



Appeal Decision

Hearing held on 22 January 2025

Site visit made on 22 January 2025

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 February 2025

Appeal Ref: APP/Y3940/C/24/3349380

Land to the south of B4042, Little Somerford, Chippenham

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Edward Greening against an enforcement notice issued by Wiltshire Council.
 - The notice was issued on 5 July 2024.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the land from agriculture to the mixed use of agriculture, the stationing of vehicles (including two buses) for residential purposes and the use of land for the storage of building materials and non-agricultural vehicles.
 - The requirements of the notice are :
 - (a) Permanently cease the use of the land for the stationing of vehicles for residential use;
 - (b) Permanently cease the residential occupation of the land;
 - (c) Permanently remove all domestic paraphernalia associated with the residential use of the land;
 - (d) Permanently remove all building materials and non-agricultural vehicles from the land including but not limited to 2x double decker buses, touring caravan, flat bed van, yellow lorry body, red box truck, 2x trailers, blue Land Rover, green Range Rover, blue Morris Minor.
 - (e) Permanently remove all the materials arising from steps (a) to (d) from the land.
 - The period for compliance with the requirement is 6 months.
 - 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). 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.
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Decision

1. It is directed that the enforcement notice is corrected by:

the deletion of the words "adopted in January 2025" and their substitution with the words "adopted in January 2015" in paragraph (b) of the reasons for issuing the notice;

and, varied by:

the substitution of 12 months instead of 6 months in the period for compliance.

2. Subject to the correction 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.

Preliminary Matters

3. Due to unexpected circumstances, the original date of the hearing was postponed from 7 January to 22 January 2025.

4. Although a Statement of Common Ground (SoCG) had been submitted in advance of the hearing as a draft, it was confirmed at the hearing to be the signed and completed version.
5. The personal medical circumstances of the appellant had been referred to by the appellant in the statement of case but only brief written details provided. As the appellant wished to advise me privately in greater detail at the hearing, members of the public were excluded for a short period whilst a letter dated 11 June 2024 from the appellant's GP was brought to the attention of myself and the Council representatives.

The Notice

6. The appellant has pointed out that the incorrect year has been used for the adoption of the Core Strategy in the reasons for the notice, The Council accepts that this is an error as it should be 2015. I shall correct the notice as no injustice would arise by doing so.
7. The appellant has also stated that the allegation fails to make reference to a caravan and two additional trailers. As the allegation includes reference to the *stationing of vehicles* (including two buses) and requirement (c) refers to the removal of all non-agricultural vehicles *including but not limited to* a series of identified vehicles, I am satisfied the notice is clear in this respect and it is unnecessary for it to be corrected further.

The appeal site and relevant planning history

8. The appeal site is a grassed field in the open countryside to the south of the B4042. A farm gate close to the eastern boundary with a dwelling known as Lovett House, provides vehicular access to a track leading to the south west corner of the field where two double decker buses are situated together with a considerable number of vehicles, trailers and caravans and the outside storage of domestic and other paraphernalia. A second field access is located at the western end of the site.
9. Established hedgerows border the site and a public footpath runs to the south of the site. An electric fence separates that part of the field used for sheep from the residential activities.
10. The appellant's father, James Greening, acquired the site in March 2023 and father and son live in two double decker buses on the site. James Greening is carer for his son and is a part-time handyman. The materials stored on the site are all his personal effects and he states that no commercial activity takes place on the site. The appellant is being assisted by Martin Fowler of Wiltshire Council with a view to establishing a small business relating to landscaping and grounds maintenance.
11. There is no relevant planning history for the site prior to the submission of an outline application for a self-build house and associated workshop which had been validated the day before the hearing (PL/2004/11637). All matters are reserved except means of access. The proposed siting of the dwelling and workshop appears to coincide with the current siting of the unauthorised residential use and storage of vehicles.
12. I consider the planning unit to be the area identified on the plan attached to the notice as the whole site is in a single ownership and there is little physical

demarcation to separate the unauthorised activities with the remainder of the agricultural land, and it is appropriate that the allegation refers to mixed uses.

