



Appeal Decisions

Site visit made on 9 March 2020

by Hilary Orr MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 April 2020

Appeal A Ref: APP/X2220/C/19/3238908

Walderchain Farm, Lodge Lees, Denton, Canterbury CT4 6NS

- 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 Jacqueline Lawrence-Wood against an enforcement notice issued by Dover District Council.
 - The enforcement notice, numbered UDEV/19/00131, was issued on 18 September 2019.
 - The breach of planning control as alleged in the notice is the material change of use of the land from agriculture to a caravan site for the stationing of a caravan for permanent residential occupation and the storage of a shipping container in connection with the residential occupation of the site.
 - The requirements of the notice are;
 1. Cease use of the land for a caravan site and for residential occupation and siting of a shipping container used for domestic storage.
 2. Remove the caravan from the land.
 3. Remove the container from the land.
 4. Return the land to its former condition and appearance.
 - The period for compliance with the requirements is 6 calendar months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/X2220/C/19/3238910

Walderchain Farm, Lodge Lees, Denton, Canterbury CT4 6NS

- 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 Jacqueline Lawrence-Wood against an enforcement notice issued by Dover District Council.
 - The enforcement notice, numbered UDEV/19/00131, was issued on 18 September 2019.
 - The breach of planning control as alleged in the notice is operational development comprising of the siting of a shipping container for domestic storage purposes, shed, alterations to vehicular access, laying of hard surface and driveway to facilitate the residential occupation of the site.
 - The requirements of the notice are;
 1. Remove the shipping container from the land and make good the land a re-sow with grass seed.
 2. Demolish the driveway and any hardsurfacing and hardstanding, apart from that indicated on the attached plan from the land, remove all resultant materials, rubble and rubbish from the land and reseed with grass seed.
 3. Remove any associated residential fixtures and fittings, apparatus and paraphernalia including the shed from the land.
 4. Return the land to its former condition and appearance.
 - The period for compliance with the requirements is 6 months.
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- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decisions

Appeal A

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. It is directed that the enforcement notice is corrected by the removal of the words '*shipping container for domestic storage purposes*'. Subject to the correction the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary matters

3. Both notices refer to the siting of a shipping container for domestic storage purposes. There is only one shipping container on the site. This is sited in the approximate position annotated 'Y' on the notice plan. The container has been placed on the ground without foundations and it seems to me, that it forms part of the residential use of the land. There is a risk of uncertainty and injustice if two notices subsist, in respect of what is essentially the same breach of planning control. Accordingly, I consider that paragraph 3 of notice B can be corrected to remove the reference to the shipping container, without causing injustice to the parties.
4. Both notices have been issued for essentially the same reasons, with notice B relating to operational development that facilitates the use in notice A. I therefore intend to consider both appeals together.
5. The Council accepts that Policy DM1 of the Core Strategy should be considered as being out of date. I have no reason to disagree with that view and accordingly afford it only limited weight.

Main issues for appeals A and B

6. I consider that the main issues for both notices are whether the site is in a suitable location for a caravan used for residential occupation, the effect of the development on the character and appearance of the area, including the Kent Downs Area of Outstanding Natural Beauty (KDAONB) and whether there would be an over reliance on travel by private motor vehicles.

Reasons for appeals A and B

Location of development

7. The site is located to the east of Lodge Lees Road and to the west of the village of Denton. There are sporadic dwellings with substantial gaps between, along Lodge Lees Road but the area is generally very rural in nature with a large area of woodland opposite the site. The development has introduced a mobile home, shipping container and shed together with associated hard surfacing, into what was previously an agricultural field.

