
Appeal Decision

Site visit made on 18 November 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Appeal Ref: APP/E3715/C/20/3255505

Land at Trickle Brook, Smeaton Lane, Coombe Fields, Rugby CV23 0PS

- 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 Miss Tania Reid against an enforcement notice issued by Rugby Borough Council.
 - The enforcement notice was issued on 26 May 2020.
 - The breach of planning control as alleged in the notice is: The siting of a container on the land shown hatched blue on the attached plan.
 - The requirements of the notice are:
 - (i) Remove from the land the container
 - (ii) Reinstate the land to its former condition prior to the siting of the container
 - The period for compliance with the requirements is twenty-eight days.
 - 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. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. 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 siting of a storage container on land at Trickle Brook, Smeaton Lane, Coombes Fields, Rugby CV23 0PS referred to in the notice, subject to the following condition:

1. The container shall be used solely for the purposes of agriculture.

Appeal on ground (a), deemed planning permission

Main Issues

2. The main issues in this case are:
 - Whether the development would be inappropriate development in the Green Belt and if so, the effect on the openness of the Green Belt; and
 - The effect of the development on the character and appearance of the area.

Reasons

Whether the development would be inappropriate development in the Green Belt

3. The alleged breach of planning control relates to the siting of a container. The container has been sited on Land at Trickle Brook which comprises a detached dwelling and small holding which extends to an area of approximately 1.6 hectares. It is understood that the container is situated within the residential curtilage of Trickle Brook, however, there does not appear to be any dispute between the main parties that the container is used for agricultural purposes related to the adjoining small holding. At the time of my visit the container was being used to store hay. I also observed a small tractor on the land which the appellant has indicated is also stored in the container during the winter months.
4. Policy GP2 of the Rugby Borough Council Local Plan, adopted June 2019 (LP), advises that new development will be resisted in the Green Belt and only permitted where national policy on Green Belt allows.
5. Paragraphs 143- 145 of the National Planning Policy Framework (the Framework) state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
6. The list of exceptions in paragraph 146 of the Framework includes buildings for agriculture or forestry. Although the Council state in their reasons for issuing the notice that the storage container does not have the level of permanence required to be considered to be a building, I note that the alleged breach of planning control is aimed at unauthorised building operations and not a material change of use of the land. Whilst the container could easily be moved, it is clear that the appellant wishes it to be a permanent storage unit and indeed it has already been on the Land for at least three years. Furthermore, the courts have held that such a unit can, simply by its own weight, be considered to be fixed to the ground.
7. In terms of its use, although it may be sited within the residential curtilage of Trickle Brook, it is used solely for agricultural purposes related to the adjoining small holding. The Framework clearly advises that buildings for agriculture are not inappropriate development and it does not set out any limiting criteria relating to siting, or any other matters.
8. I therefore conclude that the container which is used for agricultural is an exception in accordance with paragraph 146 of the Framework and is not inappropriate development within the Green Belt. Furthermore, I find no conflict with Policy GP2 of the LP which is consistent with the Framework in this regard. Given that the container is not inappropriate development, it does not have an impact on the openness of the Green Belt¹.

¹ Lee Valley Regional Park Authority v Epping Forest District Council (2015) EWHC 1471 (Admin)

The effect on the character and appearance of the area

9. The container is well related to existing buildings on the Land. Furthermore, its dark green colour, low profile and the existence of the wood store which extends along its western side, mean that the container is not readily visible to views from Smeaton Lane. Furthermore, although the container has been sited adjacent to the site's eastern boundary, where it adjoins the neighbour's paddock, there is a hedgerow and planting along this boundary which provides some screening of it.
10. Overall, the container appears as part of an existing complex of buildings which include the wood store, greenhouse and animal shelters, and all of which lie close to the main residence of Trickle Brook. It does not therefore result in an encroachment of built development into open countryside. Despite its unconventional appearance, by reason of its siting and the screening I have described above, the container does not have a harmful effect on the overall character and appearance of the area.
11. I conclude that the container does not have a harmful effect on the character and appearance of the area. I therefore find no conflict with the development plan and in particular with the sustainable development and design principles set out in Policies GP1 and SDC1 of the LP.

Other Matters

12. I have had regard to the ecological and drainage matters raised by an interested party. However, this appeal relates solely to the siting of the storage container. I have not been provided with any substantive evidence that the container itself has a harmful impact on the ecological and drainage matters raised and I therefore give these considerations little weight.

Conditions

13. The Council has suggested a number of conditions which I have considered against the advice in the Framework and Planning Practice Guide. As a result, I have amended some for clarity and omitted others.
14. I have imposed a condition specifying the use of the container for agricultural purposes. The existing agricultural use of the container was not specified in the enforcement notice and a restriction on its use for these purposes is necessary to ensure that the development does not conflict with the development plan or Green Belt policy in the Framework. Conditions 1 and 3 suggested by the Council are not reasonable or necessary as each application for development must be considered on its own merits.

Overall Conclusion

15. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the siting of a container as described in the notice. The appeal on ground (g) does not therefore fall to be considered.

Elizabeth Pleasant

INSPECTOR