The appeal on ground (a)

13. An appeal on this ground is that planning permission should be granted for what is alleged in the notice. However, the appellant is seeking a temporary permission for residential use of the site pending the determination of an application for permanent residential use of the site. I have therefore determined the appeal on ground (a) on this basis.
14. Although the requested site for temporary permission was not identified prior to or at the hearing, at my request the appellant submitted a plan (document 3) showing the site. The Council was consulted on the plan prior to its submission. The red line site is some 0.25ha and extends to the common boundary with Lovett House. In contrast, the site subject to the current outline planning application is substantially smaller and limited to 0.109ha. It is not clear how the appellant would self-build a dwelling should permission be granted as all the buses, stored vehicles etc would need to be moved from their current position to another part of the site to permit building work to proceed. Nor is it clear what the time period would be to complete the self-build.
15. The main issues are whether the principle of development is acceptable in open countryside having regard to policies for the location of housing; the impact of the development on the character and appearance of the countryside; and, whether the use represents sustainable development.

Principle of development

16. The site is outside of any settlement identified in the Wiltshire Core Strategy Policy CP1 (Settlement Strategy) and CP2 (Delivery Strategy) precludes development outside the defined limits of development other than in limited circumstances set out in a number of exception policies, such as CP46 for the provision of specialist accommodation and CP48 for supporting rural life.
17. The appellant considers that the locational criteria of CP46, which provides for specialist accommodation, should be read in full and draws attention to the opening paragraph of the policy described as 'Meeting the needs of Wiltshire's vulnerable and older people' where it is stated 'Wherever practicable, accommodation should seek to deliver and promote independent living'. The policy indicates that where need is identified it will be supported within the settlement and, in exceptional circumstances, outside but adjacent to the principal settlements or market towns, and subject to a number of criteria. However, as the development fails to meet the basic locational requirement of the policy of being within or adjacent to a principal settlement, then consideration of the four criteria set out in the policy at viii, ix, x and xi is of limited value.
18. Insufficient information has been made to establish why the appeal site exclusively meets the appellant's needs or what other options were considered. The appellant states that the site was acquired with the intention of submitting an application for a permanent self-build house. The appellant and his father previously lived in the privately rented sector for three years in sub-standard accommodation and state that they are now registered as being homeless with the Council. They pursued various sites to buy locally but have been unsuccessful. The appellant states that

personal circumstances have made the application for a dwelling slower than anticipated and as they were without accommodation temporary residential use of the site has occurred. due to these circumstances, I note that the statement accompanying the outline planning application also refers to the intention to extend the use of the site to include community support facilities¹.

19. The appellant originally put forward the site for 60 houses but In response to the Council's call for sites for inclusion in a Development Plan Document, the appellant has put forward the land as a potential Gypsy and Traveller site. I assume that this is the 'community support facilities' referred to in the outline application. In the event that the site is taken forward in an adopted DPD, the Council advises that the site would be safeguarded from other development. It therefore raises the question why the appellant is proposing that there are no other available options to obtain accommodation elsewhere, when the site would be lost to him if it became a Gypsy and Traveller site.
20. CS Policy 48 and saved Policy H4 of the North Wiltshire Local Plan are intended to support rural communities and employment essential to the open countryside. The development does not satisfy these policies but the appellant asserts that as the alleged development is described as a material change of use and is not operational development, Policy CP48 does not apply. Nevertheless, the development fails to accord with these policies.
21. The appellant refers to various paragraphs of the National Planning Policy Framework (NPPF) in support of the application but I attach substantial weight to paragraph 84 which refers to avoiding the development of isolated homes in the countryside.

Character and appearance of the countryside

22. The unauthorised development is visible from the public realm albeit that it is set to the rear of the field some distance from the road but relatively close to a public footpath. Some degree of screening is achievable when trees and hedgerows are in leaf but this does not remove the harm caused.
23. The appellant accepts that aspects of the unauthorised development have a landscape impact and has a harmful effect on the character and appearance of the area. This represents conflict with CS Policies 51 and 57 relating to protecting the landscape and ensuring high quality design. However, the appellant argues that as the harm caused is temporary, that it would persist under the current terms of the notice for a further 6 months and is capable of being easily remedied through the removal of the buses and other moveable items.
24. The harmful effect on the landscape and the character and appearance of the countryside exists now and cannot be remedied in the short or medium term through landscaping . Accordingly, I attach limited weight to appellant's case that it is only a temporary use.

Sustainability

25. Core Policies 60 and 61 seek to ensure that new development takes place in suitable and sustainable locations and reduce reliance on the private car including

¹ Paragraph 1.9 Design and Access Statement

through encouraging development to be located near to alternative transport options.

26. There are two bus stops within about 80 m of the site's western point of access with regular services to Chippenham and Swindon. I note the Council's concern that there is no footway on the B4042 but nevertheless the site is in a location where access to public transport can be made. The development does not have an unacceptable impact on the highway network through the activities of two people and there are no apparent highway safety issues of a scale that would be determinative in this appeal.
27. I do not consider that the site is isolated in view of its location in relation to other development nearby and to the public transport network. Whilst shops and services may be some distance away, this does not necessarily mean the location of the site is unsustainable in a rural context.
28. There is no 'in principle' objection on highway grounds and the parties agree that a suitable level of highway information could be provided through an appropriately worded condition.

