



Appeal Decisions

Accompanied site visit made on 4 February 2025

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Refs: APP/F0114/C/24/3353159, 3353889 & 3354940

Parcel 4048, Durley Hill, Keynsham, Somerset BS31 2AT

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Durley Farm Ltd, Carlo Plumpton & Scott Plumpton respectively against an enforcement notice issued by Bath and North East Somerset Council.
- The notice was issued on 24 September 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the change of use of Land from agriculture to a mixed use consisting of agriculture, the stationing of caravans for residential use, waste transfer station, burning of waste and open air storage (including but not limited to, the storage of: caravans, mobile homes, vehicles, lorry trailers, shipping containers, logs and waste materials).
- The requirements of the notice are to:
 1. Cease the use of the Land as mixed use consisting of agriculture, the stationing of caravans for residential use, waste transfer station, burning of waste and open-air storage (including but not limited to: the storage of caravans, mobile homes, vehicles, lorry trailers, shipping containers, logs and waste materials).
(For the avoidance of doubt, this requirement does not require the cessation of the lawful use of the land as agricultural).
 2. Remove all waste and items stored on the Land (including but not limited to caravans, mobile homes, vehicles, lorry trailers, shipping containers, logs and waste materials).
- The period for compliance with the requirements is: 6 months from the date the notice comes into effect.
- The appeals are together proceeding on the grounds set out in section 174(2)(b), (c), (d), (e), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Although one of the appeals was originally brought on ground (a) – that planning permission should be granted for the development – since the appellant failed to pay the fee, the appeal on that ground cannot now legally proceed.

Decisions

1. It is directed that the enforcement notice is varied by:
 - the addition of the words *'other than the two existing shipping containers'* following the words *'shipping containers'* to Requirement 1 above;
 - the addition of the words *'or the removal of vehicles or machinery that are currently operational and are necessary for the maintenance and upkeep of the lawful use of the Land for agriculture, including for the production of firewood'* to the bracketed emboldened sentence at the end of Requirement 1;
 - deleting the words *'shipping containers'* from the bracketed section of Requirement 2.
2. Subject to those variations, the enforcement notice is upheld, and should be complied with in its entirety by 6 months of the date of this decision.

Applications for costs

3. An application for costs was made in respect of the appeals by the appellants against the Council. These applications are the subject of separate Decisions.

Preliminary Matters

4. I have substituted 'Bath And North East Somerset' in the address above, which is not the correct postal address, for 'Somerset' and the postcode, which is.

Reasons

Current Description of the Site

5. The site, the Land attacked by the enforcement notice, is a large agricultural field (of approximately 3½ Hectares or nearly 9 acres) bounded on its southern side by Durley Hill and the gardens of three houses, to its northern side by the embankment of the Keynsham by-pass dual carriageway, to its west by the Fire Station erected in 2015 onwards and to its east by the private Durley Park access road, which also gives access to some dwellings and to Devonport House, a commercial/office building at its northern end. The access to the site itself is immediately to the west of the gated access to Devonport House. It lies within the Bristol and Bath Green Belt.
6. The land has a large open sided, partially roofed rectangular agricultural barn near to its northern boundary, which was approved in 2014 and apparently erected shortly afterwards (LPA Ref 14/03983/AGRN). It appears, from my visit, to be used for the storage of a range of vehicles and equipment, including a mini-digger, log splitter, chipper and lawn mower as well as containing some empty animal pens at its eastern end. I also saw 4 cows and 3 horses or ponies wandering on the site during my visit.
7. Several other vehicles and structures are also stored on the land, including a lorry body, some of which apparently belong to Mr Bown and some to the Plumpton brothers; some of these appear to be unusable, broken down or redundant, or have not been used for some time – such as the rusted charcoal burner at the top of the southwestern part of the field. There are two static caravans (not in residential use), in various states of repair (one being effectively a broken wreck), two shipping containers (or similar) used for storage (of tools and quad bike etc), one near the barn and one near the entrance (which the guard dog was tied to during my visit), and two touring caravans.
8. Carlo and Scott Plumpton, who showed me round the site together with the two Council officers, said that the two touring caravans belonged to them. It is unclear whether they are currently being used for residential purposes. Scott's caravan had nothing in it, although it appeared capable of being used for residential purposes. I was unable to gain access to Carlo's caravan since he said he did not have the key to it on him, although I was able to peer through the glazed panel of its door where I was able to make out what looked like a sleeping bag on a bed or long sofa.
9. The land is littered with other (including agricultural) paraphernalia such as electrical equipment and what appear to be various piles of rubbish and there are large piles of logs and cut tree branches which appear (by reference to their state) to have been in situ for a number of years adjacent to the barn. I was also able to

see, next to the piles of logs, what appeared to be a wide roughly circular area of ashes where large fires must have relatively recently taken place.

