



Appeal Decision

Site visit made on 15 January 2025

by **Peter White BA(Hons) MA DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 February 2025

Appeal Ref: APP/W2845/C/23/3320600

Land to the rear of 6 Trengothal Court, Mill Road, Whitfield NN13 5TQ (land north of Mill Road Whitfield)

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Michael Adamberry against an enforcement notice issued by West Northamptonshire Council.
- The enforcement notice ("the Notice") was issued on 18 April 2023.
- The breach of planning control as alleged in the Notice is land being used to store private/commercial vehicles and general builders material/waste and timber building structure located at the field access off Avenue Road on the land.
- The requirements of the notice are:
 - i. Cease the unauthorised use of the Land for the storage of private/commercial vehicles that is not associated with the agricultural use of the Land
 - ii. Cease the unauthorised use of the Land for the storage of building aggregates, bricks, sand, soil and cement.
 - iii. Remove all aggregates, bricks, sand soil and cement from the Land
 - iv. Remove the timber structure with UpVC windows and door located at the field access off Avenue Road on the Land
 - v. Re-instate the Land to its condition before the use, and associated works described in paragraphs (i-iii above).
- The period for compliance with the requirements is: Two months.
- The appeal is proceeding on the ground set out in section 174(2)(c) of the Town and Country Planning Act 1990 (as amended) ("the Act").

Summary of decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Preliminary Matters

1. I am required to ensure the Notice is in order in accordance with Section 173 of the Act.
2. The breach of planning control alleged in section 3 of the Notice refers to two matters. Firstly, land being used to store private/commercial vehicles and general builders material/waste and secondly, what is described as a "timber building structure".
3. The first element relates to use of the Land. For the purposes of the Act, not all changes of use of land are development, only those which constitute a material change. The use alleged is materially different from agricultural use and, if I am able to do so, the Notice should be corrected by inserting the word 'material'.
4. In relation to use of the Land for the storage of general builders material/waste, I note that Section 5 only requires the cessation of storage of building aggregates, bricks, sand, soil and cement. As currently drafted, were the appellant to comply with the requirements of the Notice, then planning permission would be granted under Section 173(12) of the Act for other elements of use of the Land for the

storage of general builders' material/waste other than aggregates, bricks, sand, soil and cement. Injustice would arise to the appellant were I to expand requirements 5.ii and 5.iii to include the storage of all general builders' material/waste. However, I am able to replace the associated words in Section 3 with those in requirement 5.ii without injustice to either party.

5. Read as a whole it is clear that the second element relates to the erection of a timber building with uPVC windows located at the field access off The Avenue. Other buildings and structures have since been erected on the Land, and the building has now been clad in timber, but it is identifiable on account of its uPVC windows and doors. As currently drafted no reference is made to erection of the structure and there is an error in the road name. But no injustice would occur to the appellant or the Council were I to correct the Notice to refer to the erection of a timber building with uPVC windows and door located at the field access off The Avenue for clarity.
6. In requirement 5.v the words "before the use" should also be replaced by the words, "prior to the breach of planning control", for clarity.
7. Despite the number of errors and misdescriptions, none are so significant as to render the Notice invalid and unable to be corrected. It is sufficiently clear for the appellant to understand what the matters alleged to be in breach of planning control were and what he is required to do. No injustice arises to the appellant or the Council in correcting the Notice as set out above, and I shall do so accordingly.

The appeal on ground (c)

8. Appeals on ground (c) are made on the basis that the matters stated in the Notice (if they occurred) do not constitute a breach of planning control.
9. There is no evidence before me that any planning permission has been granted for the development, that it is exempted from development under Section 55(2) of the Act, or that any certificate of lawfulness has been issued.
10. In relation to use, I note the appellant's claim that waste material was scattered around the site prior to his ownership, and that that included building aggregates and bricks, although I have not seen that evidenced. On the other hand, the Council's photographs show a significant pile of used bricks and large concrete sheets in addition to smaller items of waste building-related materials and items. Although individually the scale of the storage of domestic and commercial vehicles and the storage of building materials were relatively small in comparison to the size of the land, in combination they amounted to a material change of the use of the land from one in agricultural use. The material change of use of the land is development requiring planning permission.
11. In relation to the building, the appellant considers it was erected with planning permission as 'permitted development' granted by development order. Part 6 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO") permits works for the erection, extension or alteration of a building on an agricultural unit of 5 hectares or more, but the evidence before me is that the land is significantly smaller, and there is no evidence that it is part of a larger agricultural unit. On smaller units, Part 6 Class B permits the extension or alteration of an agricultural building in certain circumstances, but does not permit

the erection of a building. The appellant has therefore not demonstrated that the building was erected with planning permission, granted by the GPDO or otherwise.

12. The development alleged in the Notice is therefore a breach of planning control, and the appeal on ground (c) therefore fails.

Conclusion

13. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

Decision

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

- In Section 3, the deletion of the words:

"Land being used to store private/commercial vehicles and general builders material/waste and timber building structure located at the field access off Avenue Road on the land",

and their substitution with the words:

"Without planning permission, the material change of use of the land for the storage of private/commercial vehicles and building aggregates, bricks, sand, soil and cement and the erection of a timber building structure with uPVC windows and door at the field access off The Avenue";

- In Section 5.v, the deletion of the words:

"before the use",

and their substitution with the words:

"prior to the breach of planning control".

15. Subject to the corrections, the appeal is dismissed and the enforcement notice is upheld.

Peter White

INSPECTOR