



Appeal Decisions

Site visit made on 2 October 2019

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal A Ref: APP/B1740/C/19/3227497

Appeal B Ref: APP/B1740/C/19/3227498

Land at Rockcliff, Walkford Lane, New Milton, Hampshire BH25 5NL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Trevor Sampson (Appeal A) and Mrs Jayne Sprason (Appeal B) against an enforcement notice issued by New Forest District Council.
- The enforcement notice was issued on 22 March 2019.
- The breach of planning control as alleged in the notice is without planning permission, construction of a building with an associated concrete slab.
- The requirements of the notice are: (i) Remove the building from the land; (ii) Following compliance with step (i) above remove the associated concrete slab from the land; (iii) Following compliance with steps (i) and (ii) level the land with topsoil and re-seed with grass seed; (iv) Following compliance with steps (i) to (iii) above remove from the land all resulting debris.
- The period for compliance with the requirements is two months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period for Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended has lapsed.

Summary of Decisions: Appeal A-the appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. Appeal B-No further action is taken on the appeal.

Appeal A

Ground (a) appeal

Main Issues

1. The appeal site is in the South West Hampshire Green Belt. Therefore, the main issues in this ground of appeal are:
 - Whether the building is inappropriate development in the Green Belt, having regard to the Development Plan and the National Planning Policy Framework (the Framework).
 - The effect on the character and appearance of the countryside.

Reasons

Whether inappropriate development

2. The building stands in a paddock of about 0.5 hectares in size, located beyond the residential garden of a detached dwelling, 'Rockcliff'. The building, which probably originated as a residential double garage prior to being rebuilt at the property, is on a concrete slab. There is a metal up-and-over double door in the front elevation. The external walls are constructed in prefabricated concrete panels. The monopitch roof is covered with metal sheeting.
3. Criterion in Policy CS10 of the Core Strategy for the New Forest outside of the National Park (CS), requires the Green Belt to be retained and supported in order to safeguard the countryside from encroachment by built development. This policy pre-dates but is broadly consistent with the Framework, which at paragraph 145 states that the construction of new buildings should be regarded as inappropriate in the Green Belt apart from a limited range of exceptions, one of which is buildings for agriculture.
4. According to the appellant, the building provides a shelter for pigs and covered storage for a John Deere mower. I am given to understand that the appellant keeps a modest number of pigs of various rare breeds at the property, from which it is intended to breed in future. The appellant supplied details of recent activity at the property, including the purchase and movement of a small number of pigs, the obtaining of an agricultural holding number and Animal Health registration.
5. The Council argued that the building was not "reasonably necessary" for the purposes of agriculture. However, that test only relates to whether a development is permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 6; it is not relevant to considering the planning merits of an agricultural building.
6. The activity being undertaken at the property clearly falls within the definition of agriculture at s336 (1) of the Act. No assessment of the requirement for covered floorspace based on the level of agricultural activity being undertaken was submitted. Even so, the building has a reasonably modest floor area and it is not unusually large in terms of the limited scale of agricultural activity at the property. When I visited, the building was being fully utilised for agricultural purposes. A pig ark of typical dimensions is unlikely to be able to comfortably accommodate the larger pig breeds, one of which is kept at the site. I also note that after farrowing, it is likely that extra covered space would be required to ensure that piglet litters are not injured by their mothers. Therefore, smaller buildings are unlikely to meet the functional requirements of the holding. Furthermore, the modest contribution made to ensuring the survival of farming rare breeds is a factor to which I attach some weight.
7. My attention was drawn to a substantial timber structure located alongside the property, which the Council argued could have been used for agriculture instead of erecting the building. However, the appellant stated that this structure had been used for many years for domestic storage in connection with 'Rockcliff', which was occupied by another party. Therefore, it is unlikely that the structure would have been available for agricultural use. In any event, given its timber construction I have serious reservations whether this structure could accommodate pigs or other farm animals in practice.

8. Overall therefore, I am satisfied that there is an agricultural justification for the building in terms of the requirements of agriculture undertaken at the property. It follows that the building is not inappropriate development in the Green Belt, it safeguards the countryside from encroachment in accordance with CS Policy CS10 criterion and is consistent with the Framework at section 13.

