ground (g) succeeds.

Conclusions

26. For the reasons given above, I conclude that Appeal A should not succeed. I shall uphold the enforcement notice with a correction and variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

27. For the reasons given above Appeal B should be dismissed.

Felicity Thompson

INSPECTOR