



Appeal Decision

Site visit made on 18 September 2023

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/P1045/C/23/3318719

Racecourse Retreat/Gorsey Bank Fields Farm, Hay Lane, Wirksworth, Derbyshire DE4 4AF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr B Britland against an enforcement notice issued by Derbyshire Dales District Council.
 - The notice was issued on 8 February 2023.
 - The breaches of planning control as alleged in the notice are: 1. Unauthorised erection of a timber chalet, a timber toilet/shower block and a water filtration shed; 2. Unauthorised engineering works to facilitate the installation of a septic tank, a water tank and ground bases for glamping pods; and 3. The change of use of land for the siting of a caravan for use as an administration office/mess facility.
 - The requirements of the notice are: a) Permanently remove the toilet/shower block (1), the filtration shed (2) and the timber chalet (3) shown in blue on the attached plan; b) Permanently remove the septic tank (4), the water tank (5) and glamping pod bases (6) shown in blue on the attached plan; and c) Permanently remove the caravan (7) shown in blue on the attached plan.
 - The period for compliance with requirements a) and b) is six months and with requirement c) is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The enforcement notice is corrected by the deletion of the breach of planning control alleged in section 3.2 of the notice and by the deletion of the requirement set out in section 5.1(b) of the notice.
2. Subject to the corrections 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.

Preliminary Matters

3. The Appellant has questioned the validity of the enforcement notice. He maintains that the notice does not specify, with regard to the first two of the three alleged breaches of planning control set out in section 3 of the notice, the periods of time during which these breaches have occurred. But the periods of time are clearly stated in section 4 of the notice which is not, for this reason, invalid.
4. The second breach of planning control alleges 'unauthorised engineering works to facilitate the installation of a septic tank, a water tank and ground bases for glamping pods' (emphasis added) but does not, as a matter of fact, allege the installation of a septic tank, a water tank and ground bases for glamping pods. The relevant requirement of the enforcement notice requires removal of the septic

tank, the water tank and the ground bases but does not, as a matter of fact, require remedial works to return the land to its former condition before the alleged engineering works were carried out.

5. The second alleged breach of planning control and the second requirement of the enforcement notice do not relate to each other. For this reason elements of the notice are invalid. This does not render the whole notice invalid because the second breach and the second requirement are severable from the other breaches and requirements. The notice can be corrected by the deletion of the second breach and the second requirement without causing injustice to either main party.

6. The address of the land to which the enforcement notice relates is taken from the notice. The Appellant maintains that it is incorrect. No claim is made that the land is not correctly identified on the plan attached to the notice, the postcode in the address is correct, the land is registered on the Council's mapping system as Gorsey Banks Field Farm and the land has been advertised as 'The Racecourse Retreat Pop Up Site'. The address does not need to be amended.

7. The third breach of planning control alleges 'the change of use of land for the siting of a caravan for use as an administration office/mess facility'. The Appellant maintains that this does not "...constitute an identifiable use". But the siting of the caravan can only be lawful if it is ancillary to the lawful use of the land, which, in the absence of any evidence to the contrary, is agriculture. The breach of planning control as stated is therefore identifiable.

Reasons

The ground (b) appeal

8. The ground (b) appeal has been made in relation to the second breach of planning control. The enforcement notice has been corrected by the deletion of the second breach. The ground (b) appeal does not therefore need to be determined.

The ground (c) appeal

9. The ground (c) appeal has been made in relation to the third breach of planning control; the siting of a caravan. The Appellant has exercised permitted development rights, afforded by Class B of Part 4 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, to use the land for a purpose for not more than 28 days in total in any calendar year. The purpose in this case being a 'caravan and camping' use. The permitted development right also allows for the provision on the land of any moveable structure for the purposes of the permitted use. The caravan is a moveable structure and, given the map of the Racecourse Retreat Pop Up Site, it has been used as a reception building for the caravan and camping use.

10. But the moveable structure sited on the land for the purposes of the permitted use must only be on the land for the 28 days that the land is in use for that use. It cannot be on the land permanently or for any time outside the 28 days. Outside those 28 days the caravan, for the purposes of supporting the use that existed during the 28 days, is in breach of planning control. The Appellant maintains that the use of the caravan as an administrative office/mess facility is ancillary to the agricultural use of the land. Whilst agriculture is the lawful use of the land this is not the use to which the land has been put in recent years. Evidence, including submissions by residents of Wirksworth living near the land,

indicates that the land has only been used briefly for grazing sheep and that the land has principally been used for the permitted temporary use during the summer.

