



Appeal Decision

Hearing Held on 8 October 2024

Site visit made on 8 October 2024

by R Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2024

Appeal Ref: APP/E2001/C/24/3342799

Land adjoining Autherthaws Farm, Long Lane, Aughton, York YO42 4PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Peter Beck against an enforcement notice issued by East Riding of Yorkshire Council.
- The enforcement notice was issued on 12 March 2024.
- The breach of planning control as alleged in the notice is Without planning permission the material change of use of agricultural land to a mixed use comprising residential, holiday, storage, manufacturing of units for human habitation, and motor vehicle repair uses; and integral to the mixed use, the siting of storage containers, units capable of human habitation, and the provision of a borehole, hardstanding and a septic tank.
- The requirements of the notice are a) Cease the residential and holiday use of the Land; and, b) Cease the use of the Land for the manufacturing of/conversion of containers into units capable of human habitation; and, c) Cease the use of the Land for storage; and d) Cease the use of the Land for repair of motor vehicles; and e) Remove from the Land all containers, caravans and recreational huts; and, f) Remove from the Land all hardstanding; and, g) Remove from the Land the compost style toilet, septic tank, borehole apparatus, the shipping container which houses the borehole apparatus, and all ancillary equipment which facilitates the operation of the borehole; and, h) Remove from the Land all domestic goods, items and paraphernalia including tables, BBQ's wooden hammock, and gas bottles; and, i) Remove from the Land all equipment, materials, tools, plant and equipment used in connection with the manufacturing/conversion of units for human habitation; and, j) Upon completion of Step 'a' through to 'i', restore the land to its previous condition that existed prior to the breaches occurring.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (f) and (g) 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 under section 177(5) of the Act.

Summary of Decision: The appeal succeeds in part and the notice is corrected to delete the relevant allegation and requirement, and permission is also granted in part, but otherwise the appeal fails and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.

Preliminary Matters

Background

1. The appeal site covers an extensive area, part of a broadly square-shaped, grassed field that was formerly in agricultural use. The appellant is seeking to convert a number of disused, industrial refrigeration containers into 'lodges' for

short term holiday rentals. The appellant has completed two lodges which are now in use. Small 'recreational huts' containing leisure facilities such as lounge seating and televisions have also been constructed, alongside the provision of barbecue equipment and hot tubs to complement each lodge within a patio area. There are three further containers stationed on the site awaiting conversion.

2. All conversion work to the containers, which includes the formation of door and window openings and the preparation and fitting of timber cladding is being carried out on the appeal site. This process is facilitated by two further containers which act as a workshop and allow for equipment storage.
3. A borehole has been created, and filtration equipment installed, to facilitate the extraction and cleaning of ground water for consumption on the site. Water and electricity is pumped / supplied to the lodges by a power generator. This equipment is sited within enclosed structures, located adjacent to the northern boundary of the site.
4. The site is accessed from the public highway via a lengthy and roughly surfaced, single vehicle width track, which runs in a north-south direction. The track appears to be in private ownership, and aside from the appellant and his clientele, is used by other parties in order to access adjacent land and property. This includes the nearest residential property at Autherthaws Farm, which is situated immediately adjacent to the south-eastern corner of the site.
5. The track leads to two entrance points to the appeal site, at the north-east and south-east corners respectively. A small area of hardstanding, formed from a coarse aggregate, has been constructed adjacent to the north-eastern entrance, in order to provide for client car parking. Two vehicle passing places have been created at intervals along the access track, involving the partial removal of a hedge.
6. A touring caravan has been sited, within the Dutch barn on the southern boundary of the appeal site, to allow the appellant to reside on site from time to time, apparently in the interests of security.

The alleged breach

7. At the Hearing the Council accepted that the alleged storage of materials at the site was entirely related, and ancillary, to the ongoing manufacturing process there. It was not therefore a primary use in its own right, part of the alleged mixed use. It was agreed that the wording of the notice could be corrected accordingly, without resulting in injustice.
8. It has been suggested by a third party that the scope of the notice ought to be extended to incorporate alleged unauthorised fences. However, I am not satisfied that extending the scope of the notice, as suggested, could be achieved without resulting in injustice to the appellant. It would therefore be for the Council to consider whether any future enforcement action is justified in this regard.

