
Appeal Decision

by Stephen Brown MA(Cantab) DipArch RIBA

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

Decision date: 07 November 2019

Appeal Ref: APP/J1915/C/18/3219557

Land to the south of Cherry Green Lane, Westmill, Buntingford SG9 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 by Dale Stacey against an enforcement notice issued by East Hertfordshire District Council.
 - The enforcement notice, ref. EE/18/0041/ENF, was issued on 27 November 2018.
 - The breach of planning control alleged in the notice is the erection of a field shelter structure.
 - The requirements of the notice are to remove the field shelter structure and all resultant materials from the land.
 - The period for compliance with the requirements is 2 months.
 - The appeal 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. Since the prescribed fees have been paid within the specified period, 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 have lapsed.
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Decision

1. The appeal is allowed on ground (g), and I direct that the enforcement notice be varied by:

DELETION of 2 months; and,

SUBSTITUTION of 3 months as the period for compliance.

Subject to this variation 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.

Background matters

2. The appeal site is an open field lying to the south of Cherry Green Lane, about 350 metres to the west of the small village of Westmill. It is within the part of the District defined in the East Herts District Local Plan of 2018 as being within the rural area beyond the Green Belt.
3. On the site boundaries are trees – including poplars – rough hedging and post and wire fencing. The shelter enforced against stands towards the southern site boundary. The structure is built of robust circular poles – I am told they are telegraph poles – supporting circular beams, which in turn support gang-nail trusses. The pitched roof comprises roofing felt laid on composite timber boarding. Part of the structure is enclosed with corrugated metal sheeting to a

height of about 1.3 metres in my estimation. There is also a substantial and apparently permanent log store within the structure. To the south-east of the shelter is a barbed wire enclosure where I saw an incinerator, and a pile of logs. At the time of my visit there were two small ponies, or possibly donkeys grazing on the land.

4. Planning permission for retention of the field shelter structure was refused in July 2018¹.

The appeal on ground (a) and the deemed planning application

5. This ground is the planning permission should be granted for the matters stated in the enforcement notice. The appellant argues that the structure accords with aims of the development plan in that domestic equine development may be permitted under the provisions of Local Plan Policy CFLR6, subject to meeting various criteria. Criterion (c) includes aims to ensure that the siting, scale and design of the development is in keeping with the character of the area, with adequate pasture to support horses.
6. Local Plan Policy GBR2 seeks to maintain the Rural Area Beyond the Green Belt as a valued countryside resource but permits certain forms of development provided they are compatible with the character and appearance of the rural area. These include facilities for outdoor sport and outdoor recreation including equine development.
7. From all that I have seen and read I consider the main issue in the appeal to be the effect of the field shelter structure on the character and appearance of the appeal site and the area in the vicinity.
8. At a height of 4.2 metres, I do not consider this to be a building of modest size and scale. It is highly prominent on this relatively small site. It appeared to me that it is well in excess of the size that might be reasonably needed to shelter the small number of animals likely to be grazed on this relatively small field. The larger part of the shelter is in any case given over to the log store and the adjacent unenclosed area. To my mind this does not reasonably cater for an equine purpose.
9. Furthermore, I saw little evidence that horses had been grazed on the land – for instance there were no apparent stores of fodder or bedding straw, nor any soiled bedding straw. I note that at the time the enforcement notice was issued there was no evidence of any equine activity on the land.
10. Overall, as a matter of fact and degree I consider the structure is of excessive size for the purpose of equine use of the land and is more akin to a facility for leisure use. The appellant accepts the shelter was not originally built as a field shelter for horses, but to shelter him, family members and their belongings from the weather when tending horses and the land. To my mind it is an incongruous feature in the otherwise highly rural scene.
11. I do not consider that imposition of conditions such as restriction to private equine use, a restriction on provision of lighting, or additional landscaping would overcome the harm caused by the scale and prominence of the structure.

¹ Decision notice ref. 3/18/0918/FUL, dated 17 July 2018.

12. I conclude on the main issue that the field shelter structure causes significant harm to the character and appearance of the appeal site and the area in the vicinity. The development does not accord with the development plan, notably with respect to Local Plan Policies GBR2 and CFLR6.

The appeal on ground (f)

13. This ground is that the requirements of the notice are excessive, and lesser steps would overcome the Council's objections. The appellant suggests that imposition of planning conditions could overcome any harm caused. However, I have considered that possibility under the ground (a) appeal. This proposal cannot be regarded as a lesser step, and the appeal on ground (f) therefore fails.

The appeal on ground (g)

14. This ground is that the compliance period is too short. It is argued that the ground would be too wet to undertake the works safely during winter months. Furthermore, a longer period is required for the appellant to consider alternative means of providing shelter on the land. A 12 month period should be allowed.
15. This is a relatively simple structure of four poles supporting a roof and could probably be dismantled and carted away in about a day, or two days at a maximum. Unless the ground were flooded or waterlogged to a degree that a suitable vehicle could not approach the structure, there is no good reason it could not be removed. Furthermore, the Council say the shelter was constructed in January/February 2018 when the weather was inclement. I find it difficult to believe that a sufficiently dry period would not occur during the winter months for removal to take place.
16. It would be reasonable to allow time for the appellant to make a planning application for an alternative structure, and for this to be considered by the Council. I consider a period of three months would be sufficient for this. The appeal therefore succeeds on ground (g), and I shall vary the notice accordingly.

Conclusions

17. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should not succeed except to the limited extent on ground (g). I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Stephen Brown

INSPECTOR