
Appeals Decisions

Site visit made on 26 September 2024

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29th October 2024

Appeal A: Ref: APP/A3010/C/23/3331191

Poppy View Farm, Stone Hill Lane, Everton, Nottinghamshire DN10 5BT

- Appeal A is made by David Atkinson under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 20/00033/ENF) issued by Bassetlaw District Council on 19 September 2023
- The breach of planning control alleged in the notice is "the material change of use of Land (including buildings) to a mixed use including agriculture; the kennelling, breeding and training of dogs, including the stationing of caravans, portacabins, lorry bodies, vehicles, equipment, other related items and materials, food and waste associated with the keeping, breeding and training of dogs on the Land; and the stationing of caravans for human habitation, including the stationing of vehicles, equipment, other items and residential paraphernalia associated with the human habitation of the Land".
- The requirements of the notice are as follows: -
 - “(1) Cease the use of the Land (including buildings) for the kennelling, breeding and training of dogs, including the stationing of caravans, portacabins, lorry bodies, vehicles, equipment, other items and materials, food and waste associated with the kennelling, breeding and training of dogs.
 - (2) Cease the use of the Land for the stationing of caravans for human habitation, including the stationing of caravans, vehicles, other items and residential paraphernalia associated with the residential occupation of the Land.
 - (3) Remove all dogs for kennelling, breeding and training from the Land.
 - (4) Remove all caravans associated with the keeping, breeding and training of dogs from the Land.
 - (5) Remove all portacabins, lorry bodies, vehicles, equipment, other items and materials, food and waste associated with the keeping, breeding and training of dogs from the Lane.
 - (6) Remove all caravans for human habitation from the land.
 - (7) Remove all vehicles, other items and residential paraphernalia associated with the stationing of the static caravan for human habitation from the Land.”
- The period for compliance with these requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(a). An application for planning permission is deemed to have been made by section 177(5) in respect of the matter stated in the notice as constituting a breach of planning control.

Appeal B: Ref: APP/A3010/C/23/3331200

Poppy View Farm, Stone Hill Lane, Everton, Nottinghamshire DN10 5BT

- Appeal B is made by David Atkinson under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: 20/00033/ENF) issued by Bassetlaw District Council on 19 September 2023.
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- The breach of planning control alleged in the notice is the erection of a building ("the Building") as shown edged in green on the plan attached to the notice.
 - The requirements of the notice are as follows: -
 - “(1) Demolish the Building, in the area shown edged in green on the attached plan, and take up any hardstanding associated with the Building.
 - (2) Remove all materials as a result of the demolition of the Building and any hardstanding from the Land.”
 - The period for compliance with these requirements is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a). An application for planning permission is deemed to have been made by section 177(5) in respect of the matter stated in the notice as constituting the breach of planning control.
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Decisions

Appeal A

1. It is directed that the enforcement notice be varied by replacing "6 calendar months" in paragraph 6 by "12 months".
2. Subject to this direction, Appeal A is dismissed, the enforcement notice is upheld as varied and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Appeal B

3. Appeal B is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for the erection of a building (an extension to the stables) at Poppy View Farm, Stone Hill Lane, Everton, Nottinghamshire DN10 5BT, subject to the following condition: -
 1. If within one month of the date of this decision details of the final external appearance of the building have not been submitted in writing to the local planning authority for their written approval, or if the building has not been completed as approved within six months of the local planning authority's written approval of its final external appearance, the building shall be demolished and all the resultant debris shall be removed from the land.

Reasons for the decisions

Appeal A

4. The appellant seeks planning permission for the mixed use stated in the notice, with the exception of dog breeding and training, which are now not taking place on the site. His proposed use would become a mixed use for agriculture and for the kennelling of dogs.
 5. A previous planning application 21/00781/FUL sought permission to use stables on the site for the breeding and training of greyhounds and to station a residential caravan on the site for security. This application was refused by the Council on 24 February 2022. An appeal against this decision was dismissed by a planning inspector on 25 August 2022 (ref: APP/A3010/W/22/3297975). The inspector treated the scheme as the use of the site for greyhound training and breeding purposes, with a residential caravan on the site.
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6. In the appeal decision, the inspector dealt with noise concerns, acoustic fencing and the need for the caravan. After a detailed consideration of the noise concerns, the inspector concluded on the available evidence that it had not been demonstrated satisfactorily that unacceptable harm from the barking of dogs would not be caused to the living conditions of nearby occupants or that a planning condition limiting noise to a specific decibel level would overcome this harm. As to whether the noise could be mitigated by an acoustic fence, the inspector concluded that the fence would have to be high, solid and continuous and would therefore be detrimental to the area's open, rural characteristics. The inspector noted that there was a lack of evidence as to whether further mitigation measures or works could be undertaken. The inspector was also unable to come to a definitive view on the need for the caravan but, having reached the conclusion that the noise would be unacceptable, decided that there was therefore no justification for the caravan.
7. I agree with the conclusions of the inspector, based as they were on the available evidence and the proposals then presented, which did not specifically refer to kennelling. However, I can appreciate that if the use of the site is restricted, as is now proposed, solely to agriculture and kennelling there could be less noise, since the noise caused by outdoor dog training would not occur. It could also be possible to sound-proof the kennels themselves and their immediate surroundings, rather than rely on large-scale acoustic fencing around the site, but the dogs would presumably still require some outdoor space for exercise. There could in addition be more opportunity to impose suitable planning conditions and to justify the need for the caravan by reference to animal welfare and site security, bearing in mind the value of racing greyhounds and the need to protect them from intruders.
8. The difficulty is the lack of evidence, as it was in the previous appeal. The appellant has not put forward any details to support the proposals now put forward; the Noise Impact Assessment he submitted in connection with the previous appeal has shortcomings and has not been updated to take account of the proposals; nor are the Environmental Health Officer, neighbours and other consultees in a position to comment on them. In these circumstances, I have concluded that Appeal A must fail because of the proposals' potential impact on neighbours' amenities and their unascertainable effect on the character and appearance of their surroundings. I have however extended the compliance period in the notice to allow the appellant sufficient time to decide how to proceed and, if necessary, to find alternative premises for his business.

Appeal B

9. The building referred to in the notice is an extension to the stables. The notice states that the extension has been constructed with pebbledash concrete sectional walls and a timber sheet roof. These materials are considered by the Council to be out of keeping with the finish of the stables and to be a poor standard of construction that is an insensitive and unsympathetic addition causing harm to the visual amenity of the surrounding area, contrary to planning policies. The appellant has explained that the structure as it stands is unfinished and that building work was started with the intention that it would be finished externally to match the stables. He indicates that if permission is granted it will be finished as intended and would not then have a detrimental effect on the surrounding area.

10. As it stands, the extension does not have an adverse impact beyond its immediate surroundings and it could easily be finished so as to match the stables. The Council's concerns would then be satisfied and the planning policies would be complied with. The appellant should have the opportunity to finish the extension to a standard approved by the Council before he is obliged to demolish it. I understand the hardstanding was pre-existing: the appellant should therefore not be required to remove it.
11. Accordingly, I have granted planning permission for the extension, subject to a suitable planning condition. Appeal B has succeeded to this extent.

D.A.Hainsworth

INSPECTOR