



Appeal Decision

Site visit made on 2 July 2024

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal Ref: APP/D0515/C/23/3317077

6 Bridge Lane, Wimblington, March, Cambridgeshire PE15 0RS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act"). The appeal is made by Mr Neil Bowers against an enforcement notice issued by Fenland District Council.
- The notice was issued on 25 January 2023.
- The breach of planning control as alleged in the notice is:
Without planning permission, the material change of use of land from agricultural land and domestic garden land to a mixed use of domestic garden land and land used for the storage and dismantling of vehicles.
Without planning permission, the erection of a building used to store vehicles.
Without planning permission, the laying of a hard surface within the curtilage of a dwelling of a scale which goes beyond that which is considered to be ordinarily incidental to the enjoyment of a dwelling house and is being used to facilitate the above unauthorised use of the land.
- The requirements of the notice are:
 - (a) Cease the use of the land for the storage and dismantling of vehicles, including HGV's, cars used in conjunction with stock car racing, steam engines and any other vehicles which are not reasonably connected to the lawful uses of the domestic and agricultural uses of the site respectively.
 - (b) Break up any areas of hardstanding not shown on plan 1000B of planning approval F/YR20/0338/F and remove any resultant material from the site.
 - (c) Dismantle the building located on the eastern boundary off the site and remove any resultant material from the site.
- The period for compliance with the requirements is: 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made ("the DPA") under section 177(5) of the Act.

Summary of decision: The appeal is dismissed, and the enforcement notice is upheld with a correction and variations in the terms set out below in the Formal Decision.

Applications for costs

1. An application for costs was made by Mr Neil Bowers against Fenland District Council. That application is the subject of a separate decision.

The appeal on ground (b)

2. Appeals on ground (b) are made on the basis that the breach of planning control alleged in the notice has not occurred as a matter of fact.
3. The appellant's case on this ground is that the dismantling of vehicles has not occurred, notwithstanding the Council's evidence of cars being stored with elements missing.

4. One of the appellant's hobbies is stock car racing. He advises that some stock cars are stored on the land during the season and are taken away to be raced as the season progresses. He states there is no workshop and there are no tools or facilities for dismantling on the land, and that all works of dismantling and conversion for stock car racing, such as the removal of windscreens, are undertaken off-site at end-of-life vehicle dismantling facilities he owns.
5. Although there is evidence of the storage of partially dismantled vehicles, I have seen no evidence that dismantling has occurred on the land.
6. Consequently, as neither the appellant nor the Council would be prejudiced were I to correct Section 3 of the Notice and vary Section 5(a) by deleting the words, "and dismantling", I shall do so in my Formal Decision.
7. I also have a duty to ensure the Notice is in order in respect to the breach of planning control alleged. Although the Notice alleges the material change of use from agricultural and domestic garden land to a mixed use, it fails to acknowledge the agricultural element in the mix alleged. Neither party has suggested that agricultural use of the land has ceased, and the Notice should acknowledge it. "Domestic garden land" is also not in itself a use of land, but is part of the "residential use" of the land as a dwelling. In neither case would correcting the Notice cause injustice to the appellant or the Council, and I will correct it accordingly.
8. The appeal on ground (b) therefore succeeds to the extent it is made.

The appeal on ground (a)/the DPA

9. Appeals on ground (a) are made on the basis that planning permission should be granted for what is alleged in the notice.
10. The description of development for the DPA is derived from the alleged breach of planning control in Section 3 of the Notice, and is therefore the alleged breach as corrected.

Background and Main Issues

11. The appellant has constructed a building ("the building") for the storage of his two steam engines and associated vehicles, a concrete hardstanding area within the residential land, and a concrete hardstanding area within the field. He also keeps stock cars on the land for his, and his family's, personal use throughout the stock car racing season.
12. The appellant does not seek consent for the ongoing storage of vehicles in the agricultural field, but within the residential area only; and with stored cars stacked to a height not exceeding the height of the boundary walls.
13. The main issues are:
 - The effects of the development on the character and appearance of the area;
 - The effects of the development on the living conditions of residential occupiers of the adjoining land, with particular regard to outlook and light; and
 - The adequacy of the surface water drainage.

