
Appeal Decision

Site visit made on 28 February 2017

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 March 2017

Appeal Ref : APP/Y9507/C/16/3158625

Land at Wassell Barn, Streels Lane, Ebernoe, West Sussex, GU28 9LD.

- 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 Mrs M. Foot against an enforcement notice issued by Chichester District Council on behalf of the South Downs National Park Authority.
- The notice was issued on 5 August 2016.
- The breach of planning control as alleged in the notice is without planning permission the formation of hardstandings, an access track and erection of buildings in the approximate positions shown on the plan attached to the enforcement notice.
- The requirements of the notice are (i) removal of all the said buildings from the land, (ii) break up and remove the said hardstandings and access track and remove the resulting debris from the land, (iii) reinstate the top soil removed from the areas of hardstanding, and (iv) level the land and reseed with grass.
- The period for compliance with the requirements is four months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (b), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal is dismissed and the enforcement notice is upheld as varied.

Ground (b) appeal

1. This ground of appeal is that the alleged breach has not occurred as a matter of fact. The onus of proof rests on the Appellant and the test of evidence is the balance of probabilities.
2. The Appellant says that there is no hardstanding to the south of the three buildings on the western hardstanding and that therefore the extent of the hatched area on the plan attached to the notice is incorrect and should be reduced. She also says that the building to the east rests on paving slabs and not a hardstanding.
3. An enforcement notice shall describe the site whether by reference to a plan or otherwise. The plan does not need to be precise. In this case the plan annotates two hatched areas which it marks as hardstanding. The notice refers to approximate positions being shown on the plan.
4. There is no dispute that the buildings on the west of the site sit on concrete hardstanding. The issue in dispute is whether the plan attached to the notice is sufficiently accurate. I am satisfied that the plan is sufficiently precise to enable anyone reading the notice to understand the alleged breach of planning control and the broad location of the hardstandings. I do not consider it necessary or

appropriate to amend the plan to show more precisely the dimensions of the hardstanding on which the buildings sit.

5. The Concise Oxford English Dictionary defines hardstanding as a ground surfaced with a hard material for parking vehicles on. In this case the paving slabs on which the building to the east sits is a hard material and from the photographs before me and my site inspection it is substantial enough to hold the building and is not of a temporary nature. There is no ground (c) appeal before me and nothing to suggest that it would not be capable of being used as a surface for the parking of vehicles. I therefore consider it to comprise hardstanding.
6. The hardstandings referred to in the enforcement notice exist as a matter of fact and therefore the ground (b) appeal does not succeed.

Ground (a) appeal and deemed application

Main Issue

7. The main issue in the determination of this appeal is the effect of the development on the character and appearance of the area with particular regard to the location of the site in a National Park.

Character and appearance

8. The site falls within the designated South Downs National Park. The statutory purposes of a National Park include to conserve and enhance the natural beauty, wildlife and cultural heritage of the area.
9. The development plan (including saved policies in the Chichester District Local Plan First Review (the Local Plan)) mirrors the National Planning Policy Framework (the Framework) and the National Park designation in seeking to protect landscape beauty. Policy BE11 of the Local Plan provides that proposals for new development must not detract from their surroundings.
10. The appeal site comprises Wassell Barn together with land to the north, south, east and west. The unauthorised development comprises an access track, hardstandings, a cluster of timber buildings to the west of Wassell Barn and a shed like building to the east of the Barn. The buildings are used to house rescue animals.
11. Large detached dwellings set in substantial plots front Streels Lane. The area surrounding the appeal site is rural in character. As described in an earlier appeal decision concerning Wassell Barn the field pattern and landscape in the surrounding area is of historic interest due to its medieval origins and contribution to local distinctiveness.
12. The Appellant argues that the development accords with historic farming practice and landscape. I disagree. The unauthorised development does not make a positive contribution to its setting. The track, hardstandings and timber equestrian buildings are not in keeping with the character and appearance of the rural area. I agree with the views of local people who say that the buildings cause harm to the area. They are utilitarian in design and unsympathetic to the historic field pattern. The track erodes the historical legibility of the field pattern. Whilst I note the vegetation along the Streels Lane frontage the development is visible from the highway and neighbouring properties.

13. I consider that the development does not conserve and enhance the natural beauty of the area and detracts from its surroundings. It erodes the open medieval fieldscape of the site and causes undue harm to the landscape beauty of the designated National Park.
14. The Appellant draws attention to tennis courts nearby but the prevailing character and appearance of the surrounding area is rural and any harm from other development nearby does not justify additional harm from the development the subject of this appeal. I note the use of the buildings for the rescue of animals but this does not outweigh the identified harm caused to the character and appearance of the area.
15. The Appellant says that her fall-back position is to place moveable structures on the land which would not require consent. I do not have details before me of such a proposal and this limits the weight I can attach to it as a fall-back position.
16. I conclude that the development causes harm to the character and appearance of the area and fails to conserve and enhance the landscape and scenic beauty of the National Park contrary to the purposes of the National Park, the Framework and relevant policies in the development plan (including policy BE11 of the Local Plan).
17. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. I do not consider that any would overcome the harm identified. I do not consider that landscaping, by for example the planting of native hedgerow as suggested by the Appellant, would remedy the identified harm.
18. For the reasons given above, I conclude that the appeal should not succeed and I refuse to grant planning permission on the deemed application.

Ground (f) appeal

19. This ground of appeal is whether having regard to the purpose for which the notice was issued, the steps exceed what is necessary to meet that purpose.
20. There are two purposes that an enforcement notice can seek to serve. The first is to remedy any breach of planning control which has occurred. The second is to remedy any injury to amenity which has been caused by the breach.
21. Where the purpose is to remedy the breach a notice may do this by restoring the land to its condition before the breach took place. This is what is sought in this case. The purpose of the notice is thus to remedy the breach of planning control and no lesser steps than those specified in the notice would achieve that purpose.
22. The Appellant says that the access track has not been completed and that it is 100-150mm below ground level. She argues that the lesser step of allowing this to remain and infilling the depression with topsoil and seeding would facilitate year round access to the fields and remedy any injury to amenity.
23. The Council argue that the topsoil would erode quickly and expose the hardcore base. In the absence of any more detailed information I agree. I therefore consider that the lesser step proposed would not provide a sustainable solution to remedy the injury to amenity.

24. Consequently, the ground (f) appeal does not succeed.

Ground (g) appeal

25. This ground of appeal is that the period for compliance is unreasonably short. The notice provides for a four month period for compliance.

26. The Appellant argues that the notice effectively means that the stables would have to be removed within 2 months and she proposes four, five, six and six months for steps (i) – (iv) respectively. The Council accepts these amended timescales.

27. I recognise that some planning will be required to undertake the works and alternative homes found for the animals. In balancing the need to remove the identified harm against the Appellant's private interests I consider that six months would strike an appropriate balance for the completion of all steps set out in the notice. I shall amend the notice accordingly. I do not consider it necessary to provide for separate compliance periods for each element of the notice.

28. I therefore consider that the appeal on ground (g) succeeds to that limited extent.

Formal Decision

29. It is directed that the enforcement notice is varied by substitution of a six months period for compliance. Subject to that variation 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 1990 Act as amended.

S. Prail

Inspector