Grounds of appeal

9. The appellant confirmed that they are not seeking to rely on permitted development rights for any of the alleged development, or saying that a breach of planning control has not occurred. Accordingly, for the avoidance of doubt,

any certification relating to a caravan site that may have been issued by the 'Freedom Camping Club' has had no bearing on my decision in this case.

Emerging Local Plan

10. The Council confirmed at the Hearing that it did not seek to give weight to any policies in its emerging Local Plan. I noted that the appellant did not contest this position, and I consider there to be no compelling reason for me to take a contrary stance.

Noise assessment

11. The appellant's final comments in relation to this case included a noise assessment¹. The Planning Inspectorate originally declined to accept the assessment, as it was deemed to constitute late new evidence, though it stated this would be subject to review by the Inspector. Having reviewed the evidence, I was satisfied it responded to points made in the Council's statement of case; would assist discussion at the Hearing and could therefore be accepted for consideration.
12. In the lead up to the Hearing the Council referred to the findings of a noise monitoring exercise it had undertaken in relation to activities on the appeal site. This was briefly discussed during the Hearing, at which time some further details of when that survey had been undertaken, along with the measuring equipment that had been used, were disclosed. In the interests of fairness, I permitted a short further exchange of written representations between the main parties, relating to the Council's noise survey following the closure of the Hearing. Third parties were also consulted for any views relating to this additional information.

Costs

13. The appellant's agent stated at the Hearing they were dissatisfied regarding the late disclosure of information by the Council regarding its noise survey, however they did not seek to make an application for Costs. During the exchange of written correspondence, after the Hearing, the appellant however indicated they did wish to make such an application. However, I declined to accept the belated application, mindful that the subsequent representations revealed very little further information, compared to what was available for consideration during the event.
14. I am also mindful that the late exchange of evidence regarding the appellant's noise assessment, was in part caused by its acceptance for consideration at a relatively late stage in the appeal process. However, I am firmly of the view that all parties have been given the opportunity to air their views in relation to this matter, to have those views considered and have not therefore been disadvantaged. Accordingly, I do not find any suggestion of unreasonable behaviour in this regard, and therefore no need for me to initiate my discretionary powers to consider making any costs award.

Site visit

15. At the Hearing, representations were heard from Mr Burns, the occupier of Autherthaws Farm. He confirmed he would not be available, but did not wish

¹ Dragonfly Consulting – dated 22 July 2024.

to be present, at the site visit, and was content for the parties to observe the site from his property. For the record, Mr Burns was present for part of the site visit around the front of his property and along the access track.

The appeal on ground (b)

16. The appeal on ground (b) is that the alleged breach of planning control has not occurred. The appellant's case is confined to the argument that there has never been any commercial motor vehicle repair on the site, only some limited 'one-off' works to a family vehicle; secondly that there have never been septic tanks on the site.
17. The Council accepted at the Hearing, there is no evidence the vehicular repair work observed, when the case was being investigated, is ongoing. It also accepted the appellant's case that foul water is stored and emptied periodically by contractors, rather than as part of a septic tank system. I have no reason to take a contrary view.
18. On the balance of probability, I accept the appellant's evidence in this regard. The ground (b) appeal therefore succeeds to this limited extent and the notice will be corrected accordingly.

The appeal on ground (a)

Main Issues

19. The appeal on ground (a) is that planning permission should be granted. The main issues are:
 - i) Whether the siting of the proposed lodges complies with Council policies regarding tourism and sustainable locations for development;
 - ii) the effect of the lodge development on the character and appearance of the surrounding area;
 - iii) Whether the manufacturing processes are acceptable in terms being in a sustainable location and having regard to the character and appearance of the surrounding area;
 - iv) the effect of the development on the living conditions of nearby residents, and users of the public footpath, having particular regard to noise and artificial light;
 - v) whether temporary residential occupation of the site by the appellant is acceptable, having regard to construction work and site security;
 - vi) The legality / practicality of access arrangements for the site.