Reasons

Character and appearance

14. Bridge Lane serves residential dwellings and agricultural fields north of the main built-up area of Wimblington and is now linked to it by new residential development under construction. It nevertheless retains much of its rural character, and is described by the Council as being in a semi-rural setting. In the vicinity of the Land housing runs along the southern side of the road, with small arable and grazed fields remaining beyond the residential uses, and larger fields on its northern side.
15. The residential area of the Land extends behind three dwellings to the north, and others to the east on account of a curvature in the road. Beyond that is a field in the appellant's ownership, accessible only through the residential land.
16. The residential land is L-shaped in form, and the principal area of the Land for the purposes of the appeal is its eastern projection, between the rear gardens of dwellings to the north and east, and the field to the south. It is a sizable area, over which a concrete surface has been laid, and which the Council describes as a yard. At its eastern end a steel framed building has been constructed which runs north to south, continuing marginally into the agricultural land. It replaces a stable building in a similar location.
17. The concrete yard is a substantial one in terms of its area, and in the context of residential use. Photographs provided by the appellant, and a plan submitted in association with the appellant's new dwelling, demonstrate there were areas of concrete within that part of the site, but over a significantly smaller area than the concrete hardstanding constructed. I have not seen convincing evidence that the entire area was a mixture of concrete hardstanding and compacted brick through which grass had grown, as the appellant suggests.
18. The former stable building along the eastern boundary was only slightly shorter in length than the garage building constructed, but was narrower and significantly lower, being a shallow flat roofed structure not much taller than the adjacent domestic fencing. The building which replaces it is a substantial 260sqm steel framed structure of a size and style more commonly seen in industrial areas or farmyards. It is of a comparable height to the eaves of dwellings in the vicinity, being 4.9m high to its eaves and 6m to its ridge.
19. Buildings of this design and scale would be a part of the landscape and streetscape in many rural areas, where their scale and design would be a typical part of a working agricultural landscape. However, in this location, with its small-scale field pattern, and its location abutting residential gardens, the building's scale and utilitarian design conflicts with the domestic and semi-rural character of the area. Although visibility of the building from the road, and from further afield, is limited, it is prominent from adjoining residential land.
20. The substantial concrete hardstanding is also of a scale and character more akin to that of an industrial estate or a modern working farmyard. Despite its limited visibility from public areas, it will be prominent from the upper floors of adjacent dwellings, and harms the rural character of the area.
21. A relatively large area of hardstanding has also been constructed within the field, which the appellant states is to serve agricultural vehicles accessing it. However, hardstanding areas are not a feature in all agricultural fields, and the

field is small in scale and can only be accessed directly through the dwelling's access from Bridge Lane. The piped drainage from the hardstanding within the domestic area drains across much of the field in four pipes. Although I have not been advised of the depth of the drainage pipes, its use for drainage, and the small size of the field, is likely to limit the scale of agricultural activities which may take place on the field, and I have seen no convincing evidence of a need for a hardstanding area within it. The hardstanding within the agricultural land further harms the character and appearance of the area, and I have not seen a clear justification for it in this location.

22. In relation to use of the land, the Council advises that vehicles have been stacked, and the appellant expressly seeks storage for stock car vehicles stacked up to the height of the boundary walls. Correspondence from the appellant shortly after the Notice was issued advised there were 20 stock cars on the land at the time. Even those not exceeding the boundary walls may well be seen from the upper floors of adjacent buildings, and the storage of stock cars in these numbers, and the stacking of any vehicles in this area is harmful to its character. Use for the storage of steam traction engines may not in itself harm the character of the area, but the building of industrial scale and design required to store them, and the extensive hardstanding area facilitating their transport, is harmful particularly considering the residential and small-scale agricultural character of the area.
23. The appellant states landscaping could be provided within both the residential and agricultural areas. He also states that one of the five bays of the steel-framed building could be removed and landscaped bunds could be constructed along the boundary between the building and 6A, 6B and 8A Bridge Lane to the north and along the rear of the building to the east. There is only very limited space for landscaping along the northern and eastern boundaries of the building and the concrete hardstanding, and landscaping in the field would have only limited effects. Removal of the northern bay of the building and a 1m strip of concrete along the northern boundary to allow for landscape planting would reduce the visual effects from the north to a limited degree, but I have seen no evidence that landscaped bunds are characteristic of the area. Even if these measures were carried out, with or without a bund, a narrow strip is unlikely to provide landscaping with native species suitable for a rural setting, and sufficient to mitigate the effects of the scale of the building.
24. In conclusion, the development harms the character and appearance of the area, and conflicts with the relevant parts of Fenland Local Plan (2014) ("FLP") policies LP12 and LP16. These policies require development to make a positive contribution to the local distinctiveness and character of the area, without adverse impacts due to design or scale on the settlement pattern or landscape character of the area.

