



Appeal Decisions

Site visit made on 30 January 2025

by **Laura Renaudon LLM LARTPI Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Appeal A Ref: APP/Y2003/C/24/3336490

Appeal B Ref: APP/Y2003/C/24/3336491

Appeal C Ref: APP/Y2003/C/24/3336492

The Hatcheries Marsh Lane, BARNETBY, DN38 6JW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeals are made by Mr Symon Chappell (Appeal A), Miss Rebecca Golland (Appeal B) and Miss Jean Chappell (Appeal C) against an enforcement notice issued by North Lincolnshire Council.
- The notice was issued on 4 December 2023.
- The breach of planning control as alleged in the notice is *Without planning permission the material change of use of agricultural land for that of storage of vehicles, vehicle parts, all non-agricultural items, touring caravans and the siting and residential occupation of a static caravan which are not ancillary to the agricultural use of the land.*
- The requirements of the notice are to remove from the land all vehicles, all vehicle parts, all non-agricultural items, all household items, all touring caravans, the residential static caravan and all domestic paraphernalia, and to cease the use of the residential static caravan.
- The period for compliance with the requirements is three months.
- The appeals are each proceeding on the grounds set out in section 174(2)(b) and (f) of the Town and Country Planning Act 1990 (as amended).

Summary Decisions: the appeals are dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The appeals are raised on the two grounds that in substance say that (b) the alleged matters have not occurred and (f) that a different remedy should apply. However, the appeals claim that the situation on site has not changed in 30 years and that the first appellant has resided on the site in a caravan since 2009. This appears to raise an appeal on ground (d) which is to say that by the time the enforcement notice was issued, the Council were too late to take enforcement action. This is because the 1990 Act protects developments that have occurred over a long period of time (at the relevant time either four or 10 years, depending on the type of development). I shall therefore consider the appeal under ground (d) as well as the grounds formally raised. I have found it unnecessary to refer back to the parties because the appellants have had sufficient opportunity to make their case on this additional ground, and the Council have sought to answer it in their own statement of case.

Main Issues

2. The main issue arising under the appeals on ground (b) is whether the matters alleged in the notice have occurred; and on ground (f) whether the requirements of the notice exceed what is reasonably required to remedy the breach of planning control. The main issue under ground (d) is whether the use now alleged by the Council has been carried on for a sufficiently long time that it has acquired lawfulness and the Council should be prevented from taking enforcement action.

3. In relation to the two 'legal' grounds of appeal, grounds (b) and (d), the burden of proof lies upon the appellants to prove their case to the standard of probability. This means that for either of those grounds to succeed I should be satisfied that it is more likely than not that the matters alleged have not happened (ground b) or, if they have, that they happened so long ago as to prevent the Council from taking enforcement action against them (ground d). The appellants' evidence does not need to be corroborated by anyone else in order to be believed, but it does need to be sufficiently clear to demonstrate the truth of the case being made.

Reasons

The appeals on ground (b)

4. The appellants' case on this ground is limited to the bare statement that the site has not changed in 30 years. This is immediately contradicted by the statement that the first appellant has lived onsite in a caravan since (only) 2009, some 15 years at the time of issuing the notice. No prior residential use is suggested to have taken place.
5. Thus there is no dispute by the appellants that the uses alleged by the Council, namely the use of the land for storage and residential purposes, have taken place. Because of this, the appeals on ground (b) cannot succeed. Success on this ground would require the appellants to demonstrate that the uses alleged had not taken place.
6. The appellants appear to suggest that some other, agricultural use, is also taking place on the land. It is said that they have agricultural equipment on the property as well as the owner's vehicles. The two caravans are used for storage of horse and pig feed as well as 'rugs/track'. These bare statements are insufficient to demonstrate that the use alleged by the Council has not happened. It is not said whether the equipment, vehicles and animal feed are for use on or off the site and so I cannot be satisfied that they are being put to any related agricultural use of the land.

The appeals on ground (d)

7. The appellants instead claim that part of the use alleged has taken place since 2009. I understand the Council's allegation to be that the site as a whole is in a mixed use for storage and residential purposes. Thus, even if it is correct to say that a residential caravan has been on site and lived in for 15 years, that does not reflect the current allegation which is of a mixed use including the additional storage elements. There is no claim that the mixed use alleged by the Council has been carried on for more than 10 years at the time of issuing the notice. Therefore the appeals on ground (d) will also fail.

The appeals on ground (f)

8. The matters raised by the appellants under this ground do not expressly suggest any lesser steps that might remedy the breach of planning control. However, any notice should not seek to remove any prior lawful uses. Here the appellants' suggestion that the site has been in a residential use since 2009 has some relevance, because if the previous lawful use of the site was a residential one then it would now be excessive to require the removal of that use.

9. To my knowledge, no certificate of lawful development exists to confirm that any previous residential use had acquired immunity from enforcement action. The appellants claim that a caravan has been lived in onsite since 2009 and has been charged Council Tax since 2012. It is therefore possible that a residential use of the site had acquired immunity from enforcement action at some stage. However, I am not informed when the change to the current alleged mix of uses including the storage use was made. Therefore I cannot be satisfied that the site was put solely to a residential use (or a mix of residential and other uses such as agriculture) for the requisite period of 10 years to have established immunity from enforcement action at some earlier point. If the residential use of the site has formed part of a changing mix of uses over the years then the residential use by itself cannot have acquired immunity. It is the use of the relevant planning unit as a whole that must be considered. I have insufficient information on which to conclude that the residual lawful use of the land is anything other than agricultural.
10. Because of that, the requirements of the notice to cease the residential element of the use and to remove the various non-agricultural items do not exceed what is necessary to remedy the alleged breach of planning control. Therefore the appeals on ground (f) must also fail.

Other Matters

11. The Parish Council have said that they still support the comments made in relation to a 2011 planning application to retain a dwellinghouse, and propose that any enforcement action should align to the conditions applying to that planning permission. I have not had sight of that permission or of the Parish Council's earlier comments in relation to that application. In any event, because of the limited grounds of appeal that have been raised, the merits of the alleged development are not before me for consideration.

Conclusion

12. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice.

Formal Decisions

13. The appeals are dismissed and the enforcement notice is upheld.

Laura Renaudon

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/Y2003/C/24/3336490	Mr Symon Chappell
Appeal B	APP/Y2003/C/24/3336491	Miss Rebecca Golland
Appeal C	APP/Y2003/C/24/3336492	Miss Jean Chappell