Reasons

Sustainable Location for Lodges

20. The local plan policy context is provided by the East Riding Local Plan Strategy Document 2016 (LP). Policy EC2 states that tourism development will be encouraged, and in the countryside new static and touring caravan sites will be supported where their scale and cumulative impact is appropriate for the location. Policy EC4 states that new development will be supported where it is accessible or can be made accessible by sustainable modes of transport. It

says that development proposals should support sustainable travel options. This is reflected in Policy S2 which supports a reduction in greenhouse gas emissions.

21. The above raises the question as to whether the proposed lodges may be regarded as caravans. A caravan is defined at s29(1) of the Caravan Sites and Control of Development Act 1960 (CSCDA) as any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted. It excludes (a) any railway rolling stock which is for the time being on rails forming part of a railway system, or (b) any tent.
22. S13(2) of the Caravan Sites Act 1968 confirms that, for the purposes of the CSCDA, the expression 'caravan' shall not include a structure designed or adapted for human habitation, where its dimensions, when assembled, exceed any of the following limits: 20 metres in length; 6.8 metres in width; a maximum internal floor to ceiling height in relation to the living accommodation of 3.05 metres.
23. In summary, and on its face, the aforementioned legislation introduces a 'mobility test' and a 'size test' that would apply to any case where there is a claim for caravan status.
24. The main parties do not dispute that the converted lodges provide for human habitation; also that they would be capable of being moved from one place to another without being dismantled, so as to meet the mobility test. The area dimensions of the structures, as set out within the appellant's evidence, are not disputed. An internal height measurement was also taken and agreed by the parties on site. On this basis I am also satisfied that the aforementioned size test would be met. I conclude that it would be reasonable to regard the converted lodges as caravans.
25. I therefore turn to the scale and cumulative impact of the lodge development. The development would consist of a maximum of 5 lodges, each with a small amount of ancillary leisure related features, as described above. Each cluster of development would be limited in height and footprint, and reasonably spaced out adjacent to the northern boundary of the site, to respect the privacy of adjacent occupiers. The clusters of development would not appear cramped or give a sense the site was disproportionately developed. Accordingly, I find the proposed scale of development to be acceptable.
26. The Council accepted the development would not lead to an adverse effect arising from any cumulative impact, and I have no reason to take a contrary view. Drawing the above considerations together I conclude the development would comply with Policy EC2, as summarised above.
27. It is undisputed that the site lies within the countryside, a number of miles away from the nearest settlement, Bubwith, which has only a very limited range of services. There is an absence of roadside footpaths and street lighting connecting the site. Therefore, despite a public right of way passing along the western boundary of the site, also the provision of some limited leisure facilities at the neighbouring golf club, in terms of connectivity it would be realistic to conclude that for convenience and distance reasons, and safety during hours of darkness, there would need to be significant reliance on private vehicles in

order to gain access to everyday services and facilities. I am not therefore persuaded that the appeal site could reasonably be described as being in a sustainable location.

28. Whilst I do not consider the proposal to be entirely compliant with the wording of Policy EC4, the policy does not specifically state that such development will be resisted. Furthermore, the National Planning Policy Framework (the Framework) acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It seems to me that the limited scale of development proposed, involving short term breaks and focused on self-catering provision, would not give rise to excessive car movements. I am also mindful that the Council has previously permitted a development of a similar nature and scale relatively nearby, in close proximity to The Oaks Golf Club. Furthermore, the reuse of existing structures with a high degree of insulation would be in keeping with the Framework objective of encouraging sustainable rural tourism and leisure development.