Living conditions

25. The building runs parallel, and in close proximity, to the eastern boundary of the land, adjacent to the end of the gardens of 10A and 10B Bridge Lane. It's gable end stands adjacent to the northern boundary of the land, at the end of 8a Bridge Lane's garden, and 8 and 6a Bridge Lane face the hardstanding area, from which the gable end and front of the building are visible.
26. From the rear of No 8a, and its garden, the gable end of the building is a dominant feature which extends across more than half of the rear garden

boundary. At 6m high, and 4.9m to its gable ends, the building is similar in height to a two-storey dwelling, but industrial in character, and the green colour of the profile sheeting is insufficient to mitigate its impact. The appellant advises the building is around 18m from the rear of the dwelling, but the building is not a residential one in an urban area. In this rural setting it is an incongruous feature, and harmful to outlook from No 8 and its garden. The building also stands south of the garden close to the boundary and reduces the amount of daylight at the end of the garden, including a patio area.

27. From Nos 6a and 8 the building will be a notable presence, but its position, as a peripheral element in the aspects from these dwellings and their gardens, does not give rise to unacceptable harm to outlook.
28. At the rear of the building, deciduous trees screen the views of the building from the garden of No 10a in the summer months, but the height of their canopies means it is a broad and solid feature from much of the garden, and across the entire width of the garden and the neighbouring one. In the winter months, without the foliage afforded by the trees, the prominence of the building will be increased for users of the garden and the dwelling, and will be harmful to outlook despite the separation distance between the building and the rear of the dwelling¹.
29. From 10b Bridge Lane more limited screening means the building is a substantial, if not the dominant, feature in the garden, and to some extent from the house. At a height to the eaves of nearly 5m and a length of around 30m it appears not dissimilar to an industrial building in this rural setting. Consequently, it is harmful to outlook for occupiers of the dwelling, notwithstanding the separation between the building and the rear of the dwelling².
30. The appellant's offer to remove a bay of the building closest to No 8a would reduce the effects on that property to some extent, but not sufficiently to overcome the harm arising to outlook. Bunds would be likely to further harm the character and appearance of the area, being an alien and industrial feature, as would coniferous planting. Landscape planting in narrow strips along the boundaries is unlikely to adequately mitigate the harm, and native planting of a kind likely to be suitable in a rural area would require broader margins than the 1m or so available at the rear of the building and proposed by the appellant elsewhere.
31. In conclusion, the development harms the living conditions of residential occupiers of the adjoining land, and conflicts with the relevant parts of FLP policy LP16, which requires that development must not adversely impact the amenity of neighbouring users.

Drainage

32. The extensive size of the concrete hardstanding on the residential land generates a need for surface water drainage, and the building's roof will generate further surface water run-off.
33. The hardstanding on the residential land has been designed with a central gully system with 3 drains. Plans available to me, but not to the Council at the time

¹ Which the appellant reports to be around 25m

² Which the appellant reports to be around 30m

the Notice was served, show each drain feeds into a solid underground pipe into the field. An interconnecting perforated pipe then runs diagonally across the field, terminating in an outflow into the ditch which runs along its western boundary on the appellant's land. He advises that discharge into the ditch only occurs in the event of a heavy downpour in a major storm event. It was dry weather at the time of my visit, but I have seen no evidence that the drainage installed is inadequate to meet the demands put on it.

