



## Appeal Decisions

Site visit made on 7 November 2023

**by Anthony J Wharton BArch RIBA RIAS MRTPI**

**an Inspector appointed by the Secretary of State for Levelling Up Housing and Communities**

**Decision date: 17 November 2023**

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### **Appeal Ref: APP/U2370/C/22/3298921**

#### **Land at Hornbys Lane, Hale Nook, Out Rawcliffe, Preston, Lancashire**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr George Andrew Leece against an enforcement notice issued by Wyre Borough Council.
  - The notice was issued on 19 April 2022.
  - The breach of planning control as alleged is as follows:
    - (a) Material Change of Use of the land for the purposes of agriculture to a mixed use for purposes of agriculture, for the siting of a caravan for residential and/or storage purposes (located within the Building) and for the siting of two further caravans for storage purposes and,
    - (b) The erection of a building (the Building) in the approximate position shown edged and cross-hatched in blue on the attached plan (containing the aforementioned said caravan for residential and/or storage purposes.
  - The requirements of the notice are as follows:
    - (a) Cease the use of the building for containment of the caravan for residential and/or storage purposes.
    - (b) Cease the use of the Land for the siting of caravans for storage purposes.
    - (c) Cease the use of the Land for the siting of a caravan for residential and/or storage purposes.
    - (d) Remove all caravans from the land.
    - (e) Demolish the Building in its entirety and
    - (f) Remove from the land all materials, rubble and debris that arise from steps required at (e) above.
  - The Compliance period is 6 Months.
  - The Appeal is proceeding on grounds (a), (b), (c), (f) and (g) as set out in Section 174(2) of the Town and Country Planning Act 1990.
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### **Decision**

1. The Appeal is dismissed.

### **Preliminary matter**

2. In September 2023, the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

### **Background information**

#### *The Appeal site and the surrounding area*

3. The appeal site is located on the south-east side of Hornbys Lane, Hale Nook, Out Rawcliffe, Preston, Lancashire. It lies within the open countryside and is in a remote location detached from the nearest settlement. The land is accessed via

unlit rural roads, subject to national speed limits, with no pedestrian footpaths and is in an inaccessible location.

4. The flat, rectangular parcel of appeal land is approximately 0.5 ha in area and access is via a gate leading onto an uneven surfaced area. Palings have been introduced on site to extend the site entrance and to create an access allowing motor vehicles onto the site. The L-shaped metal appeal structure is in the southern part of the site. It has an access door and window. One of the caravans referred to in the notice is located within this structure. There are two other caravans on other parts of the site. To the north of the site there is a smallholding which is subject to another enforcement notice and to the west there are open fields. To the south of the site there is another smallholding and storage area in agricultural use.

5. The surrounding area mainly comprises rural open countryside with a few sporadic dwellings and the site is defined as being in a 'Countryside Area' on the adopted Wyre Borough Local Plan (2011-2031) Proposals Map (WBLP). The land is classed as Grade 2 (very good quality) agricultural land.

6. The Council had received a complaint in May 2021 which led to them concluding that an unauthorised change of use and operational development had occurred on the land. This amounted to *'Without planning permission the material change in use of the Land from use for the purposes of agriculture to a mixed use for the purposes of agriculture, for the siting of a caravan for residential and/or storage purposes (located within the building as hereinafter described), and for the siting of two further caravans for storage purposes: and without planning permission the erection on the Land of a building'*.

7. The Council indicates that details were left on site for the appellant/owner to make contact. No contact was made and so on 3 February 2022 a Planning Contravention Notice (PCN) was served. In reply the appellant indicated that he was using the land for *'storage of trailer and equipment from land he sold at Lancaster Road'*.

8. It was further stated that *'There is planning permission for this land and the cattle building (plot next door) hard standing, this is why I bought this land it's already passed planning'*. With regard to the caravan in the building it was stated that it *'has no lock on the door, all the windows are damaged it has no toilet, no running water and is used for storage and making coffee, it has been stayed in for about 3 weekends while work was done in Summer'*. It was also stated that *'caravan 2 never been lived in stayed in or used just needs removing as not used'*. The PCN was signed and dated 16/02/2022.

9. The Council indicates that in Google Earth images of July 2017, June 2018 and April 2020, there were no buildings shown as being located on the rectangular-shaped appeal site. It is also indicated that the initial visit to the site revealed the L-shaped metal-framed appeal building which had been built around the touring type caravan which had bedding and clothes inside and *'appeared lived in'*. The other two caravans on site were also noted as was the hardstanding at the entrance to the site.

#### *Relevant Policy*

10. The Development Plan for the area consists of the Wyre Local Plan (2011–2031) adopted 28 February 2019 (WLP). The most relevant policies are SP2 (Sustainable Development); SP4 (Countryside Areas); CDMP3 (Design) and CDMP6 (Accessibility and Transport). The National Planning Policy Framework (NPPF) is a

major material consideration. The relevant sections/chapters are 2 (Achieving sustainable development); 9 (promoting sustainable transport); 5 (Delivering a sufficient supply of homes), 12 (Achieving well designed places) and 15 (Conserving and enhancing the natural environment). Relevant parts of Planning Practice Guidance (PPG) are also relevant material considerations.

