



Appeal Decision

Site visit made on 2 October 2025

by Grahame J Kean BA (Hons) Solicitor, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2026

Appeal Ref: APP/U2750/C/24/3354251

91 Bedale Road, Aiskew, Bedale, North Yorkshire, DL8 1DZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Tony Shepherd against an enforcement notice issued by North Yorkshire Council.
 - The notice was issued on 27 September 2024.
 - The breach of planning control as alleged in the notice is: without planning permission, the material change of use of the land from residential use to agricultural use and the construction of an agricultural building and laying of hardstanding for the keeping of livestock.
 - The requirements of the notice are:
 - a) Remove all livestock from the land
 - b) Remove any agricultural equipment from the land
 - c) Cease permanently the agricultural use of the land
 - d) Demolish and remove permanently from the land the agricultural building and all associated materials with the demolition of the building
 - e) Remove the hardstanding laid from the land
 - f) Restore the land to its previous condition
 - The periods for compliance with the requirements are:
 - a) Three months from when this Notice takes effect
 - b) Three months from when this Notice takes effect
 - c) Four months from when this Notice takes effect
 - d) Six months from when this Notice takes effect
 - e) Six months from when this Notice takes effect
 - f) Six months from when this Notice takes effect
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f), (g) of the Town and Country Planning Act 1990 (as amended). 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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Decision

1. It is directed that the enforcement notice is corrected as follows:
 - delete the words "the material change of use of the land from residential use to agricultural use and"
 - delete Requirements a), b) and c) and renumber Requirements d), e) and f) as a), b) and c).
 - in the newly renumbered Requirement b) after "from the land" insert the words "that surrounds the agricultural building".
 - In the Periods for Compliance delete periods a), b) and c) and renumber Periods d), e) and f) as a), b) and c).
2. Subject to the corrections and variations, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (b)

3. An appeal on ground (b) is that the breach of control alleged in the enforcement notice has not occurred as a matter of fact. The burden of proof is on the appellant to show this on the balance of probability.

4. The appellant has inexplicably maintained this ground of appeal despite stating in terms that *"To be clear the appellant does not seek to argue that he has not constructed the shed or laid hardstanding."*

5. The appeal on this ground fails.

Ground (c)

6. An appeal on this ground is that the matters alleged to have taken place do not constitute a breach of planning control, for example because permission has already been granted, or it is permitted development. The burden of proof is on the appellant to show that this is the case on the balance of probability.

7. The site is an L shaped detached bungalow with attached flat-roofed garage and porch extension. The plot includes large amenity areas to the south and east elevations of the property, on which the agricultural building and hardstanding are constructed directly behind several residential properties on Bedale Road. The site is set back from the A684 to the north-east of Aiskew c60m from a railway crossing.

8. The Council considers the land to have an existing residential use. The appellant considers that the land (excluding the house) has always been in use for agriculture as a smallholding and never in use for residential purposes. The images supplied by the appellant suggest that the land had the characteristics of a smallholding.

9. However, the allegation includes that there has been a material change of use of the land from residential use to agricultural use. Whether or not the land behind 1-3 Railway Cottages has been, apart from the operational development also alleged, in an agricultural use prior to the issue of the notice, it is clear that by s55 of the 1990 Act, the use of land for the purposes of agriculture does not constitute development.

10. Concerning this part of the allegation therefore, the appeal succeeds and the notice will be corrected to delete the allegation of a material change of use.

11. As to the operational development alleged, the appellant does not dispute the need for planning permission for the agricultural building but maintains that the removal of livestock and other items from the land cannot be required by the notice. I deal with that matter under ground (f).

12. The alleged unauthorised shed is located along the northern boundary, with an open front facing into the field. An area of hardstanding has been provided in front of the shed. The extent of the hardstanding on the appeal site required to be removed is not delineated on the plan attached to the notice. However, it is not disputed that planning permission is required for the hardstanding that is in front of the shed. Consideration of the requirements of the notice in respect of other hardstanding is dealt with under ground (f).

13. Therefore, the appeal on ground (c) succeeds only in respect of the alleged material change of use but otherwise fails.

Ground (a)

14. The appellant has built a cattle shed to house around 40-70 calves but this can vary depending on markets. The Council has recorded 120 cattle there in May 2024. The calves are brought in at two weeks old and grown on site until they are around 12-14 weeks old, when they are sold. The appellant may keep a handful until they are older, for example to calve on site. The calves are brought to site by a landrover with a trailer in batches of around 20 and taken to market using a car and trailer.