Lodge development in relation to Character and Appearance

29. The appeal site is within a quiet countryside location, characterised by a relatively flat landscape of dense hedgerows and plantations. I concur with the appellant's description of the location being pleasant but not exceptional. The key visual receptors for the development are the aforementioned public footpath and the dwelling adjacent to the south-eastern corner of the site.
30. The development would be visible from the footpath as it passes along the western boundary of the site. However, it seems to me that the limited scale of the lodge units, visible against mature boundary planting, and the use of timber cladding on the external elevations, would help to assimilate the development into its surroundings, serving to mitigate visual impact and respecting the rural character. Beyond the northern and southern boundaries of the appeal site, the visibility of the units, from the footpath, would be significantly screened and filtered by dense boundary vegetation.
31. The Council has expressed concern that the lodges appear boxy, bulky and taller than traditional caravans. However, I consider that the use of narrow vertical cladding panels and the coordination in the colouring of window frames and roofing material demonstrate an attention to detail that results in a high quality of design. The cladding also seemed to me to be less reflective than the typical shiny and brighter surface of a traditional touring caravan, and therefore less likely to draw the eye. The units do not appear to be significantly different in scale and height to static caravans.
32. The lodges would be visible from the dwelling, but at distance, and would not result in harm to outlook from this perspective.
33. I have also had regard to the various ancillary developments including, the recreational huts, respective housing for the water related apparatus and generator, hardstanding areas, access road and various associated miscellaneous paraphernalia. However, having regard to the limited scale of this development, and the ability to control the site layout through a planning condition, I do not find these features to be unacceptable.
34. I acknowledge the land is not classed as previously developed, however this does not exclude it from future development in policy terms. Drawing the

above considerations together I find the development would accord with the Policies ENV1, ENV2 and S4 of the LP insofar as they seek development to be of an appropriate scale, designed to a high quality and sensitively integrated into the landscape. Neither do I find the development to be in conflict with the Framework or with the National Design Guide in this regard.

Sustainable Location for Manufacturing

35. Policies EC1, EC4, S1 and S4 of the LP set out the Council's strategy towards employment development in the District. Collectively these policies seek to promote sustainable development, including the use of sustainable modes of transport. Specifically, Policy EC1 sets out that outside development limits, employment development should be of an appropriate scale to its location, respecting the character of the surrounding landscape. Where not well related to an existing industrial estate or involving the expansion of an existing business or conversion of an existing building, the proposal should have a functional need to be in the particular location.
36. The appellant confirmed during the Hearing, and in evidence, that he had investigated undertaking the conversion works on an existing industrial estate before transporting the completed units to the site. That option, however, had been discounted for economic reasons. From the evidence before me, I am not persuaded that there is a functional need for conversion works to be carried out on the appeal site. I find this element of the development not to accord with the aforementioned policies.
37. However, whilst the light colouring of the containers awaiting conversion is distinctive, the units occupy a small part of the overall appeal site, and are relatively distant and / or partly screened from the visual receptors identified above. In addition, because conversion work on the site is being undertaken solely by the appellant, there would be an absence of employee related traffic movements. Furthermore, the conversion operation would be limited in scale and for a finite period, enforceable by planning condition, thus limiting the impact of the development, including in visual terms. I am not persuaded that the nature and scale of this development would result in dust or groundwater pollution.
38. Therefore, in principle, I regard the lodge unit manufacturing to constitute a relatively low key and time limited process, potentially akin to a farm-related construction project. As such there are material considerations justifying a decision on this aspect of the development, otherwise than in accordance with the development plan.

Living Conditions

39. There are potential impacts on living conditions, arising both from use of the holiday lodges and from the manufacturing processes to create them, that need to be considered. The appellant has provided a noise assessment, which considers impact on the nearest sensitive receptor, the dwelling occupied by the neighbouring resident at Autherthaws Farm (from whom objections have been received in relation to generator related noise). The consultant did not conduct a site visit, but states the assumed background noise levels were determined having regard to a nationally recognised mean background noise level for rural sites. These levels equate to 39.5 dB(A) during the day and 31.5 dB(A) at night.

