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## Appeal Decisions

Site visit made on 7 December 2021

**by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 January 2022**

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### **Appeal A: APP/G4240/C/21/3279380**

#### **Land at 141 Mottram Moor, Hollingworth, Tameside SK14 8LZ**

- 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 Vince Casale against an enforcement notice issued by Tameside Metropolitan Borough Council.
- The enforcement notice was issued on 16 June 2021.
- The breach of planning control as alleged in the notice is the erection of an agricultural building, covered storage area, feed silo, concrete hardstanding and associated works.
- The requirements of the notice are to remove the agricultural building, covered storage area, feed silo, concrete hardstanding and associated works from the Land and restore the Land back to its pre-existing condition before development commenced.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.

**Summary Decision: The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out in the Formal Decision.**

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### **Appeal B: APP/G4240/W/21/3279383**

#### **Land at 141 Mottram Moor, Hollingworth, Tameside SK14 8LZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Vince Casale against the decision of Tameside Metropolitan Borough Council
- The application Ref: 19/00648/FUL, dated 17 July 2019, was refused by notice dated 17 March 2021.
- The development as described on the Council's decision notice is erection of an agricultural building, tractor store, feed silos and associated works for the purposes of rearing cattle.

**Summary Decision: The appeal is dismissed.**

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### **Appeal A on Ground (g)**

1. The ground of appeal is that the time given to comply with the requirements is too short. The four calendar months given would be sufficient to remove the agricultural building, covered storage area, feed silo, concrete hardstanding and associated works from the Land and restore the Land back to its pre-existing condition before development commenced. The 9 month compliance period suggested by the appellant would be excessive given the ongoing harm caused by the development. However, I consider the period should be increased to enable the appellant to secure alternative land and suitable agricultural buildings to allow his business activities to continue. In this respect I consider six months would strike an appropriate balance and would

not place a disproportionate burden on the appellant. To this limited extent to the appeal on ground (g) succeeds.

## **Appeal B**

### **Main Issues**

2. The appeal site is situated within the Green Belt but the question of inappropriateness has not been raised. The development is part retrospective and therefore, the main issues are:
  - the effect on the living conditions of the occupants of nearby residential properties with particular reference to odour; and
  - the effect on the character and appearance of the area.

### **Reasons**

3. The appeal site comprises an area of agricultural land situated to the rear of residential properties along Mottram Moor. It is accessed from Coach Road to the East. The unlawful development the subject of the planning application includes an agricultural building which is used as a cattle barn. It is mainly steel framed with timber cladding and a flat metal roof. The main building is used to rear cattle and there are a number of other buildings, structures and features in the locality which are also used in association with that use, including a feed silo, various containers, underground slurry tanks, outdoor storage and a waste bund.
4. It is my understanding that agricultural activities have taken place on the site for over two years. Although there is no evidence of any statutory nuisance as a result of odours emanating from the development there are comments and objections from local residents with specific reference to odour. The cattle building is approximately 45.5 metres from the nearest residential property on Mottram Moor and only approximately 20 metres from the closest rear garden boundary of a residential property on Mottram Moor.
5. During the past two years or so there is clear evidence of animal waste being spread on nearby fields and strong odours from the site. Given the close proximity of several residential properties to the south and east of the site I have no reason to dispute the level of odour disturbance stated by the Council and local residents. The appellant has stated that he has a licence with respect to the animal-related activities he carries out and is able to openly graze animals on nearby land. He has also stated that there has been no environmental health action against his agricultural activities. That may be the case, but it is clear that the Council's Environmental Health Officer has concerns about odours, stating that based on the location of the building and the number of cattle in the shed at any one time, there is a strong possibility of the development causing odours and insect nuisance to nearby residential properties, especially during warmer months.
6. In my judgement, grazing on agricultural land would be far less intensive than housing cattle in a building and is less likely to result in odours emanating from an intensive activity so close to residential properties. I have no reason to dispute the concerns of the Council and interested parties. I have taken account of the appellant's 'Bully Beef Farm Waste Disposal and Feed Storage Plan' but am concerned that the proposed methods are insufficient to overcome

the concerns with respect to odours given the close proximity to residential properties. Therefore, on this issue I conclude that the development has a harmful effect on the living conditions of the occupants of nearby residential properties with particular reference to odour. As such it is contrary to Policy OL12 of the Tameside Unitary Development Plan Written Statement Adopted Plan November 2004 (the UDP) which states that development of agricultural buildings will be permitted provided that the proposals are sited and designed to minimise any adverse impact on the amenity of adjacent dwellings unconnected with the farm.

7. The main building appears to have evolved over time, having apparently been altered and extended. As such it does not have a cohesive design but is a more ad hoc construction of timber boarding, blockwork and metal cladding. The site's appearance is untidy and cluttered with areas of outdoor storage, containers and temporary shelters/stores of various designs and materials. Given the relative remoteness from a main farmstead the site is very much at odds with its surroundings and is visually cluttered and incongruous in relation to its edge of residential setting.
8. I acknowledge that the site has an appearance which is similar to many other agricultural sites, but this one has a close visual relationship with residential properties and the valley floor in which it is situated. There are some trees in the locality and I have also noted that further landscape planting has taken place, but that only partly screens the buildings and other agricultural structures and paraphernalia. There is no clear evidence that the development relates to existing farm buildings. Consequently, the development is harmful to the landscape setting and is harmful to the character and appearance of the area.
9. Therefore, it is contrary to Policies OL10 and OL12 of the UDP which, in relation to agricultural buildings, seeks to minimise the visual impact on the landscape and relate well to existing farm buildings.

## **Formal Decisions**

### **Appeal A**

10. I direct that the enforcement notice shall be varied by the deletion from paragraph 6 of the words "four months" and the substitution therefor of the words "six months" as the time for compliance with the requirements.
11. Subject to this variation the enforcement notice is upheld.

### **Appeal B**

12. The appeal is dismissed.

*A A Phillips*

INSPECTOR