



Appeal Decisions

Hearing Held on 16 July 2019

Site visit made on 16 July 2019

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Appeal A: APP/J1915/C/19/3221373

Land North of New Barns Lane, Much Hadham SG10 6HH

- 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 Gilston Crop Management Ltd/Chaldean Estate Ltd against an enforcement notice issued by East Hertfordshire District Council.
 - The enforcement notice was issued on 8 January 2019.
 - The breach of planning control as alleged in the notice is without planning permission the siting of a mobile home.
 - The requirements of the notice are to remove the mobile home from the land.
 - The period for compliance with the requirements is 1 month.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/J1915/W/19/3219662

Land North of New Barns Lane, Much Hadham SG10 6HH

- 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 Chaldean Estate Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1457/FUL, dated 25 June 2018, was refused by notice dated 7 November 2018.
 - The development proposed is siting of a timber cabin for use as a rural workers dwelling (retrospective).
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Procedural Matters

1. The deemed planning application relates to the development that has occurred and the section 78 application to the development proposal with the alpacas. However, for the purposes of this decision I have considered the ground (a), deemed planning application and the section 78 appeal to relate to the same development.
2. Although a costs application was submitted in writing by the appellant prior to the hearing, the application was withdrawn at the hearing.
3. The aim of the application is to obtain a temporary planning permission for the mobile home, so that the proposed use for alpacas can be developed. Once it has been shown that the use is viable, the intention is to apply for permanent permission for a dwelling at the end of the temporary period.

Decision

Appeal A

4. The appeal is allowed on ground (g), and it is directed that the enforcement notice be varied by the deletion of 1 month and the substitution of 4 months as the period for compliance. Subject to this variation the enforcement notice is upheld.

Appeal B

5. The appeal is dismissed.

Reasons

Ground (a)

6. The development plan includes the East Herts District Plan [DP]. DP Policy DES2 notes that development proposals must demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape. Appropriate mitigation measures will be taken into account when considering the effect of development on landscape character/landscaping. DP Policy DES3 notes that development proposals must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity value to ensure there is no net loss of such features. DP Policy DES4 notes development must be of a high standard of design and layout to reflect and promote local distinctiveness.
7. DP Policy ED2 notes that in order to support sustainable economic growth in rural areas and to prevent the loss of vital sources of rural employment, proposals that create new employment generating uses or support the sustainable growth and expansion of existing business in the rural area will be supported in principle where they are appropriately and sustainably located and do not conflict with other policies in the plan.
8. DP Policy GBR2 aims to maintain the countryside as a valuable resource and notes that in rural areas beyond the Green Belt certain types of development are permitted provided they are compatible with the character and appearance of the rural area. This includes buildings for agriculture and forestry.
9. The Council has also identified DP Policy HOU5. However, I attach limited weight to this as Policy HOU5 relates to permanent dwellings, not temporary as is the case here. However, it is agreed by both parties that it is appropriate to give considerable weight to the now superseded Planning Policy Statement 7 approach to the consideration of temporary dwellings for agricultural workers.
10. Policy HOU12 relates to the change of use of land to residential gardens. It seems that the main aim of this relates to extensions of gardens into agricultural land, but I acknowledge that the development that has occurred has some residential garden, so the policy is of some relevance. The policy permits the change of use of land to residential garden if it is not likely to result in an adverse effect on the character and appearance of the surrounding area and landscape.
11. The main issues are:-

- Whether there is an intention to provide alpacas on the land and if there is other accommodation/land that could be used.
- The effect on the character and appearance of the surrounding area.

Intention and Alternatives

12. An appraisal of the use of the land for alpacas has been provided and it is accepted by the Council that a use at the scale identified would justify nearby residential accommodation and that the appellant had the ability to complete the use identified. At the hearing it was also agreed that with less than about 20 alpacas, residential accommodation would not be commercially justifiable.
13. The Council questions the intention of the appellant to provide the alpacas identified in the appraisal. It identifies that the mobile home was placed on the site and, when a planning application was submitted to justify its need that related to crop management. When that was refused, the appellant then resorted to the alpaca use to justify the provision of the mobile home. The mobile home was identified to be needed for a farm manager, who has moved into the unit and remains there to date.
14. The appellant did seek advice from the Council in relation to the siting of a mobile home for a farm worker and was, on an informal basis, advised incorrectly that permission was not required. This is why the mobile home was placed in position and then subsequently, following discussions about the lawfulness of the mobile home, the provision of the alpacas was put on hold. Clearly it is unfortunate that this advice was given, but advice from officers is not binding, and if a form of development is required to be confirmed as being lawful, then a lawful development certificate application needs to be made. However, it is understandable how the mobile home came to be in place.
15. Nevertheless, even accepting that situation, it seems to me, on the balance of probability, that the alpaca use is being proposed to justify the presence of the mobile home and not that the proposed alpacas justify the need for the provision of a mobile home. The previous planning application tried to justify the mobile home on the basis of the arable use of the land and that did not succeed. I accept that the application did mention that while the farm was arable only, it was likely to change as it searched for diversification revenues, but at that time only sheep, cattle, chickens and pigs were mentioned and not alpacas. However, the planning application is for a proposed development and that includes the use of alpacas described, so I have considered the applications on the basis of the identified viable alpaca use.
16. The appellant indicates that most of the land is very good for arable use, and it would not make economic sense to change its use to grazing for stock, including alpacas; therefore it would not be sensible to change the use of some of the arable land to grazing so that it could be near to the existing dwellings on the estate for supervision purposes of the stock. The land that has been identified for use by the alpacas is not in use for crops. It is set between two hedgerows, follows roughly down a valley and has a footpath running down the middle of it. It is not currently in active use, although in the past some grazing has occurred. Visually it can be seen that the layout and use is different from other large open fields on the farm, and I accept that grazing is the best use as suggested by the appellant and that alpaca use may help to maximise the use of the land.

