



Appeal Decisions

Site visit made on 24 February 2021

by Simon Hand MA

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

Decision date: 15 March 2021

Appeal A: APP/Y3940/C/20/3263613

Land known as Peacock House, 125 Beanacre, Melksham, Wiltshire, SN12 7PU

- 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 Ravinder Hunjan against an enforcement notice issued by Wiltshire Council.
 - The enforcement notice, reference:20/00113/ENF, was issued on 22 October 2020.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised siting of a shipping container.
 - The requirements of the notice are permanently remove the shipping container from the land.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B: APP/Y3940/W/20/3263140

Land known as Peacock House, 125 Beanacre, Melksham, Wiltshire, SN12 7PU

- 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 Ravinder Hunjan against the decision of Wiltshire Council.
 - The application Ref 20/02092/FUL, dated 14 February 2020, was refused by notice dated 19 August 2020.
 - The developments proposed are shipping container for storage of tools, fork-lift and other materials (retrospective) and raising of fence level.
-

Decisions

Appeal A: 3263613

1. The appeal is dismissed and 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.

Appeal B: 3263140

2. The appeal is dismissed.

Preliminary Matters

3. I have used the description of development from the Council's refusal of the application as this more succinctly describes the proposals.

4. Although the appellant indicated he would be making an application for costs against the Council only a list of expenses has been received. As this does not constitute a reason for an award of costs, I shall assume the costs application is not being pursued.

The Appeal on Ground (c)

5. This ground is that there has not been a breach of planning control because, in this case, the container is permitted development. The appellant also seemed to argue that the container was not development as it was moveable but has not made a ground (b) appeal to that effect. I should say that I would not have agreed the container was a moveable chattel. Although it is technically mobile, it would require specialist lifting equipment and there is no evidence that it is intended to be mobile. It has been placed in the yard to the side of Peacock House for storage purposes and acts as if it were a permanent structure.
6. To be permitted development therefore it should meet the criteria of Part 4 Class A of the General Permitted Development (England) Order 2015. This allows, amongst other things, for the provision on land of buildings required temporarily in connection with and for the duration of operations being carried out on that land. Development is not allowed if those operations require planning permission and it has not been granted and the building should be removed once the operations have been carried out. It is for the appellant to show why the building is reasonably required and that it is temporary. The operations themselves also need to be lawful.
7. In this case the appellant bought the property in 2013 and has been working on it ever since. This includes refurbishing the inside of the building, converting a garage to accommodation, adding an extension to the main building and general grounds maintenance. The 40 foot shipping container was installed in February 2020 to replace a marquee which was not secure. The appellant has suffered a number of thefts of tools in the past.
8. The work has taken many years because, as the appellant explains, for various family and religious reasons, he can only work on the building for 2-3 months a year. He is also part of a self-build community who help each other out when they can, which also means work is sporadic.
9. The container is being used to store equipment and materials which are required for these operations. I saw inside the container and it is indeed full of tools, materials and equipment, although not the fork-lift truck that has been mentioned, presumably that is no longer on site. The appellant also explains that he recycles all the materials and stores many of them for future projects and I noticed the grounds to either side of the dwelling provided a lot of outdoor storage for building materials and a number of vehicles and an abandoned caravan. The appellant further states that he is considering applying for planning permission to construct a house on part of the land, and this development too will require secure storage.
10. I have no evidence to suggest the work that has been carried out was not lawful. Some of it, such as the extension, would be an operation that was granted planning permission by the GPDO but some of the rest comprises the usual maintenance that would be required of any old house, especially one which used to be a pub and has clearly needed considerable internal re-

organisation. In other words there has been a mixture of operations and maintenance going on. The current operations, in particular the extension and the conversion of the garage seem very much to be complete, at least externally. However, the appellant has provided a schedule of future intentions, including a shaded area to the rear of the house, two driveports to provide shelter when getting into and out of a car, blockpaving, a new garage, a static caravan and a new dwelling. A number of these will require planning permission and there is no guarantee this will be forthcoming. The appellant suggests another 3-5 years will be sufficient, but at the current rate of progress this seems to be an optimistic view.