40. As set out above, the electricity supply for the lodges is provided by a power generator located on the site. The assessment, taking into account the technical specification for the generator, and separation distance from the receptor, predicts a noise rating level of some 29 dB(A) at the nearest dwelling. The generator noise is therefore predicted to fall below the background noise level. Having regard to BS 4142:2014+A1:2019 (Methods for rating and assessing industrial and commercial sound), it would not breach threshold levels for indicating an adverse impact (+5 dB above background level) or significant adverse impact (+10 dB above background level). It is therefore predicted to have a low impact.
41. The Council disputes the above findings, referring to a lowest actual night-time background level having been recorded at 21 dB(A). However, in this regard the appellant's noise consultant highlights certain shortcomings in the Council's evidence, notably that the appropriate night-time background noise level should not normally be the lowest level, but rather the most frequently occurring, and therefore representative, level measured over a period of time. The Council has not sought to challenge this point and likewise I have no reason to do so. Consequently, in these circumstances I favour the appellant's assessment. I would nevertheless consider it prudent to impose a condition to the effect that the generator noise should not exceed background levels by more than 5 dB(A) at any time, when measured at the neighbour's dwelling.
42. Having regard to the limited scale of development, the comings and goings of clients associated with the lodges would reasonably be expected to be relatively infrequent. Such vehicle movements would not therefore be expected to give rise to undue disturbance. Furthermore, the proposed site entrance would be away from the neighbour's property, further to the north along the access track. I am not persuaded that noise arising from televisions or from social interactions would result in undue disturbance due to the separation distance involved.
43. It would be possible to impose a working hours condition, to ensure that manufacturing works on the lodges did not encroach into quieter times of the evening and night. With this safeguard in place, I am satisfied that noise associated with fabricating the lodges, and the use of related power tools, would not result in undue disturbance.
44. The Council's representations refer to the impact of the generator noise, having regard to the quiet rural character of the area. I observed during my visit that the noise of the generator was somewhat intrusive when walking along the public footpath, adjacent to the wooded area, to the north of the appeal site. This may, in part, be explained by the generator not being fully enclosed at the rear. Nevertheless, in my judgment, it would be possible to apply a more effective noise attenuation solution in relation to the generator, so as to protect the character of the area. This matter could be addressed through a suitable planning condition.
45. Concerns were raised regarding the impact of artificial light emanating from the lodge development. However given the limited scale of the proposal, its separation from key receptors and the scope for additional screen planting, I am not persuaded that this results in any significant harm.

46. I conclude that, subject to conditions, the development would not result in harm to living conditions and would therefore accord with Policies ENV1 and ENV6 of the LP insofar as they seek to safeguard against pollution.

Residential Occupation

47. Policy S4 sets out the types of development that will be supported in the countryside, where the intrinsic character of surroundings would be respected. These include rural-based occupational dwellings, in relation to which an essential need has been demonstrated. The appellant states that there is a need for a full-time presence on the site, albeit temporarily whilst the construction project is ongoing, in the interests of site security. He refers to a previous break-in at the site which resulted in the theft of equipment and considerable financial loss. It would appear that CCTV equipment on the site was also damaged by the perpetrators at this time. He also refers to his clients having had access to the site obstructed by the neighbouring resident, with whom he is in dispute.
48. When questioned at the Hearing the appellant confirmed that his present full time address is in Foggathorpe, a local village some two to three miles away from the appeal site. This is therefore a short driving distance away. Whilst I sympathise with the appellant that they have been the victim of a burglary, I am not persuaded that some form of electronic surveillance system could not be safely and affordably installed on the site. Thus, it seems to me that the technology would be available to alert the appellant to any future unauthorised entry to the site, and for the site to be attended relatively quickly by way of response.
49. I am not therefore persuaded that an essential need exists for the appellant to reside on the site. Whilst the appellant has referred to a dispute with his neighbour, and to previous actions allegedly designed to thwart access to the site for his clients, this still does not lead me to an alternative view. The appellant would be in a position to respond to an issue should it arise.
50. I conclude that the residential use of the site, albeit for a temporary period, would therefore be in conflict with Policy S4 of the LP. Neither am I persuaded that the proposal to maintain a temporary residential presence on the site would be consistent with the Council's emerging development plan policies.