### **The appeal on ground (b)**

11. To be successful on this ground the onus is upon the appellant to show categorically that what is alleged in the enforcement notice has not occurred as a matter of fact. As indicated by the LPA the only recognised lawful use of the land is for agricultural use. From my site visit it is clear that 2 caravans have been sited on the land and that a building has been erected inside of which another caravan has been stored. Irrespective of whether these are lawful or unlawful changes of use to the land (and this is dealt with in the ground (c) appeal below), what is alleged in the notice has occurred as a matter of fact. The appeal fails, therefore, on ground (b)

### **The appeal on ground (c)**

12. To be successful on this ground it must be shown either that planning permission is in place for the siting of the caravans; the erection of the building and the storage uses or that these all constitute permitted development. The LPA has confirmed that there are no permissions in place for the uses/development being carried out on the land and as alleged in the notice. Neither does any use/development constitute permitted development under The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Again, therefore, it follows that the appeal cannot succeed on ground (c). The permission referred to by the appellant does not refer to any of the alleged unauthorised development as referred to in the enforcement notice.

### **The appeal on ground (a)**

#### *The Main Issue*

13. The main issue is the effect that the unauthorised mixed use and operational development has had on the character and appearance of this part of the open countryside, having regard to the relevant policies of the development plan.

#### *Reasons*

14. Policy SP1 of the WLP aims to ensure that any new development is directed to be within settlements and to provides necessary protection in the designated Countryside Areas outside of the settlement boundaries. Policy SP4 seeks to protect the open and rural character of the countryside and states that development which adversely impacts on that open and rural character will not be permitted, unless it is demonstrated that the harm to the open and rural character is necessary to achieve substantial public benefits that outweigh that harm.

15. The policy does allow new development in Countryside Areas which meet the requirements of the CDMP Policies within a specific list of exceptions, including agriculture, forestry, mineral extraction, equine related activities and the diversification of agricultural businesses in line with Policy EP8 (Rural Economy) and EP10 (Equestrian development). The uses being carried out on the land are not included in these exceptions. Furthermore the appellant has not presented any evidence to demonstrate that the site is being used for any specific agricultural use or any of the other excepted uses. Nor has it been argued that the existing uses are a diversification of an existing business.

16. Having seen the building as erected from both near and distant viewpoints, and having noted the isolated location separate from other built development, I share the LPAs concerns about its visual impact on the open and rural character of this part of the open countryside. The building itself is visible from Hales Rushes Road and Hornbys Lane, both of which are public rights of way. I consider that the building, together with the siting of the other caravans have resulted in an obtrusive and unacceptable incursion of development into the open characteristics of the countryside. As indicated by the LPA there are no public benefits that would result from the unauthorised development as carried out by the appellant. Having regard to this negative impact I find that the building and the storage of caravans on the land are contrary to Policy SP4.

17. I also agree with the Council that the 'L-shaped building with its window, and doorway does not have the appearance of an agricultural building. In my view it is seen as a small out-of-place residential building and as indicated by the Council there is no evidence of any on-going agricultural activity on the appellant's land.

18. In conclusion I do not consider that planning permission should be granted for the unauthorised works as alleged in the enforcement notice. Nor do I consider that any planning conditions could overcome the harm caused to the character and appearance of this part of the open countryside. It follows that the appeal must also fail, therefore, on ground (a).

#### **The appeal on ground (f)**

19. To be successful on this ground of appeal it must be shown that lesser steps than those set out in the enforcement notice would overcome the harm caused.

20. The appellant has not suggested any lesser steps but instead has set out the following:

*'The caravan is used only for storage of tool and personal items for security, this is a movable structure on wheels and not a permanent building, this does not set a precedent (Sic) as 15 paces from my gates there is a brick built barn under the barn is a caravan with storage also on the same plot is a static caravan that has been used before his passing, Also that other caravans in the area namely Lancaster road and shard bridge lane were both told to erect a building over your caravan or hide the caravan behind your buildings, I've followed these instructions given by wyre planning'.*

21. Whilst noting the above explanation it cannot be an argument in support of a ground (f) appeal and is simply a repeat of the reasons why the appellant considers it appropriate to retain the unauthorised development. Or, it is an attempt to claim that planning permission is not required. For the reasons set out above I have concluded that, even though the caravan might be moveable and that there are other caravans in the locality, planning permission for retention of the building and caravans on the site ought not to be granted. The appeal also fails therefore on ground (f).

#### **The appeal on ground (g)**

22. In support of this ground of appeal the Appellant indicates that he makes regular trips to the Philippines for over a month at a time; that he is '*not at this land*' and lives approximately 20 miles away.

23. Whilst acknowledging these facts there is no suggestion by the Appellant of what period might be required for him to comply with the requirements. In any case and irrespective of the appellant's situation, the unauthorised development has

already been in place for a considerable time and I consider that 6 months from the date of this decision is more than an compliance adequate period. The appeal also fails, therefore, on ground (g).

**Other Matters**

24. In reaching my conclusions on all of the grounds of appeal I have taken into account all of the submissions by the parties. These include the full planning history; details set out in the PCN and all of the detailed statements. However, none carries sufficient weight to alter my conclusions on the main issue for ground (a) or any of my findings on the other grounds pleaded. Nor is any other factor of such significance to change my decision that the appeal should fail.

**Formal Decision**

25. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

*Anthony J Wharton*

Inspector