



Appeal Decision

Site visit made on 26 January 2024

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2024

Appeal Ref: APP/P1045/C/23/3325939

Land at Magfield Farm/Land to the east of Timber Farm, Hulland Village, Derbyshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr George Spencer against an enforcement notice issued by Derbyshire Dales District Council.
 - The notice was issued on 7 June 2023.
 - The breach of planning control as alleged in the notice is unauthorised engineering works to form level, hard surfaced area, perimeter bund and the material change of use from agricultural to caravan storage (Class B8) use.
 - The requirements of the notice are to:
 - a) Cease the use of the land for caravan storage (Use Class B8) and permanently remove all caravans from this land.
 - b) Permanently remove the additional hard standing and earth bunds and reinstate the land to grassland on its original level.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (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 varied by:
 - At section 5 of the notice, the deletion of the number "3" and its substitution with the number "12" as the period for compliance, so that it reads 'Time for compliance: 12 months from when this notice takes effect'.
2. Subject to the variation above, 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 (a)

3. An appeal under ground (a) is made on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.

Main Issues

4. The main issues of the appeal are the effect of the appeal scheme on:
 - the character and appearance of the countryside; and
 - the safety of pedestrians, cyclists and drivers using West View road.

Reasons

Character and appearance

5. The appeal site is located in a generally rural area which is characterised by rolling farmland with native hedgerows and sporadic farmsteads. Policy S1 of the Adopted Derbyshire Dales Local Plan (2017)(the DDLP) seeks to conserve and where possible enhance the distinct Peak District character. Policies S4, PD1 and PD5 of the DDLP also seek to protect the character of the landscape and policy S9 of the DDLP seeks to promote the sustainable growth of the rural parishes by protecting the open countryside and high quality environment from inappropriate development.
6. The appeal site comprises gently sloping land, which is laid out with hardstanding, caravans and a bund bounding the north and east of the site. The appeal site is bound to the west by a log cutting/drying business and, beyond the bund, to the north and east by open fields. There is a pre-existing caravan storage site immediately to the south of the appeal site, which provides access from the highway, West View road.
7. The pre-existing caravan storage site is not affected by the notice. In 2021, planning permission was granted, reference 21/00784/FUL, for the use of existing hardstanding for the storage of 12 caravans, which has now been implemented. The appellant has drawn my attention to policy EC1 of the DDLP, which supports the expansion of existing businesses in sustainable locations, provided that the proposal would not harm the character or appearance of the site or its surroundings, amongst other things.
8. The National Planning Policy Framework (2023)(the Framework) advises decisions should enable the sustainable growth and expansion of all types of business in rural areas, as well as the diversification of agricultural and other land-based rural businesses. The Framework goes on to advise that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found beyond existing settlements. The Framework also advises that in these circumstances, it will be important to ensure that development is sensitive to its surroundings.
9. Views of the appeal site from West View road are seen against the context provided by the pre-existing caravan site. There are no significant public views from the west, due to the log cutting/drying business. Public views from the north are limited due to the topography, as the land rises up towards the north. However, while the bund limits views into the site from the east, due to its limited height and the topography of the land, caravans within the site are clearly visible when travelling along Smith Hall Lane. Despite the site's setback from Smith Hall Lane, the caravans appear incongruous, urbanising features which are uncharacteristic of the rural landscape and which significantly harm the character and appearance of the area.
10. I saw that the appellant has planted a number of coniferous plants along the top of the bund. However, the vegetation which has been planted is likely to take some considerable time before it effectively screens the caravans. Furthermore, the vegetation is, in my view, unlikely to be native and once fully grown, would itself appear an unusual feature in the landscape.

11. While it would be possible to secure alternative landscaping via condition, this would take time to establish and is unlikely to sufficiently screen the caravans, particularly during the winter months when native planting is likely to have shed its leaves. The vegetation could also fail or be removed. While it would be possible to secure the retention of the planting for a limited period of time by condition, it would be unreasonable to require it is retained in perpetuity.
12. The appellant suggests the appeal scheme comprises the re-use of a brownfield site, which is supported by policies S1 and S4 of the DDLP. The Framework defines previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land (but excludes land that is or was last occupied by agricultural or forestry buildings).
13. The Council advises the land that is subject to the appeal was part of a field and not previously developed land, as identified in the Framework. Although the site to the south appears to have been previously developed, from the aerial photograph provided by the appellant, it seems the appeal site was previously laid with grass and formed part of the wider agricultural field. I therefore consider it unlikely the appeal site comprised previously developed (or brownfield) land for the purposes of applying planning policy.
14. Thus, for the reasons given above, I find the appeal scheme significantly harms the character and appearance of the area, which is contrary to policies S1, S4, S9, PD1 and PD5 of the DDLP, the requirements of which are set out above.

Highways

15. Policy S4 of the DDLP seeks to ensure development has a safe access and will not generate traffic of a type or amount which cumulatively would cause severe impacts on the transport network, amongst other things. Policy H19 of the DDLP seeks development that is located where the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development.
16. Although there are white centre lines down the middle of the lane near the junction with Smith Hall Lane, West View road has restricted width along the remaining section between the appeal site and Smith Hall Lane. Given its restricted width, I consider it unlikely two vehicles can safely pass each other. While a number of individuals who use the appeal site suggest they have not encountered any issues when entering or leaving the appeal site, I have limited details as to the length of time they have used the site, how often they have accessed it, or how typical their use is compared with other users of the site.
17. The appellant points out that the site previously had planning permission for use as a haulage yard and that there was an Operators Licence for 5 lorries. The Council confirms a number of planning permissions have been granted in respect of the use of the site for the parking of heavy goods vehicles. However, these relate to the pre-existing caravan storage site to the south of the appeal site, which has since been granted planning permission for the use of the existing hardstanding for the storage of 12 caravans. Were I to uphold the notice, the appellant would not, therefore, be able to revert to the haulage use.
18. While it is asserted there were no problems with the haulage use, I do not know what the pattern of movements would have been as a result of this use. For example, while it is suggested there would have been 5 lorries 'going in

and out' of the site every day, there could have been as little as 5 movements (some leaving, others returning). Furthermore, highway signage indicates the road is unsuitable for heavy goods vehicles, which suggests there may have been issues with HGVs using the road in the past. This does not, therefore weigh in support of the appeal scheme.

