



Appeal Decision

Site visit made on 10 March 2025

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 02 September 2025

Appeal Ref: APP/V2635/C/23/3330581

Land at 52 Pentney Lakes, Common Road, Pentney, Norfolk, PE32 1LE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended)(the “Act”) The appeal is made by Mrs Jolanta Zuke against an enforcement notice issued by King's Lynn and West Norfolk Borough Council.
 - The notice was issued on 8 September 2023.
 - The breach of planning control as alleged in the notice is ‘without planning permission, the construction of a building including associated base (Appendix A), and decked platform including support posts and foundations (Appendix B).
 - The requirements of the notice are to:
 - i) The unauthorised building and base (Appendix A) and decked platform, support posts and foundations (Appendix B) are permanently removed from the Land.
 - ii) The Land is restored to its former condition.
 - The period for compliance with the requirements is: 56 days from the date the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (e) of the Act. 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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Summary Decision

1. The appeal succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.

Preliminary Matters

2. The National Planning Policy Framework (2023) has been referred to within the evidence. However, since making the appeal, the National Planning Policy Framework was revised in December 2024 (“the Framework”). Whilst a number of the paragraphs referred to have been re-numbered within the Framework, the quoted paragraphs have largely remained unaltered and since the content has not appreciably changed, I therefore did not consider it necessary to seek the parties’ views with regard to the publication of the revised Framework.
3. Although adverse harm to the living conditions of neighbouring occupiers as a result of the unauthorised building is identified as a reason for issuing the enforcement notice, the Council has since confirmed that the building is not considered to have a material impact on neighbour amenity due to the orientation and scale of the building, subject to the imposition of a suitably worded planning condition to control and restrict use of the building. I shall therefore determine the appeal before me with regards to the matters that remain in dispute.

Ground (e)

4. An appeal under ground (e) is made on the basis that copies of the enforcement notice were not served as required by section 172 of the Act. Section 172 provides that a copy of the enforcement notice shall be served on the owner and occupier of the land to which it relates, and any other person having an interest in the land, including mortgagees. In a legal ground of appeal, the burden of proof is on the appellant, on the balance of probabilities.
5. The main thrust of the appellant's case is that the enforcement notice should have been served on '*Mrs Jolanta Zuke*'. Since the notice was served on '*Mr Jolanta Zuke*' the appellant argues that not every person with a legal interest in the land has been correctly served.
6. The Council has explained that it left a copy of the notice in a conspicuous location at the appeal site on the 8 September 2023. It also concedes that an error was made in addressing the notice to the title of "Mr" rather than "Mrs".
7. However, even where a copy of an enforcement notice is not served as required by section 172, the Act also provides at section 176(5) that, where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve them.
8. In this instance, the appellant has made a valid appeal including an argument under ground (a) and therefore, even if the appellant was not properly served, they have not been substantially prejudiced and therefore, the appeal under ground (e) must fail.

Ground (a)

9. An appeal under ground (a) is that planning permission ought to be granted for what is alleged in the enforcement notice. The main issue is the effect of the development on the character and appearance of the surrounding area.

Character and appearance – building and associated base

10. Pentney Lakes Leisure Park (the "Park") is stated to be a holiday and leisure site comprised of a number of holiday log cabins and caravans, a number of which are set around the edge of a lake together with a water ski club/school¹. Log cabins within the Park are varied in terms of their type and scale, however. However, log cabins set around the edge of the lake are predominantly two-storeys in height and are set back from the edge of the water with moderate sized areas of rear garden which are open to the edge of the lake.
11. Several lake edge properties include a narrow pier/standing together with a further larger platformed area. Generally, these piers/standings and platforms are constructed upon posts and jut out over the water from the edge of the rear garden to the dwellings they serve. Outbuildings and structures built within rear garden areas are not uncommon however, these are generally simple structures of limited

¹ Ski club/school not observed at the site visit.

size and height. Two storey outbuildings are not commonplace. Overall, rear gardens comprise a low key and modest character and appearance.