Character and appearance

9. The property is in an area of low-lying open countryside, containing scattered groups of housing. Maturing hedgerows, trees along the field boundaries and larger tracts of woodland contribute significantly to the attractive rural character and appearance of the surrounding countryside.
10. The building has a domesticated, utilitarian appearance. This is largely due to the external wall materials, window openings and the up-and-over door. Even so, the building has a form not dissimilar to that of a two-bay pole barn. Its roof materials are akin to those of such buildings. Accordingly, cladding the external walls including the window openings in materials similar to those normally used on agricultural buildings, such as dark coloured timber or profile metal sheeting, together with removing the up-and-over door, would more successfully assimilate the building into its rural surroundings. Such works could be secured by a suitable planning condition.
11. Moreover, due to its limited height, the building has a relatively low profile. Although the associated concrete slab is raised above the adjacent ground level, this has had a minimal effect on the overall height and visual impact of the building. The property is reasonably enclosed by maturing boundary hedges and trees. The building is sited adjacent to the hedge and trees along the northern property boundary, close to the larger structure in the grounds of 'Rockcliff'. Also, the building is set well back from the lane, behind the rear gardens of the adjacent residential properties. Due to all these factors, even in the winter months there are likely to be only glimpses of the building from public viewpoints and it is not viewed as an obvious feature from adjacent residential properties. Where visible, the building is seen as a small-scale built form set against a backdrop of maturing hedge and tree planting and in the context of the larger structure at the adjoining property.
12. Consequently, subject to the modifications described above the building would not appear as an alien or visually intrusive feature in its surroundings or cause unacceptable harm to the rural character and appearance of the surrounding countryside. This accords with CS Policy CS2, as the building would respect the character and context of the countryside and be sympathetic to its setting in terms of scale, height, appearance, materials and relationship to landscape features. It also achieves a well-designed place, consistent with the Framework section 12.

Conditions

13. I have imposed a condition requiring the appellant to comply with a strict timetable for removing the up-and-over door and cladding the external walls of the building in suitable materials, together with installing suitable replacement doors if required, the details of both later matters to be in accordance with a scheme to be submitted to and approved by the Council prior to being implemented. This condition is necessary in order to safeguard the character and appearance of the countryside. Given the need to seek and obtain the

Council's prior approval of the details, four months is not an unreasonable period to allow for the required works to be carried out.

14. This condition is drafted in the form set out below because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matters, because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the building authorised by the grant of planning permission may only remain if the appellant complies with its requirements. It is only by doing so that the harm to the character and appearance of the countryside will be remedied. Therefore, in my view the requirements of this condition are both proportionate and reasonable.
15. The allegation in the notice makes no reference to agricultural use of the building. As the development for which permission is to be granted is derived from the allegation, it is necessary to impose a condition to restrict the use of the building to agriculture, in the interests of certainty.
16. However, I have not imposed the Council's suggested condition requiring removal of the building if agricultural activity at the property should cease. Imposing such a condition on a permanent building would not pass the test of reasonableness at paragraph 55 of the Framework.

Conclusion

17. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Appeal B

18. It is unnecessary for me to consider whether the appeal on grounds (f) and (g) should succeed as the notice will be quashed in consequence of my decision to allow Appeal A on ground (a). I shall therefore take no further action on these grounds of appeal.

Formal Decisions

19. Appeal A- the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177 (5) of the 1990 Act as amended for the development already carried out, namely the construction of a building with an associated concrete slab on land at Rockcliffe, Walkford Lane, New Milton, Hampshire BH25 5NL referred to in the notice, subject to the conditions in the Schedule at the end of this Decision.
20. Appeal B-I take no further action in respect of this appeal.

Stephen Hawkins

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within four months of the date of this decision:
 - a) The up-and-over doors in the front elevation of the building and any supporting apparatus have been removed; and
 - b) A scheme providing full details of the external cladding materials to be applied to the external walls of the building (and, if replacement external doors are proposed, full details of those doors) is submitted in writing to the Local Planning Authority for approval and the scheme approved by the Local Planning Authority is implemented;

the building, including the concrete slab, shall be demolished and the site shall be restored to its previous condition.

After the works required by (a) and the scheme approved by the Local Planning Authority pursuant to (b) above have been undertaken, the building shall be maintained in accordance with those requirements.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2) The building hereby permitted shall not be used other than for the purposes of agriculture as defined in Section 336(1) of the Town and Country Planning Act 1990 (as amended).