10. Clearly the land is being used to raise and graze animals and hence for agricultural purposes. Some of the structures, for instance the corrugated iron pig enclosures and the broken-down chicken coop, are undoubtedly concerned with agriculture. But much of what is on the site appears to be simply being stored, including the rubbish, a pile of old tyres, the wrecked static caravan, and the broken-down vehicles and trailers, and is unrelated to such agricultural use of what is, essentially, a smallholding. I assess this in more detail under ground (f) below.

Ground (e)

11. Ground (e) is that copies of the notice were not served as required by s172 of the Act, essentially on all owners and occupiers of the Land and anyone else who has an interest in it.
12. It is alleged by at least one of the appellants that the notice was not served on everyone who has an interest in the Land, including *'Charlie and another who wishes to remain anonymous.'* Clearly, the Council cannot serve a notice on someone allegedly having an interest in the Land that they are unaware of, if he is not listed as an owner on the Land Registry Title. Mr Bown did finally respond, in a fashion, to the Council's Planning Contravention Notice (PCN), but only by sending a photo of his hand-written answers to some of the questions, which is for the most part illegible. I conclude from this, since the PCN asked for the names of the freeholder, leaseholders, occupiers and anyone else having a tenancy or other interest in the land, that the Council did all it could to ascertain those who had an interest in the Land.
13. In any case, Mr Bown received the notice, and he passed it on to the Plumpton brothers, such that all three of them have appealed the notice. It is unclear, if there are other tenants, why he didn't pass a copy of the notice on to them, given that he did pass it onto the Plumpton brothers. Even if there are other tenants (i.e. with legal tenancy agreements), the fact that these three appellants have appealed the notice on all grounds means that no injustice could arise to anyone else with an interest in the Land because I am considering all grounds of appeal here in these decisions (bar ground (a) given the legally required fee has not been paid).

Ground (b)

14. Ground (b) is that the matters alleged in the notice as being a breach of planning control have not occurred, as a matter of fact. However, I describe above the caravans, vehicles (including those which are defunct, old or broken down), trailers, other structures and rubbish that are contained on the Land now, and which were clearly on it when the notice was served.
15. It appears from what I saw during my visit that at least Carlo Plumpton's caravan is being or has recently been used for residential purposes. The October 2023 photographs in the Council's Statement of Case (SoC) Appendix 12 show Scott Plumpton's caravan attached to a gas bottle and water connection. In any case, all three appellants acknowledge that they, their children and their friends have had several overnight stays in the caravans on the site. So, as a matter of fact, the notice's allegation of residential occupation of the caravans is correct.

16. Mr Bown says he has had waste licenses for over 10 years, although none of these have been submitted in evidence. Nonetheless, this would seem to be an admission that the site is being used as a waste transfer station. The large ash heap is testament to the recent burning of material on site.
17. So, as a matter of fact, the allegation as set out in the notice is correct because the Land is being used for the above uses as well as for agriculture (its lawful use). Consequently, the ground (b) appeals must therefore fail.

Ground (c)

18. Ground (c) is that if the matters stated in the notice have occurred, they do not constitute a breach of planning control.
19. The appellants argue that they and their families can stay overnight on the Land because they benefit from agricultural permitted development (PD) rights. It is unclear which sections of the GPDO¹ the appellants are referring to. Under Schedule 2, Part 4 (Temporary buildings & uses), Class BC allows under paragraph (a) the use of any land as a recreational campsite for not more than 60 days in total in any calendar year. But that is only as a campsite for tents; BC.1 (f) states that development is not permitted under this Class for the siting of any caravan, except motor homes (my emphasis). There are equally no PD rights under Part 6 (Agriculture & Forestry), Class B (on agricultural units of less than 5 hectares) for residential caravans.
20. In terms of the open-air storage of materials, Part 6, Class B does allow for the deposit of waste on agricultural units of less than 5 hectares, but that is dependent on land being in its lawful use. The same applies to Part 4, Class BC. The Land here is not in its lawful agricultural use; it is in an unauthorised mixed use as indicated above.
21. For these reasons planning permission is required. That has not been obtained. The ground (c) appeals therefore fail.

