

Planning Services

COMMITTEE REPORT

APPEAL UPDATE

APPEAL BY MR & MRS M WALTON & MS A COUSINS

APPEAL REF. NO: APP/X1355/C/10/2170277

LPA REF. NO: ENF/7/2009/098

ENFORCEMENT NOTICE APPEAL

MATERIAL CHANGE OF USE OF LAND ADJOINING EAST HOWLE SCHOOL, METAL BRIDGE, FERRYHILL DL17 8RY

The Council issued an enforcement notice on the owners of the above land on 5 January 2012 for the material change of use of the land to a mixed use for agriculture or the keeping of animals, for residential purposes, including the siting and use of a static caravan and the storage of a touring caravan.

An appeal was lodged against the Notice on two grounds. These were Ground (a) that planning permission should be granted for what is alleged in the notice and ground (d) that at the time of issuing the notice it was too late to take enforcement action.

The Planning Inspector dismissed the appeal, and in terms of the ground (a) refused to grant the deemed application for planning permission for the development alleged in the notice.

In arriving at his decision on the ground (d) appeal, whereby the onus of proof is on the appellant to demonstrate that the use commenced 10 years prior to the issue of the notice, the Inspector concluded that the appellants had not shown that on the balance of probability the change of use of land and the building works were immune from enforcement action under the 10 and 4 year rule.

In consideration of the ground (a) appeal, the Inspector considered the effect of the development carried out on the character and appearance of the open countryside. He noted that the combination of the caravans, the incidental works and the general residential paraphernalia had resulted in a most harmful visual effect on this agricultural land. He also noted that the use of the site was not generally sustainable because it is contrary to established national and local plan policies which restrict new residential development in the open countryside where it has not been shown to be essential for agriculture or forestry.

The enforcement notice was upheld and became effective from 24 May 2012. Officers will monitor the site to ensure compliance with the notice, and take any legal action that is deemed necessary to resolve any failure to comply with the notice or outstanding breach of planning control after the expiry of the compliance periods within the notice.

No application was made for costs

Report prepared by Susan Porter, Senior Planning Enforcement Officer, South/West.

RECOMMENDATION

That the report be noted.