

Appeal Decisions

Site visit made on 19 August 2024

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2025

Appeal A Ref: APP/W0530/C/23/3314203

Appeal B Ref: APP/W0530/C/23/3314204

Land at Moat Farm, Park Lane, Castle Camps, Cambridgeshire CB21 4SR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr Martin Haylock (Appeal A) and Mrs Patricia Haylock (Appeal B) against an enforcement notice issued by South Cambridgeshire District Council ("the Council").
- The notice was issued on 8 December 2022.
- The breach of planning control as alleged in the notice is without planning permission, an engineering operation comprising the excavation and formation of two lakes and the creation of earth bunds associated with the excavation of the lakes.
- The requirements of the notice are:
 - Step 1. Remove the earth bund from the Land.
 - Step 2. Infill the excavated lake.
- The period for compliance with the requirements is: 2 months.
- Appeals A and B are proceeding on the ground set out in section 174(2)(b) of the Town and Country Planning Act 1990 (as amended) ("the Act").

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

Preliminary Matters

1. In November 2022 an application (LPA reference 22/05031/PRIOR) was made to the Council for prior approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The application, by Mr Michael McGarr of English Architectural Oak Design and Construction, was for the creation of two irrigation reservoirs, each 10,000 cubic metres, on the Land. It was refused by the Council in December 2022, and appealed in January 2023. That appeal is the subject of a separate decision.
2. The Land subject to the Notice is a large area encompassing several fields bounded by Church Lane, Park Lane, Castle Camps Castle, and a farm track to the south and south-east. The area where operations have taken place is located immediately adjacent to a public footpath south of the village of Castle Camps and a similar distance east of Church Lane. A timber footbridge on the footpath crosses a drainage ditch in a small wooded area, with the developed area immediately to the south and east.

Appeals A and B on ground (b)

3. Appeals on ground (b) are made on the basis that the matters alleged in the breach of planning control, as stated in the Notice, have not occurred as a matter of fact.
4. Photographs and aerial photographs provided by the Council show extensive engineering operations encompassing a wide area of land in the vicinity of a drainage ditch. The parties agree that works have taken place, and there is no doubt that engineering operations resulting in the creation of substantial earth bunds had taken place by the time the Notice was issued.
5. The appellant advises that a bund had been added to an area of land to enable the collection and retention of rainwater. At the same time, the appellant disputes that the works comprise the excavation and formation of two lakes, or that two lakes have been created, started, or excavated.
6. The majority of the work carried out appears to have been additions to the land. Two relatively small excavations are apparent in the photographs, filled with water, and each are shown built-up at their edges in a manner which could be described as bunding. However, they were significantly smaller than the body of water I witnessed at my visit, which encompassed one of those areas and a wider area of previously wooded and arable land, contained by a large bund running along its north-western boundary. That area could properly be described as a lake.
7. In addition, a significantly larger area of land had also been bunded, east of the lake I witnessed, and was the only other parcel I saw not in active use for agricultural production. At the time of my August visit, in dry weather, that land was dry, to the extent that much of it was passable on foot, and I saw no inlet channel from the drainage ditch which runs along its western boundary.
8. Nevertheless, the scale and character of the works in the eastern area were also consistent with the formation of a lake. The bunding is substantial in height, depth and length, rises significantly above the adjacent land levels on both sides, and extends a significant distance along the northern and eastern edges of a rectangular field parcel. These works appear to have taken place in order to facilitate the collection of water over a larger area, even if the larger area of land had not been flooded at the time of my visit.
9. The evidence is therefore that engineering operations, including the formation of bunds, have taken place on two areas of land to enable the collection and retention of rainwater. Some excavation also appears to have taken place, even if limited to a smaller area or areas of the land. The substantive works alleged in the Notice have therefore taken place, even if only one lake has been completed.
10. Section 176(1) of the Act empowers me to correct the notice in order to rectify any defect or misdescription. If no injustice would occur to the appellant or the Council, I should therefore do so by removing the reference to two lakes in the alleged breach of planning control.
11. The Council advise that Section 3 of the Notice could be corrected by deletion of the words, "and formation of two lakes" and the replacement of the word "lakes" with the word "land". That would be a reasonable approach,

and the appellant's words, "associated with the collection and retention of rainwater" would provide greater clarity, particularly given the wide geographical extent of the Land subject to the Notice and the potential to otherwise encompass works not intended to be subject to the Notice.

12. There would therefore be no injustice to either party were I to correct the Notice by replacing the alleged breach of planning control in Section 3 of the Notice with the words, "Without planning permission, an engineering operation comprising the excavation of land and the creation of earth bunds associated with the collection and retention of rainwater."
13. In doing so it would also be necessary to vary the requirements in Section 5 of the Notice. In Step 1 "bunds" should be referred to in the plural, reflecting the breach of planning control alleged, and the works shown in the photographs, and in Step 2 the word "land" should replace the word "lake". Neither variation would cause injustice to the appellant or the Council.
14. The appeal on ground (b) therefore succeeds to that limited extent.

Conclusion

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

Formal Decisions

16. It is directed that the enforcement notice is corrected by:
 - In Section 3, deletion of the words, "Without planning permission, an engineering operation comprising the excavation and formation of two lakes and the creation of earth bunds associated with the excavation of the lakes"
 - and the substitution of the words, "Without planning permission, an engineering operation comprising the excavation of land and the creation of earth bunds associated with the collection and retention of rainwater";
17. And varied by:
 - In Section 5, Step 1: deletion of the word "bund" and the substitution of the word "bunds".
 - In Section 5, Step 2: deletion of the word "lake" and the substitution of the word "land".
18. Subject to the corrections and variations, Appeals A and B are dismissed, and the enforcement notice is upheld.

Peter White

INSPECTOR