12. The appeal site comprises an area of rear garden land serving 52 Pentney Lakes (the “appeal property”) and an area of lake. The appeal property comprises a two-storey log cabin with a predominantly wooden exterior and pitched roof. It is set back from the edge of the lake with a sizeable area of garden to its rear.
13. The outbuilding, the subject of this appeal, is partly built and has been constructed to one side of the rear garden in close proximity to the edge of the lake and the shared boundary with the neighbouring dwelling, a single storey property. A number of trees are situated between the outbuilding and the lake and other mature vegetation is in situ in the vicinity of the shared boundary with the neighbouring property.
14. Whilst the outbuilding includes a modestly sized footprint of some 5.25 metres by approximately 3.03 metres, it is a two-storey building with a ridge height measuring some 5.5 metres and an eaves height of approximately 4.54 metres, again taking the undisputed measurements of the Council. I observed at the visit that whilst the lower part of the outbuilding is open sided and comprises of a number of posts to support the upper floor, the first floor is largely enclosed by wooden walls together with a number of windows and full height glazed double doors. A partially constructed platform at first floor level (the “elevated platform”) projects outwards from the elevation containing the double doors.
15. The roof structure markedly overhangs most elevations of the building. Taken together with the inclusion of a shallow roof pitch, the roof structure appears as a bulky structure and together with the elevated platform this results in an awkward top-heavy appearance. In combination with an excessive height, the building appears ill-proportioned and unbalanced and it is at odds with the prevailing modestly scaled and single storey low level height of other outbuildings found within the gardens of neighbouring properties. The building appears as a cumbersome and incongruous feature which is contrary to the simple extent of outbuildings in the surrounding area.
16. Although there is no regularity to the siting of outbuildings within rear gardens, generally, they include a modest scale and appear subservient to their host dwellings. In this instance, the built-up context and the presence of sizeable dwellings as a backdrop to the outbuilding does not mitigate the effect of the development. It fails to reflect the height, scale, bulk and design of other garden outbuildings and it therefore appears visually inconsistent and a jarring and inharmonious addition that harmfully diminishes the low key and modest character and appearance of rear gardens.
17. Due to the arrangement of built form and intervening vegetation, views of the development are limited. From the access road positioned to the front of the appeal property, observations of the outbuilding are limited to glimpsed views between the built form and vegetation. Nevertheless, it is a tall and conspicuous building which occupies a prominent position given the open frontage to the lake and thus it is likely to be highly visible by individuals whilst they are using the lake and in views from neighbouring dwellings, their gardens and in wider views from areas around the edge of the lake.

18. By reason of its excessive height, roof configuration and first floor projection the unauthorised development has caused an unduly harmful effect on the character and appearance of the area. Therefore, it does not accord with Policies CS06 and CS08 of the King's Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy (July 2011)(CS) and Policy DM15 of the King's Lynn & West Norfolk Borough Council Site Allocations and Development Management Policies Plan (September 2016)(SADMPP) insofar as these policies require a high quality development that maintains local character. In addition, there would be conflict with the aims of the Framework which, among other things, requires development to be sympathetic to local character including the surrounding built environment and landscape setting, be visually attractive as a result of good architecture and add to the overall quality of the area².

Character and appearance - platform

19. The unauthorised decked platform extends outwards from the edge of the rear garden of the host dwelling and, as a consequence of being set upon a number of supporting posts, the decked platform occupies an elevated position above the level of the water. The platform includes a moderate depth and appears solid and of substantial construction. It comprises a size that would be capable of accommodating a number of items of garden furniture and domestic paraphernalia upon it at any one time, albeit none were present at the time of my site visit.
20. The appellant has submitted an image from 2018 which they claim shows a decked platform in situ at the appeal property and others nearby. A further image from 2006 is stated to show *'a whole range of decks can be seen along the edge of the adjacent lake, and what appears to be a jetty and a boat moored immediately adjacent to the appeal plot'*. However, the images are poor quality and it is not possible to see what is positioned at the edge of the lake. The appellant has also drawn my attention to the plan attached with the enforcement notice which delineates a number of rectangular areas that coincide with the lake at the neighbouring properties. However, it is not clear from the plan what these areas relate to.
21. An image has been submitted which purports to be from an online holiday accommodation listing showing 56 Pentney Lakes (No.56) and is stated to show a decked platform erected at the edge of, and over the lake. At the visit, I observed that a significant number of properties positioned at the edge of the lake, including No.56, comprised a decked platform or pier/standing, or both, which are built at the edge of rear gardens and jut out over the water. This includes properties in the immediate vicinity of the appeal site, including to each of its sides. These platforms and piers/standings are varied in their appearance with some including a slim depth of platform base set upon modest supporting posts giving a lightweight form, whilst others include a deep depth of platform set upon a number of posts of sizeable width that contributes to a sturdy and substantial appearance. A number of platforms also include a wooden balustrade around their edges which front the water, which adds to their bulk and visual prominence.
22. Although the Council has referred to the decked platform being positioned within an area of open countryside and it being an intrusion of built form into a sensitive lakeside environment, the lake edge is characterised by the presence of decked