Personal circumstances

29. It is clear from the medical evidence submitted that the appellant has particular needs that cannot easily be met through normal housing provision and this restricts him in terms of the usual design characteristics of a dwelling and its location. He also has a wish to live in proximity of a support network provided by friends and family and the ability to remain connected to communities and organisations he is familiar with, such as the Young Farmers Association.
30. Additionally, the appellant states that the Council may need to acquire accommodation if he and his father are made homeless as all their finances have gone into the purchase of the land. The development allows them to be independent and being a valued member of the community.
31. I attach some weight to this factor.

Other matters

32. A considerable number of representations were made in writing against the unauthorised development by the Parish Council and local residents largely on the grounds considered in this decision. Additionally, a number of local residents attended the hearing and expressed their views. Councillor Threllfall indicated that she had spoken to the appellant to offer help from the Council although this was not accepted. This was disputed by the appellant. She also doubts whether a dwelling would change the untidy appearance of the site.
33. Alice Beer of the Parish Council advised that the community had tried to engage with the Greenings but this was not reciprocated, that the community had been deceived and that a decision had been made to invest in the field with no prospect of housing.

Conclusions on the ground (a) appeal

34. Whilst it is acknowledged that the appellant and his father have faced difficult personal circumstances through changes in their accommodation, I am left in doubt

about the attempts that may have been made to secure alternative accommodation and indeed the original intentions behind the acquisition of the appeal site. The reasons for issuing the notice refer to the development representing intentional unauthorised development, which it is from the information before me. The Greenings claim that recent events and unfamiliarity with planning matters have been problematical but despite an indication that a planning application for a dwelling would be made, this was only validated the day before the hearing.

35. A series of conditions prepared by the Council were discussed at the hearing (Document 2). Whilst these could control activities on the site and the duration of the residential use in order to make the impact slightly less harmful, I nevertheless believe a temporary permission would be an inappropriate approach, which allows a foothold on the planning system where development may not be supported as a matter of principle. There is a danger that any temporary permission would not provide a resolution to the harm caused by the unauthorised development in an expeditious manner. The unauthorised development has been in place for over 13 months. It would not be in the public interest for this to continue any longer than is absolutely necessary and the purpose of the enforcement action is to ensure that it does not.
36. Whilst I attach some weight to the appellant's personal circumstances and to the lack of significant harm to sustainability, this does not outweigh the continuing harm to the open countryside caused by the unauthorised use. I conclude therefore that the development alleged in the notice or the request for a temporary permission for the residential use of land would be contrary to local and national planning policies. In particular it is contrary to CP Policies 1,2,46, 51 and 57 and to the NPPF.
37. The appeal on this ground is refused.

The appeal on ground (g)

38. The appellant is seeking a compliance period of 12 months, rather than the 6 months stated in the notice, based on the personal circumstances of the appellant.
39. Having regard to these personal circumstances and the recently submitted outline planning application, it would not be unreasonable to extend the period of compliance in order for the application to be determined and for the appellant to make alternative living arrangements in the event that the application is unsuccessful.
40. I shall extend the compliance period to 12 months, which I understand would also be acceptable to the Council.

Conclusion

41. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall correct and vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

P N Jarratt

INSPECTOR

Appearances

For the Appellant

Daniel Austen-Fainman: Tetlow King Planning
Edward Greening: appellant
James Greening: appellant's father
Treena Ryall: Malmesbury Young Farmers
Martin Fowler: Job Co-ordinator Wiltshire Council

For the Local Planning Authority

Chris Horan: Manager Planning Enforcement
Nick McCanphill: Senior Enforcement Officer
Neil Smith: Enforcement Case Officer

Interested Parties

Elizabeth Threllfall: Wiltshire Councillor
Alice Beer: Little Sandford Parish Council
Chris Beazley: local resident
Chris Pope Lea Garston and Claverton Parish Councils

Documents

- 1 Copy of planning application PL/2024/11637 including Planning and Access Statement and drawings, and the Planning Statement excluding Appendix TKP1.
- 2 LPA's suggested conditions
- 3 Drawing No P23226/P/150 Rev A dated Jan 2025 titled 'Temporary Land Use Plan' submitted by the appellant following the hearing on 24 January 2025