



Appeals Decisions

Site visit made on 25 June 2025

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 10th July 2025

Appeals References:

APP/Y2620/C/23/3323756 & APP/Y2620/C/23/3323757

Land at Field View, Alby Hill, Alby NR11 7JP

- Appeal reference APP/Y2620/C/23/3323756 is made by Karl Barrett. Appeal reference APP/Y2620/C/23/3323757 is made by Levi Barrett. Both appeals are brought under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (reference ENF/20/0066) issued by North Norfolk District Council on 15 May 2023 relating to "Land at Field View, Alby Hill, Alby, NR11 7JP (The Land) shown edged red on the attached plan (The Plan)".
- The breaches of planning control as alleged in the notice are as follows:-
 - "Without planning permission:
 - (i) The material change of use of the land from agriculture to residential use.
 - (ii) Operational development consisting of the erection of a self-contained residential dwelling.
 - (iii) Operational development consisting of the erection of a garage"
- The requirements of the notice are as follows: -
 - "(i) Permanently cease the residential use and occupation of the Land.
 - (ii) Permanently demolish the residential building on the Land (marked A on the attached plan)
 - (iii) Permanently cease the use of the garage on the Land
 - (iv) Permanently demolish the garage on the Land (marked B on the attached plan)
 - (v) Restore the Land to its condition before the breach took place including ensuring all hard landscaping is removed from the Land.
 - (vi) Remove all demolition material from the Land.
 - (vii) Permanently remove all residential paraphernalia from the Land"
- The periods for compliance with these requirements are as follows. Requirements (i) to (iv) 6 months. Requirement (v) 8 months. Requirements (vi) and (vii) 9 months.
- Both appeals are proceeding on the grounds set out in section 174(2)(b), (e), (f) and (g).

Decisions

Appeal reference APP/Y2620/C/23/3323756 - Karl Barrett

Appeal reference APP/Y2620/C/23/3323757 - Levi Barrett

1. It is directed that the enforcement notice be corrected by replacing paragraph (3) by the following paragraph: -

“(3) The matters which appear to constitute the breaches of planning control

Without planning permission:

- (i) The material change of use of the Land to residential use.
- (ii) The use of the building in the position marked A on the Plan as a residential dwelling.
- (iii) The erection of a garage in the position marked B on the Plan.”

2. It is directed that the enforcement notice be corrected and varied by replacing paragraph (5) by the following paragraph: -

“(5) What you are required to do

- (i) Cease the residential use of the Land.
- (ii) Cease the use of the building in the position marked A on the Plan as a residential dwelling.
- (iii) Demolish the garage in the position marked B on the Plan and remove from the Land all the materials arising from its demolition.”

3. It is directed that the enforcement notice be varied by replacing paragraph (6) by the following paragraph: -

“(6) Time for Compliance

Six months.”

4. Subject to these directions, both appeals are dismissed and the enforcement notice is upheld as corrected and varied.

Reasons for the decisions

Ground (e)

5. The purpose of an appeal on ground (e) is to demonstrate that copies of the notice were not served as required by section 172. Section 172 requires a copy of the notice to be served on the owner and on the occupier of the land to which it relates and on any other person having an interest in the land, being an interest which, in the opinion of the Council, is materially affected by the notice. This includes licensees, persons with permission to enter and occupy the land and others having a degree of control over the land.
6. The appellants state that Karl Barrett is the sole owner of the land and that Levi Barrett, his son, has no association with it. The Council state that they were aware that Levi Barrett had been residing on the land and that he might still be using it for recreational purposes.
7. In these circumstances the Council were required to serve a copy of the notice on Levi Barrett. The appeals brought on ground (e) have therefore failed.

Ground (b)

8. The purpose of an appeal on ground (b) is to demonstrate that the matters stated in the notice to constitute the breaches of planning control have not in fact occurred. There are three alleged matters - the material change of use of the land from agriculture to residential use; the erection of a self-contained residential dwelling; and the erection of a garage. The ground (b) appeals concern the first two, since it is not disputed that the garage has been erected.
9. A building exists on the land in the position marked A on the plan. It is clear from the evidence produced by the Council that the building contains all the facilities needed for day-to-day self-contained residential occupation and that the building has been used as a dwelling, together with the residential use of the remainder of the land to which the notice relates.
10. The history of the land and of the building are however significant factors in deciding what is the correct description of the breaches of planning control that have occurred and, under ground (f), what are the appropriate requirements of the notice.
11. It is claimed that the allegation of a change of use from agriculture is incorrect. The land was previously owned from 2006 to 2019 by a neighbour who wrote to the Planning Inspectorate on 14 February 2022, stating that during his ownership the land was not in any form of agricultural use and was always used as amenity garden, caravan storage, vehicular parking and general storage in association with his nearby residence. The Council's assessment, based on the historical classification of the land, is that the land was in agricultural use at the time of its change of use to residential.
12. It is not necessary for the purpose of these appeals decisions to determine what is the authorised use of the land, since there is no requirement to state the previous use in an enforcement notice alleging a change of use. This issue can therefore be dealt with simply by deleting the words "from agriculture" in the allegation.
13. As to the building, the Council accept that there has been a building in this position historically, but state that there is little evidence about its appearance before it deteriorated to the condition shown on the submitted photographs. In a letter to Karl Barrett dated 14 May 2020, which followed an inspection of construction work taking place to the building, the Council stated: "The land has a small brick building which you are intending to repair and rebuild. ... There are no plans to extend the brick build. ... At present I am content for works to continue as long as the works to the small brick building are repairing and rebuilding what is there."
14. The Council maintain that the works that have now been carried out are merely a guess as to how the building once was, although they accept that they do appear to be along the same footings. Based on the brickwork that had remained at the time of the photographs, the Council state that there appear to have been only one door and no windows in the building, whereas it now has two doors and three windows.
15. In the appeal decision APP/Y2620/W/21/3274788 issued on 9 November 2021, the inspector stated "Generally, there is limited evidence to demonstrate the