34. There is guttering along the front of the building, but I saw no downpipes, and there was none at the rear. Were I to allow the appeal and grant planning permission for the building, these could be required by a planning condition with discharge into the field away from residential properties.
35. The concrete apron in the agricultural land is further from other properties and likely to drain largely into the field. Where it meets the hardstanding in the residential area surface water will be collected as described above.
36. In conclusion, with the information before me, subject to a suitable planning condition, the development would make adequate provision for surface water drainage and would accord with the relevant parts of FLP policy LP16, which requires development to provide hard and soft landscaping incorporating sustainable drainage systems where appropriate.

Other Matters

37. The planning permission for the appellant's dwelling provided him with a large curtilage. I have seen no evidence that householder 'permitted development' rights³ have been removed relating to the erection of outbuildings or the construction of hard surfaces for purposes incidental to the enjoyment of the dwellinghouse.
38. The appellant acknowledges that the building exceeds the parameters for buildings that can be erected as 'permitted development'. That is the case as part of it is outside the residential land associated with the dwellinghouse, it exceeds 4m in height (having a dual pitched roof), and its eaves exceed 2.5m. Even if the building were moved entirely onto the residential area, its height gives rise to effects significantly greater than those which would arise from a building which could be constructed as 'permitted development'.
39. The appellant also acknowledges that only hard surfaces made of porous materials, or those which direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse may be 'permitted development'. It is likely that any alternative hard surface which did meet those requirements would therefore be smaller in area than that constructed, on account of the area required for drainage.
40. There is therefore no comparable fallback position in relation to the building or hardstanding areas.
41. In relation to use, the appellant considers the keeping of his steam engines and associated vehicles and his stock cars would be incidental to the use of the land as a dwelling if contained solely within the residential land. Section 55(2) of the Act provides exemptions from development, including the use of any buildings

³ Under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such. Whether any particular use is incidental to another is a matter of fact and degree.

42. In isolation, and given the extent of the residential land area, the appellant's two steam traction engines, along with a caravan for use at events, would not necessarily be incompatible with use incidental to the enjoyment of the dwellinghouse. At the same time, given the height of their chimneys, their significant weight, and the practicalities of moving them by low-loader, the appellant advises that the building at its current height and the current extent of concrete hardstanding are a necessary part of keeping them on the Land. Despite the large size of the residential land associated with the dwelling, the extent, scale and character of these elements materially changes the character of the use occurring and are indicative of a material change of use of the land.
43. Similarly, the keeping of a small number of stock cars at the appellant's dwelling for his own personal use, would not necessarily constitute a material change of use. However, the storage of a large number of partially dismantled vehicles stacked on the land differs from the examples considered in the appeals provided by the appellant, and is not reasonably and ordinarily ancillary to the enjoyment of the dwellinghouse.
44. Therefore, even if limited to the residential land, the use of the Land for the storage of vehicles associated with the appellant's hobbies would not be incidental to the residential use of the land as a dwelling. Consequently, the exemption from development afforded by Section 55(2) does not apply, and there is no fallback position in relation to the use.

Conclusion on ground (a)/DPA

45. I have found the development would make adequate provision for surface water drainage were a suitable planning condition imposed on any grant of planning permission. Nevertheless, the development harms the character and appearance of the area and the living conditions of residential occupiers of the adjoining land. The development conflicts with development plan policies, and there are no other material considerations that require a decision to be made other than in accordance with the development plan.
46. The appeal on ground (a) therefore fails, and the DPA is refused.

Conclusion

47. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections 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).

Decision

48. It is directed that the enforcement notice is corrected by the deletion of the following words from Section 3:
- "Without planning permission, the material change of use of the land from agricultural land (hatched blue on the attached plan) and domestic garden land (the remaining unmarked land edged red on the attached plan) to a

mixed use of domestic garden land and land used for the storage and dismantling of vehicles"

and their substitution with the words:

- "Without planning permission, the material change of use of the land from agricultural use (hatched blue on the attached plan) and residential use (the remaining unmarked land edged red on the attached plan) to a mixed use of agricultural, residential and the storage of vehicles".

And varied by:

- the deletion of the words "and dismantling" from Section 5(a).

49. Subject to the corrections and variation, 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.

Peter White

INSPECTOR