11. There is also the question of whether the container is actually necessary for these works. It is full, but there is a considerable amount of storage all over what is quite a large site. A 40 foot container is massive structure, and it is far from clear that it is commensurate in scale with the works already undertaken or proposed. It is more likely it is at least partly convenient to store all the equipment and materials the appellant needs for the maintenance of the property and for his recycling activities.
12. Thus, it seems to me, there have been lawful operations on the land and are likely to be further operations in the future. However, there has also been a lot of maintenance and refurbishment and general storage. The process of turning the ex-public house into the dwelling required by the appellant, especially as he is working on it himself, rather than employing contractors, has already been extensive and is likely to be many more years before it is complete. The container itself is larger than would be reasonably necessary for the works proposed and serves a dual purpose of supporting the operations and also the general, personal needs of the appellant. The operations themselves seem to be complete and it is not certain when new works will commence on the various projects outlined by the appellant. What work there has been in relation to operations that would have been relevant to the permitted development rights of Part 4 Class A have also been intermittent, with long periods when no works were being undertaken at all. All of this suggests to me the shipping container is not required temporarily in connection with operations that are lawfully being carried out on the land but is mostly being used for general storage and maintenance purposes. It is not therefore permitted development and the appeal on ground (c) fails.

The Appeal on Ground (a)

13. This ground is that planning permission should be granted for the matters alleged. The main issue is the impact of the container on the streetscene. Beanacre is a village largely strung out along the busy A350. Several lanes extend westward from the main road so that the bulk of the village is on that side. On the east side there is a scattering of dwellings as far as Westlands Road, but beyond that development, including the appeal site, becomes more sporadic and is interspersed with fields. The appeal site is long and narrow and runs parallel to the road. The old pub building occupies the centre of the site, splitting it into two. To the north is a small garden then a larger area of hardstanding used for car parking and beyond that another area of grass use currently for storage. This is where the new house is proposed. A smaller area to the south comprises more hardstanding and car parking and, in the far corner of the site next to the road, the site of the container. The ex-pub building and the converted garage are thus the only buildings on a lengthy

stretch of otherwise open road frontage. The hardstandings and garden are fronted by low walls with some bushes and trees and behind. Beyond the site to the south is a handful of cottages and then a large field. In other words this side of the road is relatively open and not as densely developed as other parts of the village.

14. In this context the container stands out. It is a large and prominent object on the corner of the site, set in front of a gradual bend that accentuates its prominence. It looks entirely out of place and is the only such structure visible from the road. There is a smaller container in the grounds of the church, on the opposite side of the road, but this is set back some way from the road and screened by bushes. It is hardly visible from the footpath, whereas the appeal container is prominent and harmfully intrusive in the streetscene.
15. The appellant has offered to screen it with artificial hedging. In my view this is just likely to make matters worse, as it would draw attention to the container, and inevitably would become increasingly tatty over time. It too would look out of place and incongruous in this village setting. The appellant also offers to move the container to the back of the site. However, the site is narrow at this point and this would achieve little other than to bring it even closer to the front of the neighbouring property, from where it is already a dominating presence.
16. I have considered the other examples of containers referred to by the appellant but these seem to be mostly genuinely related to building works and as such are a typical, if temporary, part of the streetscene. In any event each appeal must be considered on its merits. Even if other containers were also harmful, that does not mean this one should be allowed. The current container, would not in my view, be temporary, but could be in place for many years. If I allowed the appeal with a 3 year time limit, not only would this allow this overly large structure to remain but it would also make it harder to resist a further extension, if in three years' time, the works were still not complete, as I strongly suspect would be the case.
17. Consequently, I consider the retention of the container, even for a limited period, would be harmful and contrary to core policy 57 which encourages good design that responds positively to the townscape. The appeal on ground (a) fails.

Appeal B

18. This is a planning appeal for both the retention of the container and the erection of fences around part of the perimeter of the site. I have dealt with the container above but will here consider the issue of the fencing.
19. It is clear from the appellant's representations that he wants to extend fences above the existing walls for a short stretch to the south of the old pub building where there is currently a tall hedge above a plain concrete wall, and to the north, where there is a drystone wall backed by a thin screen of trees. The existing walls are, according to the plans, 1m tall and the fence would add a further 1-1.4m.
20. I can understand why the appellant wants to do this, as the site is long and narrow and overlooked from the pavement. The fencing would provide complete privacy. However, it would also create a long stretch of over 2m high physical barrier beside the road. There are plenty of examples of similar

heights surrounding properties in the village, although mostly the height is created by hedges or trees, which has quite a different impact than a fence above a wall. They are also generally only short stretches of hedge. In this case the proposed fences would be lengthy and dominate views along the road, creating a strong sense of enclosure in an area that currently seems much more open. This would look out of place and be harmful to the streetscene. It would be contrary to CP57.

Other matters

21. I am not quite sure what the appeal on ground (f) seeks to achieve. The only requirement is to remove the container, no lesser steps have been proposed and none would achieve the objective of remedying the breach.
22. On ground (g) the appellant suggests extending the compliance period to 3 years, but this would just be equivalent to a temporary period which I have rejected above.

Conclusion

23. I shall dismiss both appeals and uphold the notice.

Simon Hand

Inspector