Access Arrangements

51. It is claimed by the resident living adjacent to the appeal site that he owns the access track leading to the site, and that a covenant is in place restricting its use for agricultural purposes only. No evidence of title has been presented by either party. However, the appellant has referred to verbal agreements having previously been made with his neighbour, which amongst other things allow him use of the access for all purposes, and to provide two passing places along its route. The appellant has expressed an expectation that such agreements are honoured, and has referred to the possibility of seeking legal remedy through the principle of 'estoppel'.
52. In terms of lawfulness, and by implication the practicality of gaining access to the site, it is not within my remit to determine whether such rights exist for the appellant. That would be a matter for another tribunal. It seems to me

however that I am required to consider whether there is at least a realistic prospect of such rights existing.

53. The lawfulness of vehicular access to the site is in dispute between the parties. Notwithstanding this, from the evidence before me, I cannot rule out a realistic prospect of a right of access to the site being secured by the appellant. I am also mindful of the principle that an appellant does not have to own a site in order to seek planning permission. Accordingly, although the definitive position regarding lawful vehicular access for the benefit of the appellant remains inconclusive, I do not consider that this should count against the appellant's case in this appeal.
54. The neighbouring resident also objects to the development on the grounds that the narrowness of the track leads to obstruction and inconvenience, as vehicles travelling in opposite directions meet one another. At the Hearing he referred to having to reverse up and down the track for this reason on two to three occasions a week. It would appear that aside from the appellant's clients and the neighbouring resident, the track is also used by two other farmers in order to access their own land.
55. In order to help mitigate the issue the appellant has created two vehicular passing places by forming gaps in the adjacent boundary hedge. It was apparent from my visit that reasonable intervisibility exists between the passing places, the appeal site entrance and the main road, such that efficient vehicle passage could be accommodated. Whilst I accept this may still result in some minor inconvenience at times when a driver needs to reverse to a passing place, to allow for an oncoming vehicle, this is unlikely to be over a long distance or a frequent occurrence, when having regard to the limited scale of development proposed.
56. Whilst I acknowledge that rights of access along the track are in dispute, as I have set out above, land does not have to be in the ownership of the appellant in order to gain planning permission. Furthermore, whilst I consider the provision of the passing places would lead to increased convenience for all parties using the track, and would therefore be a sensible innovation, I do not consider their provision essential to the grant of planning permission. Accordingly, the question of private rights to remove some of the hedgerow along the course of the track, do not therefore weigh against the proposal in this case.
57. Concern has also been raised about inherent harm arising from the removal of sections of hedgerow, necessary to help form the passing places. However, I am satisfied that this involves relatively minor incursions into the hedge line, also that a landscaping scheme would allow for some compensatory planting.

Conditions

58. I have considered the various conditions suggested by the Council that were discussed at the Hearing. A condition is required restricting the number of lodges, and associated ancillary recreational huts, in the interests of protecting the character and appearance of the area. Conditions are required restricting their use for holiday purposes only and not for permanent occupation, and to ensure that a record of client bookings is made available for inspection by the Council, in accordance with the development being justified on tourism grounds.

59. Conditions restricting working hours on the site in relation to conversion works, preventing the playing of amplified music and restricting noise levels from the generator are required to protect the living conditions of nearby residents. A condition is required restricting the scope and duration of the manufacturing use on the site, limiting the number of containers on the site awaiting conversion and requiring the removal of the workshop and storage containers at the end of the manufacturing period, in the interests of visual amenity.
60. A condition requiring the reporting and potential remediation of any unexpected contamination found on the site, in the interests of environmental protection, is required. A condition is required limiting the number of lodges that may be occupied prior to the access and parking arrangements being implemented, in the interests of road safety.
61. A condition is needed to secure the site layout details; the appearance and dimensions of the lodges and huts yet to be provided; landscaping measures, including screen planting in the interests of the visual amenity of the area; a scheme for dealing with the discharge of foul and surface water; waste and recycling storage and removal arrangements and biodiversity enhancements in the interests of environmental protection; any external lighting arrangements and more effective noise attenuation from the enclosure of the power generator stationed on the site in the interests of the living conditions of local residents and users of the nearby public footpath; and access and parking arrangements within the site in the interest of road safety.
62. The form of this condition is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place. The condition will ensure that the development can be enforced against if the required details are not submitted for approval within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion regarding ground (a) appeal

63. Drawing the above considerations together I conclude that the proposed residential use of the site would conflict with the development plan and that planning permission should not be granted for this element of the alleged mixed use. However, I conclude that the proposed holiday lodge use would accord with the development plan when read as a whole, and that the proposed manufacturing use, would be justified by other material considerations, despite not being in accordance with the development plan. Those uses, and associated developments, should therefore be granted planning permission subject to suitable planning conditions.