Ground (d)

22. Ground (d) is that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.
23. The appellants argue that the open-air storage has taken place on the land for well over 10 years, the relevant immunity period for unauthorised uses as set out in s171B (Time Limits) subparagraph (3). However, given the Council's evidence, it is unclear whether such storage took place on the Land attacked by the notice, rather than another piece of land. On the contrary, Appendix 15 of the Council's SoC, a Google Earth aerial photo taken on 9 September 2014, shows such open-air storage on the land to the west of the appeal site, whereas the site itself appears entirely as a ploughed field with no storage on it of any kind.
24. The Council acknowledges that there is a gap of 15 days more than the 10 years, i.e. between 9 September 2014 and 24 September 2024, the date when the notice was issued, but argues that the storage of all the stuff currently on the site is very unlikely to have occurred within these 15 days in September 2014. Or, in other

¹ The Town & Country Planning (General Permitted Development) (England) Order 2015

words, the stuff was not moved onto the site from the adjacent site to the west in these 15 days.

25. I agree. Whilst storage was taking place on the land to the west of the appeal site, which also belonged to Durley Farm at the time, that was the land that was sold to the Fire Service in February 2015, the subject of planning permission for a new operational Fire Station and related training facilities dated 22 August 2014 (LPA Ref 14/01849/FUL). That site clearly occupies another planning unit: it was a field in mixed storage and agricultural use at the time, separated from the appeal site land that was a single field solely in agricultural use by a substantial hedge. It would be very unlikely for all the outdoor storage to have been moved from this adjacent western site to the appeal site in advance of it being sold to the Fire Service in February 2015.
26. The open-air storage items, including what looks like two trailers and at least one shipping container and probably a static caravan on the Google Earth photo, were clearly moved onto the appeal site when the western part of the land was sold by Durley Farm to the Fire Service. The almost certain likelihood is that this did not take place until after September 2014 (and probably not until February 2015), which is less than 10 years from when the notice was issued.
27. Enforcement action can therefore legitimately be taken against the unauthorised use of the Land and the appeals on ground (d) must fail.

Ground (f)

28. Ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters.
29. I acknowledge that work on the Land is beneficial to the family lives of the Plumpton brothers, including specifically for Scott's teenage son, who suffers from learning difficulties. I can also understand that having a caravan to shelter in during bad weather is convenient when working on the Land. One of the static caravans is a wreck and clearly should be removed. The other one is also in a poor state with a dangerous floor, which means it realistically cannot be used and, indeed, appears unused. That should also be removed from the Land.
I understand that these statics belong to Mr Bown.
30. However, both Carlo and Scott live in the Bristol suburbs nearby, which is only a very short car journey away. I don't therefore see why it is necessary to have two touring caravans on the site, even if they are only used to shelter in or make a drink in the daytime. Shelter from the rain is also afforded by the roofed part of the barn on the site. No need for anyone to sleep in caravans on the site overnight has been advanced by the appellants, and I cannot see why this is necessary to run such an agricultural smallholding.
31. I appreciate that certain vehicles and machinery are required for maintaining the smallholding, which includes felling trees and chopping up firewood from trees on the site for sale and delivery. This is likely to include a quadbike, a wood chopper and chipper, and various serviceable working vehicles. I also appreciate that some enclosed storage space is needed for tools and materials in order to service the Land.

32. But the site is cluttered with broken vehicles, structures and rubbish, which adversely impacts the openness of the Green Belt. These include several trailers and broken/decrepit vehicles, the structure allegedly once used to make charcoal and the broken and unused chicken coop. I accept that they should all be cleared off the site. The piles of logs next to the barn add to the unnecessary clutter and should also be cleared from the site if they can't be sold for firewood. Indeed, the Land would function more efficiently as an agricultural smallholding if it was cleared of all such unnecessary and unsightly clutter.
33. However, I do accept that some covered secure storage will be necessary for the quad bikes, tools and equipment to run and manage the agricultural smallholding , so I will alter to requirements to ensure that the two shipping containers can remain on the Land for such purposes, but everything else, except agricultural machinery and vehicles which can be stored in them or in the barn, should be removed.
34. The appeals on ground (f) are therefore partially successful, but only to this limited extent, as indicated in the formal Decisions above.

Ground (g)

35. Ground (g) is that the compliance period specified in the notice falls short of what should reasonably be allowed.
36. The appellants have appealed on this ground but do not explain why 6 months is too short a time to comply with the requirements of the notice, nor do they put forward an alternative longer period. Six months does not appear unreasonable to me.
37. The appeals on ground (g) therefore fail.

Conclusion

38. For the reasons given above, I conclude that part of the requirements of the notice are excessive to remedy the breach of planning control. I shall vary the enforcement notice prior to upholding it. The appeals on ground (f) succeed, but only to that extent.

Nick Fagan

INSPECTOR