8. It is acknowledged that the small number of other dwellings in the immediate area means that the site is not completely isolated. Nonetheless, it is a considerable distance away from the nearest village or settlement, and the immediate area lacks day to day essential facilities and services.
9. There are no pedestrian footpaths or street lighting, in either Lodge Lees Road or Walderchain, making walking towards the nearest main road hazardous. Accordingly, in the context of this rural location, where I accept that accessibility is not normally as good as that of urban areas, but given the distances involved, the occupiers of the site, would be likely to have to rely heavily on private car use to reach employment and basic facilities and services.
10. Overall, the development occupies a rural setting some distance from the nearest settlement with day to day essential facilities and services. It is therefore not in a suitable location for additional residential occupation. The development therefore conflicts with saved policies DM1, and DM11, of the Dover District Local Development Framework Core Strategy (2010) (CS), which seeks to ensure that development outside urban boundaries and rural settlements will not be permitted unless justified by development plan policies.
11. I acknowledge that the development would help to contribute to the social viability of the area and would to a limited degree, support neighbouring village shops and business. Nonetheless, this contribution would be small and not sufficient to overcome the harm caused by the location of the development, as outlined above.

Character and appearance

12. The development has resulted in the siting of a mobile home, a substantial metal container and shed, with alterations to the access and additional hard surfacing, into this small parcel of former grassland. It fills one of the important gaps between the existing dwellings. Post and rail fencing with new hedge planting has been provided to the front boundary and there are well established hedges to the other boundaries.
13. The site although well cared for, has a domestic appearance with the day to day paraphernalia of residential occupation, that is not typical of a rural area. Although the existing hedges provide some screening into the site, the frontage is very open to the road. The new hedging will, in time provide some screening, but this will take some years to establish with the frontage remaining exposed.
14. It is part of the appellant's case that the site has an existing residential use and the evidence refers to a previous temporary planning permission STD/8801151. This granted a temporary planning permission for a Mrs K West to site a mobile home on the land until 31 October 1993. I have no evidence to suggest that the mobile home was not removed as required. Whilst I acknowledge that part of the hardstanding and a septic tank may not have been removed, this is reflected by the requirements of the notice. Consequently, I find that the site does not, on the balance of probability, have the benefit of a lawful residential use.
15. The site is located with the KDAONB. Paragraph 172 of The National Planning Policy Framework (the Framework) makes it clear that great weight should be given to conserving and enhancing landscape and scenic beauty in National

Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. This is echoed by Policies DM15 and DM16, which seek to protect the countryside. In summary development will only be permitted where it is in accordance with allocations made in the development plan, or there is another justified need such as for agriculture or to sustain the rural economy or community. I have no evidence that the development is required for any such purpose, or that it could not be accommodated elsewhere.

16. The development has filled a previously undeveloped gap between the existing dwellings. Moreover, the wide open frontage draws attention to the domestic nature of the development beyond. These factors when taken together, are in stark contrast to the open spacious rural character of the area. The siting of the large caravan, domestic shed and large metal container, together with the alterations to the access and additional hard surface, appear as unsympathetic and incongruous features in this rural context.
17. Drawing the above points together, I find that the developments referred to in both notices, significantly harm the intrinsic rural character and appearance of the site and wider area. Moreover, they detract from the natural quality of the landscape and the scenic beauty of KDAONB. They are therefore in conflict with Policies DM15 and DM16 of the CS, these policies when taken together aim to ensure that development that adversely affects the character and appearance of the countryside, will only be permitted in limited and specified circumstances.

Other matters

18. Paragraph 11 of the NPPF provides a presumption in favour of sustainable development, and planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Council have indicated in their evidence, that the presumption in favour of sustainable development is engaged for the purposes of decision making. Nonetheless, I have already found that the proposed development would cause significant harm to the character and appearance of the area. Therefore, the benefits of providing one residential caravan, is significantly and demonstrably outweighed by the significant harm I have identified. The appeal is therefore dismissed.
19. I am mindful of the uncertain situation that currently exists with regard to COVID-19. Under s173A the Council have the power to extend the time for compliance with the notice. This is however, a purely discretionary power within the Councils' gift to exercise.

Conclusion

Appeal A

20. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

21. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a correction and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended

Hilary Orr

INSPECTOR