17. There are other dwellings on the farm, some in use for farm workers and others rented out. The appellant notes that some would not be suitable for farm workers, being far too large, but in any case they are not near enough to the land to provide appropriate supervision.
18. Overall, I conclude on this issue that, while it is probable that the motivation for the application is the need for farm manager's accommodation, the farm operation is of a large enough scale to ensure the alpaca use occurs. The land is appropriate for grazing and would make good use of it and there is no obvious alternative land for the alpaca use.

Character and Appearance

19. The mobile home is located at the end of New Barns Lane which leads on to a bridleway and where there is a footpath off, that runs by the appeal site. While New Barns Lane has a number of residences fronting it, most of these are towards the other end of the lane and those a little nearer the site are located on the opposite side of the lane. The area around the lane overall has a distinct rural character and appearance with hedges to the side of the lane and farmland beyond. The lane rises up towards the appeal site, so is in a relatively prominent position. Beyond the appeal site the land is relatively level along the bridleway but falls away along the line of the footpath. Opposite the appeal site there are some barns being converted to houses, apparently as permitted development. The appellant notes that there was a barn on the site, which it thought would also have been convertible. Whether or not that is the case, it has now gone, and I can give that little weight.
20. The mobile home and the residential use of the land is in plain sight from New Barns Lane, the bridleway and the footpath. While there is some vegetation it provides limited mitigation to the harm of the presence of the use. The mobile home is also very visible from a considerable distance along the bridleway. Some landscaping could be provided in line with the conditions proposed, but it would take a long time to get established and it would in any case be difficult to screen the use from the footpath that runs close by. The mobile home has been reasonably designed with timber cladding, but the use has a distinct residential character and appearance not in keeping with the rural surroundings. I consider that the mobile home and the residential use cause substantial harm to the rural character and appearance of the area.
21. The development does not conserve, enhance or strengthen the character of the landscape in line with DP Policy DES2, does not retain protect or enhance the landscape in line with DP Policy DES3 and does not promote local distinctiveness as set out in DP Policy DES4. It is incompatible with the landscape and does not accord with DP Policy GBR2.
22. I accept that a temporary building has a particular design and appearance and it will always have an impact on the land that could possibly be improved by provision of a permanent building in time. However, the location is very prominent and to my mind not suitable for a residential use, because of its harmful impact on the rural character of the area. I note the Council indicated at a late stage in the hearing at the site visit that it might be more suitable if located down the valley away from the road in an area not part of the appeal site. That may be the case, but it is a matter for consideration under another planning application. I also note that this location provides security at the end of the lane where there have been attacks on farm animals. While that is

unfortunate, such attacks are unlikely to justify having residential development around farm perimeters to provide security, because the harm to the countryside is likely to weigh more heavily in the balance.

23. I have also taken into consideration local policies and the National Planning Policy Framework [the Framework] which promotes sustainable development and helping to create the conditions in which business can invest, expand and adapt and in terms of the rural economy enable the sustainable growth and expansion of all types of business in rural areas and promote the diversification of agriculture. The alpaca business would make a significant contribution to this. However, that does not mean that development can occur without consideration of the impact on its surroundings. The Framework also notes that planning policies and decisions should contribute to and enhance the natural local environment, recognising the intrinsic character and beauty of the countryside. I consider in this instance the benefits of the development of the temporary use do not outweigh the harm caused to the countryside because of the harm of the residential use in this prominent location. The development does not accord with DP Policy ED2 as the development is not appropriately located.
24. In this respect I have considered the lack of alternatives. However, whether or not there is a better location for the use, the lack of an alternative does not justify the harm of this use in this location. I have also taken into account other inspectors' decision, but each must be considered on its own merits and in this case I consider the harm caused to the countryside makes it unacceptable.

Ground (g)

25. When the Council officer viewed the mobile home it had only just been placed on site and was unoccupied. Hence it was considered that 1 month was adequate for removal. When the notice was served about 3 months later it was occupied but the time for compliance had not been reviewed. I accept that it is now occupied and agree with the appellant that it is likely to take longer than 1 month to find alternative accommodation. I conclude that the request to extend the period to 4 months is reasonable, so the appeal on ground (g) succeeds.

Graham Dudley

Planning Inspector

APPEARANCES

FOR THE APPELLANT:

Marc Willis	Willis and Co
Peter Williams	Reading Agricultural Consultants
Anne Peacock	Chaldean Estate
Gordon Morrison	Chaldean Estate

FOR THE LOCAL PLANNING AUTHORITY:

Eilis Edmonds	Planning Officer, East Herts Council
David Smith	Enforcement Officer, East Herts Council

INTERESTED PARTIES:

Bob Cheshire	Resident
Councillor Ian Hunt	

DOCUMENTS

Document 1 Justification from planning application 3/17/2833/FUL