scale, massing and appearance of what was previously there". The neighbour's letter of 14 February 2022 now provides further information about the history of the building. He states that the remains of a brick outbuilding were always present here during his ownership from 2006 to 2019, that door and window openings were present to both front and rear elevations and that an external concrete slab extended out from the existing foundations. He considers that the building now existing has been rebuilt to the size of the pre-existing footprint.

16. Although not explicitly stated, the Council were confirming in their letter of 14 May 2020 that planning permission would not be required for the carrying out of works for the maintenance, improvement or other alteration of the building that did not materially affect its external appearance. A stage could have been reached where the works that had been carried out constituted the construction of a new building, rather than the maintenance, improvement or other alteration of the original building, but the available evidence does not show that this stage was in fact reached. Nor does the available evidence show that the external appearance of the original building has been changed to an extent that amounts to a material effect for planning purposes.
17. I have therefore concluded that the allegation is not correct when it states that "Operational development consisting of the erection of a self-contained residential dwelling" has been carried out. However, although the works that have been carried out to the building did not require planning permission, its subsequent use as a residential dwelling does require planning permission and it has not been granted.
18. Section 176(1) authorises me to correct any misdescription in the notice if I am satisfied that the correction will not cause injustice. No injustice would arise in this instance if I corrected the allegations so that they were consistent with the evidence before me. The corrected version is in paragraph 1 above. The appeals on ground (b) have therefore succeeded to this extent.

Ground (f)

19. The purpose of an appeal on ground (f) in this instance is to maintain that the requirements of the notice exceed what is necessary to remedy the breaches of planning control. The requirements should reflect and follow logically from the allegations as corrected. I am authorised by section 176(1) to correct or vary the requirements if this can be done without causing injustice. For the reasons set out below, I am satisfied that no injustice would be caused by replacing the requirements in the notice as issued with the steps set out in paragraph 2 above; the appeals on ground (f) have succeeded to the extent indicated.
 - A requirement to cease the residential use of the land does not exceed what is necessary to remedy this breach.
 - The demolition of the building would be excessive in the circumstances described above under ground (b); a requirement to cease the residential use of the building is sufficient to remedy the corrected breach.
 - The demolition of the garage is necessary to remedy the breach. The claimed need for the garage for storage use is a planning merits issue that it would be inappropriate to take into account under ground (f) in

the absence of an appeal on ground (a) (that planning permission should be granted).

- A requirement to cease the use of the garage is otiose when there is a requirement to demolish it.
- There is no need to use the word 'Permanently' in the requirements in view of the provisions of section 181 (Enforcement notice to have effect against subsequent development).
- The requirement "Restore the Land to its condition before the breach took place including ensuring all hard landscaping is removed from the Land" was defective for two reasons. Firstly, it did not specify clearly what had to be done in circumstances that called for clarity, bearing in mind that the condition of the land before the breaches took place included the uses to which the neighbour had put the land, and also an accumulation of waste, as well as the building in its previous state of disrepair. Secondly, the alleged breaches did not include an allegation that works of "hard landscaping" had taken place, and in any event the requirement did not make it clear what is the hard landscaping to which it was intended to apply.
- The requirement to remove "all demolition material" from the land should be limited to the material arising from compliance with the requirement to demolish the garage.
- The requirement to "remove all residential paraphernalia" from the land was too vague in the circumstances. It did not clearly identify what it applied to or match up clearly with the allegations.

Ground (g)

20. The time for compliance should now relate to the replacement requirements specified in paragraph 2 above. The appellants were entitled to assume that their appeals would succeed; the compliance periods should therefore not be reduced because of the length of time it has taken for the process to reach the current stage.
21. Based on the requirements as issued, the appellants stated that six months was too short a time to carry out the works and that ten months would be more reasonable. The Council stated that alternative residential accommodation already existed and that the works required could be carried out in six months.
22. As the appellants have maintained that there is no residential use, six months is a reasonable time to comply with the replacement requirements (i) and (ii). As to the replacement requirement (iii), the garage is a rudimentary structure that can within six months easily be demolished and the materials removed off site. I have therefore specified a six-months' compliance period in paragraph 3 above for all three of the replacement requirements.

D.A.Hainsworth

INSPECTOR