The appeal on ground (f)

64. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in s173 of the 1990 Act and are to remedy the breach of planning control (s173 (4) (a)) or to remedy injury to amenity (s173

- (4) (b)). The Act sets out that the breach may be remedied by making the development comply with the terms of any planning permission granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.
65. With regard to the unauthorised development, the objectives of the notice are to secure the discontinuance of the mixed use and the removal of various associated operational developments, and therefore to restore the land to its condition before the breach took place. It follows that the purpose of the notice is to remedy the breach of planning control.
66. The appellant's ground (f) appeal is specifically that it is excessive to require the removal of the touring caravan, because this is only required to support the temporary residential use, and the removal of borehole apparatus as this is not causing any adverse effects. Furthermore, they say the parking of two private cars in the barn poses no risk to local amenity or safety within a largely enclosed building.
67. I have concluded that the temporary residential use should not be granted planning permission. Therefore ceasing the residential use and restoring the land to its previous condition through the removal of the touring caravan are not excessive requirements.
68. I have also concluded above that planning permission ought to be granted for the borehole and related apparatus. That permission will therefore override any relevant requirements in the notice, by virtue of s180 of the 1990 Act. I have also concluded that the alleged use of the land for motor vehicle repair ought to be omitted from the notice. The ground (f) appeal therefore succeeds to that limited extent.

The appeal on ground (g)

69. The appeal is that the compliance period falls short of what should reasonably be allowed. When taking into account that I will grant planning permission for the corrected description of the alleged development, with the exception of the residential use, the requirements of the notice will essentially be limited to removing the residential touring caravan from the site.
70. The notice allows a compliance period of six months. There is no evidence before me to indicate that the necessary arrangements could not be made to secure compliance within this timescale. The ground (g) appeal therefore fails.

Overall conclusion

71. For the reasons given above I conclude that the appeal should succeed in part only. The notice is corrected to delete the relevant allegation and requirement for one part of the matters the subject of the notice (the alleged motor vehicle repairs). Furthermore, in accordance with s177(1) of the 1990 Act, I will grant planning permission for part of the matters the subject of the enforcement notice (the development targeted by the notice, as corrected, excluding the residential use and associated touring caravan) but otherwise I will uphold the notice, with corrections, and refuse to grant planning permission on the other part (the residential use and associated touring caravan). The requirements of the upheld notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the 1990 Act.

72. Consequently, the notice ceases to have effect with regard to the holiday and manufacturing uses, including the associated structures and equipment, hardstanding and borehole related apparatus and equipment because this will benefit from planning permission and is therefore lawful for planning purposes.

Formal Decision

73. It is directed that the enforcement notice is corrected at paragraph 3 by the deletion of the wording describing the breach of planning control in its entirety and substitution of the following wording instead:

“Without planning permission the material change of use of agricultural land to a mixed use comprising residential, holiday and manufacturing of units for human habitation including ancillary storage; and integral to the mixed use, the siting of storage containers, units capable of human habitation, and the provision of a borehole, hardstanding and foul drainage tank.”; and

That it is corrected at paragraph 5 by the deletion of the following wording:

“d) Cease the use of the Land for repair of motor vehicles; and”