19. The appellant suggests, on average, a caravan may be taken out 4 times per year, with some used more often than others and some never having been taken out. The appellant asserts it is rare for two vehicles to meet each other given the nature of the use and the low number of trips it is likely to generate. However, there is limited information to show how many movements the appeal site actually generates, whether this would change over time or the other types of vehicles which use the road.
20. Since planning permission has been granted for the storage of 12 caravans to the south of the site, vehicles towing caravans will already be using the highway. In addition, a letter from the operator of the log business next door to the appeal site, confirms they have regular wood deliveries via HGVs and make outbound deliveries using 3.5 tonne trucks. While the operator of the log business states they consider the lane is sufficient to support this level of traffic movement, the use of the appeal site increases the likelihood of conflict between vehicles using the highway.
21. How often an individual chooses to access the appeal site is at their discretion and is likely to vary. Nevertheless, I would expect users of the site are more likely to wish to use their caravans when the weather is warmer and so are more likely to visit the site during the summer months. This is when walkers and cyclists are more likely to be using the road, resulting in potential conflict, particularly where vehicles towing a caravan try to pass walkers or cyclists using the road.
22. The appellant points out there is sufficient visibility for drivers exiting the site to see vehicles traveling in either direction along West View road. This would enable a driver to wait until the road is clear before emerging from the site. However, once a driver has pulled onto the road, given the substantial distance between the appeal site and the junction with Smith Hall Lane, vehicles may turn onto West View road before a driver towing a caravan has reached the junction. Given the lack of passing places between the appeal site and the junction, this may necessitate the other vehicle waiting by the junction, interrupting the free flow of traffic and increasing the risk of accidents.
23. Thus, for the reasons given above, I find the appeal scheme harms highway safety, contrary to policies S4 and H19 of the DDLP, the requirements of which are set out above.

Planning balance

24. The appellant has drawn my attention to policy EC10 of the DDLP, which supports development which forms part of a farm diversification scheme, where the proposal can demonstrate the viability of farming through helping to support, rather than replace or prejudice, farming activities on the rest of the farm. The appellant suggests the business represents a diversification of their farm business, which, they assert has become increasingly unviable in recent years.

25. However, I have no substantive evidence to show that the farm business was unviable or that the appeal scheme helps to support, rather than replace or prejudice farming activities on the rest of the farm. Indeed, while the appellant may still produce hay and silage on the remainder of their land, they state they have reduced farming activities and sold livestock due to retirement. This suggests the appeal scheme is intended to support their retirement, rather than the viability of the farm business.
26. I have been provided with letters of support from users of the caravan storage facility and neighbouring business owners and saw that the site was well used during my visit. I recognise that it may not be possible or desirable for caravan owners to park their caravans at their homes and that users of the site may find the appeal site to be conveniently located. However, while these letters point towards the appeal site meeting a demand, it has not been demonstrated that such demand could not be met at existing sites elsewhere or on allocated sites. I therefore afford this matter limited weight.
27. The appeal site generates income for the appellant and therefore provides some limited economic benefit to the locality. I afford this matter limited weight in support of the appeal scheme.
28. In my view, the harm to the character and appearance of the area and the harm to highway safety outweighs the benefits of the appeal scheme.

Other Matters

29. The Council refers to policy PD6, which concerns trees, hedgerows and woodlands. However, the appeal scheme has not resulted in the loss of trees, hedgerows, orchards or woodland of value and so this policy is not determinative in this appeal.
30. Although permitted development rights may allow the conversion of farm buildings to commercial uses in certain circumstances, it is not suggested the appeal scheme comprises permitted development. While there may be many businesses which are located in the countryside, either as the result of farm diversification, through utilisation of permitted development rights or for other site specific reasons, as set out above, I have considered the appeal scheme on its own merits, on the evidence before me.

Ground (a) conclusion

31. Thus, for the reasons given above, I find the appeal scheme conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken otherwise in accordance with the development plan.

Ground (g)

32. An appeal under ground (g) is made on the basis that any period specified in the notice...falls short of what should reasonably be allowed. The appellant suggests 3 months would not allow sufficient time to find an alternative storage site and advises customers have a 12 month contract and pay up front for the 12 months.
33. The Council suggests it is reasonable to allow 6 months for the caravans to be removed and a further three months for the land to be reinstated, when the

weather improves. However, the Council's Statement of Case was written in October 2023. Due to the date of this decision letter, extending the compliance period to 9 months would be likely to result in the land being reinstated during the winter months, when poor weather is likely to result in challenging ground conditions.

34. I consider extending the compliance period to 12 months would be reasonable and proportionate as it would give the appellant or users of the site sufficient time to secure an alternative site and should enable the appellant to reinstate the site outside the winter months, when ground conditions are likely to be less challenging.

35. Thus, the appeal under ground (g) succeeds to this extent.

Overall conclusion

36. For the reasons given above, I conclude that the period for compliance with the notice falls short of what is reasonable. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

M Savage

INSPECTOR