11. It was noted at the site visit that the character of the land is not agricultural. The land is set up for caravan and camping use and there is an absence of machinery and other farming paraphernalia that would be expected if the land is in agricultural use. The caravan is not, as a matter of planning judgement, ancillary to the agricultural use of the land. The caravan is not permitted development and planning permission is required for it to be sited on the land. The ground (c) appeal thus fails.

The ground (d) appeal

12. The ground (d) appeal has been made in relation to the third breach of planning control; the siting of a caravan. The Appellant maintains that the caravan was brought onto the land in November 2018, more than four years before the date of issue of the enforcement notice, and that it is therefore immune from enforcement action. He maintains that the four-year time limit rule applies because "...the caravan has a degree of permanence with a timber structure attached to it". The timber structure could be easily removed and, otherwise, the caravan has no degree of permanence. It is not a building but a moveable structure to which the ten-year rule applies. The caravan has not been on the land for in excess of ten years and it is not therefore immune from enforcement action. The ground (d) appeal therefore fails.

The ground (a) appeal

13. The ground (a) appeal relates to the first and third breaches of planning control. The main issue is the effect of the timber chalet, the toilet/shower block, the water filtration shed and the caravan on the character and appearance of the rural landscape.

14. The appeal site is on the north-east side of Hay Lane on high ground in the Derbyshire Dales. On the opposite side of the road is a farm complex of traditional stone and modern buildings, Hardhurst Farm, and to the north, around the junction of Hay Lane with St Helens Lane and Breamfield Lane, is a group of traditional and modern residential and farm buildings. The loose group of built development is surrounded by open farmed countryside that is mainly grazing land. Access into the site off Hay Lane leads directly to a hard surfaced and level yard. To the east of the yard is a large modern, mainly metal clad, storage building.

15. The caravan is on the north side of the yard, the timber chalet is on the south side of the yard, the toilet/shower block is at the rear of the storage building, and the water filtration shed is alongside a track that leads to the upper parts of the appeal site. The caravan and the timber chalet, which do not serve any agricultural function or purpose, are visible from Hay Lane. They are modern in design and construction and are visually unappealing in this countryside location. They are intrusive features that undermine and cause harm to the character and appearance of the rural landscape.

16. The toilet/shower block is a timber clad structure that is visible in views from Hay Lane over the dry stone boundary wall at the rear of the highway verge. It is claimed that the building is "...used to provide washing and toilet facilities for persons undertaking agricultural work..." but toilet facilities are available in the storage building and the comment that "...these are not always convenient or

available..." is unexplained. The structure is a permanent feature that cannot be justified to support, under permitted development rights, the temporary use of the land as a caravan and camping site. The toilet/shower block does not serve any necessary agricultural function and it is an incongruous and visually intrusive feature that causes harm to the character and appearance of the rural landscape.

17. The water filtration shed is timber clad and about two metres high. It is claimed that the shed cannot be anywhere else because it is located over a "...borehole which provides the only source of water for livestock on the land". There is no reason why filtering of water sourced from the borehole could not be carried out in the nearby storage building. Filtering of water for livestock is not common and it has not been explained why it is necessary in this location, and there has been almost no grazing of livestock on the land in recent years. The shed can be glimpsed in views across the yard from Hay Lane. It is incongruously small and is a visually intrusive feature that causes harm to the character and appearance of the rural landscape.

18. The timber chalet, the toilet/shower block, the water filtration shed and the caravan are, individually and collectively, visually intrusive in this countryside location and cause harm to the character and appearance of the rural landscape. They conflict with policies S1, S4, PD1 and PD5 of the Derbyshire Dales Local Plan. The ground (a) appeal thus fails.

The ground (f) appeal

19. The ground (f) appeal relates to the second breach of planning control which has been deleted from the enforcement notice. The ground (f) appeal does not therefore need to be considered.

The ground (g) appeal

20. The ground (g) appeal relates to the caravan and is solely based on the compliance period for its removal being inconsistent with the compliance period for the removal of the structures that are the subjects of the first breach of planning control. This is not a reason to vary the compliance period for removal of the caravan. Once the timber structure attached to it has been removed, which could be achieved in hours rather than days, the caravan could be towed off the land. Three months is a reasonable period for compliance with the requirement to remove the caravan from the land. The ground (g) appeal thus fails.

John Braithwaite

Inspector