74. Subject to the corrections, the appeal is allowed in part and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the material change of use of agricultural land to a mixed use comprising holiday and manufacturing of units for human habitation including ancillary storage; and integral to the mixed use, the siting of storage containers, units capable of human habitation, and the provision of a borehole, hardstanding and foul drainage tank at Land adjoining Autherthaws Farm, Long Lane, Aughton, York YO42 4PW subject to the conditions in the schedule below.
75. The appeal is dismissed, and the enforcement notice is upheld, as corrected, and planning permission is refused in respect of the material change of use of agricultural land to a residential use at Land adjoining Autherthaws Farm, Long Lane, Aughton, York YO42 4PW on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) No more than 5 caravans (holiday lodges), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, and 5 associated 'recreational huts' shall be stationed on the land at any time.
- 2) The caravans (holiday lodges) and recreational huts on the site shall be occupied for holiday purposes only and not on a permanent basis.
- 3) The caravans (holiday lodges) and recreational huts on the site shall not be occupied as a person's sole, or main place of residence.
- 4) The site owners / operators shall maintain an up-to-date register of the names of all owners / occupiers of individual caravans / lodges on the site and their main home addresses (unless otherwise agreed with the local planning authority) and shall make this information available at all reasonable times to the local planning authority.
- 5) The use of the workshop and any conversion / construction works in relation to the fabrication of the refrigeration units and recreational huts hereby permitted, shall take place only between the following hours:

08:00 to 18:00 Monday to Friday

08:00 to 12:00 Saturday

and shall not take place at any time on Sundays or on Bank or Public Holidays unless otherwise agreed in writing with the local planning authority.

- 6) The use hereby permitted shall cease and all containers, caravans, huts, hardstanding, tanks, borehole apparatus, materials, tools, plant, equipment and other paraphernalia associated with the use, brought onto or constructed on the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within **28 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - (i) Within **3 months** of the date of this decision a scheme with details for:
 - (a) the internal layout of the site including the location of the lodges, recreational huts and any hardstandings;
 - (b) the appearance and dimensions of the lodges and recreational huts not yet provided;
 - (c) vehicular access, parking and manoeuvring arrangements;
 - (d) the means of foul and surface water drainage of the site;
 - (e) external lighting arrangements within the site;
 - (f) hard and soft landscaping including details of species, plant sizes and proposed numbers and densities and details of a schedule of maintenance for a period of 5 years;
 - (g) waste and recycling storage, collection and disposal arrangements;
 - (h) biodiversity enhancements;
 - (i) the power generator enclosure;

(hereafter referred to as the 'site development scheme') shall have been submitted for the written approval of the local planning authority and the site development scheme shall include a timetable for its implementation.

- ii) If within **11 months** of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
- iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) No more than 2 of the caravans (holiday lodges) hereby approved shall be first used until the means of access, parking and manoeuvring space has been constructed in full accordance with plans to be submitted to and approved in writing by the local planning authority.
- 8) Any manufacturing use on the site shall be for a temporary period of three years only, beginning with the date of this permission, and shall be limited to the conversion of the three containers already on site and production of associated recreational huts. The workshop and storage containers associated with the manufacturing use shall be removed on or before the expiry of the aforementioned three-year period and the relevant area returned to its previous condition within 1 month of those containers being removed.
- 9) There shall be no amplified music played within the site.
- 10) The rating level of noise, from the power generator on the site, taken at the nearest noise sensitive premises, as assessed following the requirements of BS 4142:2014+A1:2019, shall not exceed the background noise level by more than 5dB(A) at any time.
- 11) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development or relevant phase of development is resumed or continued.

END OF SCHEDULE OF CONDITIONS

APPEARANCES

FOR THE APPELLANT:

Jennifer Hubbard	Planning Consultant
Peter Beck	Appellant
Thomas Beck	Appellant's father

FOR THE LOCAL PLANNING AUTHORITY:

Keith Thompson	Planning Team Leader
Hazel Walsh	Enforcement Team Leader
Robert Naismith	Principal Enforcement Officer

INTERESTED PERSONS:

Winston Burns	Local Resident
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Documents submitted at the Hearing:

1. Noise consultant response to Council EHO memorandum.
2. Original EHO comments.
3. Solicitor correspondence in connection with use of the private access track.
4. Previous planning permission ref: 19/04161/STPLF – Yoke Gate Farm.
5. Supporting email from local resident.

Documents submitted following the Hearing:

1. Correspondence from appellant and Council relating to Council's noise monitoring exercise.
2. Consultation responses from local resident, appellant and Council.