² Paragraph 135 of the National Planning Policy Framework (December 2024)

platforms and piers/standings erected over the water. The Council has provided little explanation regarding the presence of these structures.

23. Whilst the development includes a substantial footprint of platform upon a number of sturdy posts set into the water, it does not include any form of railing along its edges and based upon my observations at the site visit, I find it is not inconsistent in terms of its size and construction to a number of other platforms at neighbouring properties. It is therefore in keeping with the prevailing appearance of other platforms and the character observed at the edge of the lake.
24. The Council suggests that the unauthorised development cannot be considered to have an incidental relationship with the residential use of the appeal property, however, there is no physical barrier between the lake, the garden and the platform and in my view, there is a clear relationship between the platform and the rear garden and residential use of the appeal property.
25. Given the existing presence of built form at the edge of the lake I consider that the decked platform including the support posts and foundations are not unduly harmful to the character and appearance of the area and to this extent it accords with CS Policies CS06 and CS08, SADMPP Policy DM15 and the relevant provisions of the Framework requiring development to be sympathetic to local character including the surrounding built environment and landscape setting, be visually attractive as a result of good architecture and add to the overall quality of the area³.

Other matters

26. The appeal site is not located within an area of specific landscape designation. No adverse harm has been identified in respect of flooding or heritage assets. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.

Conditions

27. The Council has not suggested that any condition would need to be applied to a grant of planning permission for the development comprising the decked platform including its support posts and foundations and I see no reason to take a different view.

Conclusion

28. For the reasons given above, I conclude that the appeal under ground (e) shall not succeed.
29. I have concluded that the decked platform including support posts and foundations does not harm the character and appearance of the area and that planning permission should be granted for this part of the matters alleged in the notice.
30. I have found that the building including the associated base has caused harm to the character and appearance of the area. It conflicts with the development plan as a whole and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan and so the

³ Paragraph 135 of the National Planning Policy Framework (December 2024)

appeal under ground (a) fails in respect of this part and planning permission should be refused.

31. Thus, for the reasons given above, I find that the appeal should succeed in part only, and I will grant planning permission for the decked platform including support posts and foundations, but otherwise I will uphold the notice with corrections and refuse to grant planning permission in respect of the construction of a building including associated base (Appendix A). The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of section 180 of the Act.

Formal Decision

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

- In Schedule 5 of the notice, at point i), the deletion of the word 'are' and its substitution with the words 'shall be' so that the requirement i) reads '*The unauthorised building and base (Appendix A) and decked platform, support posts and foundations (Appendix B) shall be permanently removed from the Land*'; and
- In schedule 5 of the notice, at point ii), the deletion of the word 'is' and its substitution with the words 'shall be' so that requirement ii) reads '*The Land shall be restored to its former condition*'.

33. Subject to the corrections above, the appeal is allowed insofar as it relates to the decked platform including support posts and foundations and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the decked platform including support posts and foundations at Land at 52 Pentney Lakes, Common Road, Pentney, Norfolk, PE32 1LE.
34. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the construction of a building including associated base (Appendix A) and planning permission is refused in respect of the construction of a building including associated base (Appendix A) at Land at 52 Pentney Lakes, Common Road, Pentney, Norfolk, PE32 1LE on the application deemed to have been made under section 177(5) of the Act.

E Brownless

INSPECTOR