15. The main issue is whether the development complies with the development plan, especially Policy EG7 of the Hambleton Adopted Local Plan, 2022 (LP). In turn the disputed matters are whether the unauthorised development as alleged in the notice as corrected, is reasonably necessary for the purposes of agriculture, and its effect on the character and appearance of the area as well as on living conditions of nearby occupiers including future occupiers.

16. Policy EG7 of the Hambleton Adopted Local Plan, 2022 (LP) deals with businesses in rural areas. The Council's reliance on sub-paragraph f) is misplaced because one could not reasonably characterise any location within this relatively small appeal site, considered as an agricultural unit, to be in an isolated location.

17. LP Policy EG7e and g state:

"Agriculture

A proposal for a new agricultural use or farm diversification will be supported provided that:

e. it is demonstrated that it is reasonably necessary for the purposes of agriculture within that unit and cannot be met by existing buildings within that unit or in the vicinity and the scale of the building is commensurate with its proposed use...

g. the building would be well integrated with its surroundings, being of appropriate location, scale, design and materials and with appropriate landscaping so as not to harm the character, appearance and amenity of the area..."

18. Although the preamble and sub-paragraph e. when read together are slightly confusing in my view, the clear implication behind the policy including Policy EG7 (e,f,g,h) is that it would apply to new buildings in connection with an agricultural use.

19. I agree with the Council that the building appears as a very large and disproportionate structure for the size of the unit. Although the agricultural use may not be entirely new, and the previous occupier kept livestock there, I am satisfied from the evidence, including that of the interested persons who live close by, that it was more in the nature of a smallholding. The operations conducted by the appellant have clearly surpassed this level of activity to a considerable degree.

20. The land holding is said to be 0.44ha. The unauthorised structure is single storey but some 470 sqm, with a length of c40m and width of c12m and height of 3m to the ridge. The building cannot be seen from public views and so it does not adversely impact on the street scene. However, in my view it is an incongruous form of development being markedly larger than individual neighbouring houses and due to its adverse visual impact so close to the rear of the adjacent residential properties. I disagree with the appellant in that I consider, having inspected the site that the shed is visibly overbearing. As such it considerably harms the character and appearance of the

area contrary to Policy EG g. The scale of the structure and its close proximity to the residential gardens of 1-3 Railway Cottages is such that its adverse impact could not in my opinion be adequately mitigated by any conditions including a landscaping scheme.

21. I see no reason to disbelieve the representations of the nearby resident that previously there was only a small handful of animals on the site, that it was never a commercial farm, but used by the previous owner for domestic purposes as a residential small holding. The phrase “reasonably necessary...within that unit”, contrary to the appellant’s suggestion might well be capable of including considerations related to proportionality, as would the use of the word “scale” in connection with the building and its use, which would not be entirely disconnected from consideration of the size of the unit itself. Therefore, for this relatively small holding there also has to be some concern as to the extent to which the development also complies with Policy EG e.

22. It is common ground that permitted development rights for agricultural buildings do not apply to the unauthorised development. Accommodation of livestock within 400m of a dwelling, unless there are particular circumstances which justify it, would need to be considered through a planning application where the effect on living conditions can be assessed, as here.

23. Whilst the permitted development provisions do not mean that agricultural buildings housing livestock within 400m of a dwelling are inherently harmful or unacceptable, the unauthorised building is only some 20m or so away from existing residential properties.

24. The submissions of the interested persons have also been considered. They are disputed only insofar as it is said, in reply thereto, that the photographs submitted were when construction was taking place and that the alleged existence of rats were associated with hens owned by an occupier of one of the dwellings.

25. Other than that, it is clear to me that the development has caused very considerable noise, smells, and unneighbourly activity which has taken place on a sustained basis including at unsociable hours with little regard for the living conditions of occupiers of the nearby properties. That one or more of the nearby properties were or are occupied by a person or persons connected with the business, does not remove the potential that exists for future occupiers to be similarly adversely affected in a serious way by the activities of the appellant in the future.

26. The harm caused to living conditions is contrary to the aims of LP Policy E2 which include an expectation that development will provide and maintain a high standard of amenity for occupants of neighbouring land and buildings, in particular for those in residential buildings. The unauthorised development causes harm by way of significant adverse impacts particularly with regard to light pollution, noise and odour.

27. It is open to me to impose conditions limiting the use of the shed to cows and sheep only (and not pigs or poultry). However, the evidence of the appellant’s operations that include residents experience of having to endure huge piles of steaming manure placed at the boundary fences of the properties, among other matters, leads me to conclude it is not likely that such conditions, would be effective to mitigate the harm being caused by odour nuisance. Nor would the imposition of a management plan be a realistic option since despite the agent’s submissions, there would be no effective means of controlling hours of access for deliveries or cattle transportation vehicle movements, including details of manure management, given the evidence of the appellant’s actual activities on site. The proposal to limit the numbers of cattle to 70

would still mean in my opinion that the development would result in an overly intensive use of this site and would not adequately mitigate the harm caused to residents.

28. The appellant advances a fall-back position, in essence that he could in any event use the land for keeping livestock without a building. It is said that the appellant had calves on the land in the two years preceding the erection of the unauthorised shed. The land to the rear may have been in agricultural use, however, given the scale of the appellant's activities and the nature of his operation which relies heavily on housing the animals in the shed, I find the fall-back argument would not be a realistic comparator. It does not provide a compelling reason to permit the current development and therefore accord it little weight.

29. The benefits of the development include that the business employs a single full-time member of staff and an income for the appellant who is also said to be employed part-time in the business which generates income for the local economy. The purpose of LP Policy EG7 may be, among other things, to promote a vibrant rural economy and National Planning Policy Framework paragraph 85 advises that significant weight should be given to support economic growth, however the overall economic benefit to be given to this enterprise is moderate at best and insufficient to outweigh the very considerable harm that is caused to the living conditions of the occupiers of residential properties.

30. Section 38(6) of Planning and Compulsory Purchase Act 2004 states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. I have concluded that there would be conflict with the development plan including an unacceptable impact on living conditions contrary to LP Policy E2. In the particular circumstances of this appeal the development has facilitated an unacceptable conflict with the nearby residential uses. There would also be harm due to the dominant appearance of the large agricultural building close to the adjacent rear gardens, contrary to the aims of LP Policy EG g.

31. The policies described above are key to the determination of the appeal and I find that the development conflicts with the development plan as a whole. Despite the economic benefits advanced, there are no material planning considerations that indicate I should determine the appeal otherwise than in accordance with the development plan. Therefore, I shall refuse planning permission.

Ground (f)

32. The extent of hardstanding that the Council requires to be removed is not defined in the notice. The hardstanding in front of the cattle shed clearly facilitates the harm that is caused by the appellant's operations in housing the livestock in the building.

33. Otherwise, as regards the parking for the house and existing buildings, and the access to the site, the requirements are not clear on their face. Removal of all hardstanding would go beyond that required to remedy the breach and address any alleged harm and I will therefore vary the notice accordingly to clarify that its requirements should not extend to these elements.

34. Planning permission is not generally required to keep agricultural equipment on the land and I see no good reason to require that no agricultural equipment is kept on the land. Therefore, this requirement will be removed from the notice.

35. Other structures and items on the land prior to the construction of the building are not included in the target of the notice, albeit that their planning status is not before me, for example the office building and extension which I saw, sited between the house and the shed. There is also a structure constructed using concrete panels and tarpaulin, which is not referred to in the notice and which the appellant states has been in situ for three years.

36. The requirement to restore the land to its former condition is not, as is suggested, a requirement that the land is improved beyond its condition prior to the development taking place. The appellant is often best placed to know the condition of the land on which the shed was built and prior to the hardstanding around it.

37. Subject to the variations I have determined to make, the requirements of the notice are no more than are necessary to remedy the breach of planning control. The appeal therefore succeeds to this extent only.

Ground (g)

38. An appeal on this ground is that the period for compliance falls short of what is a reasonable period to comply with the requirements of the notice and a more realistic timeframe of 12 months is requested. The appellant says that there is no alternative location and the calves must be sold or re-housed elsewhere. However, when I inspected the site there were no cattle and the operations had been suspended for the time being. A period of six months to remove the buildings and restore the land to its original condition which I note the appellant has indicated would require landscaping and seeding, is in my view entirely realistic a period. The appeal on this ground fails.

Conclusion

39. For the reasons given above, I conclude that the requirements of the notice are excessive to remedy the breach of planning control and injury to amenity. I shall correct and vary the enforcement notice prior to upholding it. The appeal on ground (f) succeeds to that extent.

Grahame J Kean

INSPECTOR