



Appeal Decisions

Site visit made on 18 February 2021

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Appeal Ref: APP/X0360/C/20/3259228 ('Appeal A')

Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- 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 Ms Isobel Rock against an enforcement notice issued by Wokingham Borough Council.
- The enforcement notice was issued on 25 August 2020.
- The breach of planning control as alleged in the notice is *Without planning permission the erection of a dwelling in the approximate position coloured blue within the Land on the attached plan.*
- The requirements of the notice are to:
 1. Demolish the dwelling as shown in the approximate position coloured blue on the plan within the Land on the attached plan.
 2. Excavate the slab.
 3. Remove the decking at the front of the dwelling and the hardcore at the side of the dwelling, as shown in the photo below.
 4. Disconnect the services to the unauthorised dwelling.
 5. Remove all residential paraphernalia from the Land.
 6. Remove all resultant material and debris resulting from steps 1-4 above from the Land and restore the Land to the same condition it was in before the breach took place by levelling the ground and re-seeding it with grass.
- The period for compliance with the requirements is six months.
- 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.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld.

Appeal Ref: APP/X0360/W/20/3256746 ('Appeal B')

Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- 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 Ms Isabel Rock against the decision of Wokingham Borough Council.
- The application Ref 193191, dated 22 November 2019, was refused by notice dated 7 July 2020.
- The development proposed is the proposed erection of a log cabin for residential use. (Retrospective)

Summary Decision: the appeal is dismissed.

Appeal Ref: APP/X0360/C/20/3259229 ('Appeal C')

Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- 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 Mr Oliver Rock against an enforcement notice issued by Wokingham Borough Council.
- The enforcement notice was issued on 25 August 2020.

- The breach of planning control as alleged in the notice is Without planning permission the erection of a dwelling in the approximate position shown coloured blue within the Land on the attached Plan.
- The requirements of the notice are to:
 1. Demolish the dwelling as shown in the approximate position shown coloured blue on the plan within the Land on the attached plan.
 2. Excavate the slab.
 3. Remove the decking as shown in the photo below.
 4. Disconnect the services to the unauthorised dwelling.
 5. Remove all residential paraphernalia from the Land.
 6. Remove all resultant material and debris resulting from steps 1-4 above from the Land and restore the Land to the same condition it was in before the breach took place by levelling the ground and re-seeding it with grass.
- The period for compliance with the requirements is six months.
- 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.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld.

Appeal Ref: APP/X0360/W/20/3256747 ('Appeal D')

Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- 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 Mr Oliver Rock against the decision of Wokingham Borough Council.
- The application Ref 193205, dated 22 November 2019, was refused by notice dated 7 July 2020.
- The development proposed is the proposed erection of a log cabin for residential use. (Retrospective)

Summary Decision: the appeal is dismissed.

Appeal Ref: APP/X0360/C/20/3259263 ('Appeal E')

Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- 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 Mr Oliver Rock against an enforcement notice issued by Wokingham Borough Council.
- The enforcement notice was issued on 25 August 2020.
- The breach of planning control as alleged in the notice is *Without planning permission the material change of use of the Land to residential use comprising a walled garden.*
- The requirements of the notice are to:
 1. Cease the residential garden use of the Land.
 2. Demolish the walls, railings and gates at the Land.
 3. Remove the paths on the Land for the purpose of the residential garden use.
 4. Remove all residential paraphernalia.
 5. Remove all resultant material arising from steps 1-3 above from the Land and restore the land to the same condition as it was before the breach took place.
- The period for compliance with the requirements is six months.
- 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.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld.

Appeal Ref: APP/X0360/C/20/3259267 ('Appeal F')

Loddon Park Farm, New Bath Road, Twyford, READING RG10 9RY

- 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 Mr Oliver Rock against an enforcement notice issued by Wokingham Borough Council.
- The enforcement notice was issued on 25 August 2020.

- The breach of planning control as alleged in the notice is *Without planning permission the erection of a brick, timber and tile building and the erection of a propagation structure comprising brick plinth, timber supports and polythene in the approximate locations coloured purple on the attached plan.*
- The requirements of the notice are to:
 1. Demolish the buildings shown in the approximate locations coloured purple on the Land.
 2. Excavate the slabs on the Land
 3. Remove all resultant material arising from steps 1-2 above from the Land and restore the Land to the same condition it was before the breach took place.
- The period for compliance with the requirements is six months.
- 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.

Summary Decision: the appeal is dismissed and the enforcement notice is upheld.

Applications for costs

1. Applications for costs have been made by Mr Rock and the Council against each other. Those applications are the subject of a separate Decision.

Preliminary Matters

2. Although the enforcement notices and the planning applications relate to different areas of land, the appeals together all relate to developments on a field at the same site address, Loddon Park Farm, and common issues are raised. The appeals therefore lend themselves to a single decision letter.
3. The field is now partly cultivated and planted, as well as containing the built development the subject of the appeals, but for the purposes of this decision I shall refer to it as 'the field'.
4. Reference is made in Appeals A and C to the serving of enforcement notices requiring the removal of 'static caravans' for use as residential dwellings, and there is reference to the structures being temporary rather than permanent. Residing in caravans falling within the relevant statutory definitions would usually amount to a use of land rather than a residence resulting from operational development. However, the notices, like the applications for planning permission, each refer to the development as comprising operational development (respectively, the 'erection' of dwellings and log cabins). No appeals have been brought on the grounds that the alleged breach of planning control is wrongly described, or has not occurred. Whilst I accept that the provision of log cabins might appear to be development of a more ephemeral nature than the construction of bricks and mortar houses, those descriptions nonetheless amount to the carrying out of operational development resulting in the provision of permanent dwellings. I have addressed the appeals on this basis.

Main Issues

5. Appeals A – D all relate to the erection of two log cabins, being used as and also described as dwellings. The first main issue in respect of each is whether the provision of dwellings in this location is justified having regard to matters of housing land supply and the countryside location and the effect on the character and appearance of the area.

6. Subsequent issues concern whether each of the dwellings provides adequate living conditions for the existing or any other occupiers, and whether adequate access and parking arrangements can be secured. Whether the occupations, site circumstances or other personal circumstances of each of the current occupiers can overcome any identified harm is then a further issue in each case.
7. As to the residential walled garden and the built development forming and within it, the subject of Appeals D and E, the main issues concern the appropriateness of a residential garden use in this location and the effects of the development on the character of the area.
8. Subject to these considerations, the A, C, E and F appeals on ground (g) then raise the main issue of whether a reasonable time to comply with the steps imposed by each enforcement notice has been given.

Reasons

Appeals A – D: the dwellings

Location and justification

9. The National Planning Policy Framework ('the Framework') sets out policies to support the Government's objective of significantly boosting the supply of homes and applies a presumption in favour of sustainable development. That presumption does not however change the statutory status of the development plan as the starting point for decision making. The Council asserts a housing land supply in excess of 6 years and avers that the 'tilted balance' of the Framework's paragraph 11 is not engaged. The land supply position is not disputed.
10. The Borough Council adopted a Core Strategy Development Plan Document in January 2010 ('the CS') and a 'Managing Development Delivery' Local Plan in February 2014 ('the LP'). CS policy CP9 and LP policy CC02 together set out that development will be directed to a settlement hierarchy, with a presumption in favour of appropriately scaled developments within the identified development limits. The appeal site does not lie within such limits and is therefore subject to policy concerning proposals in the countryside.
11. CS policy CP11 is the main such policy, setting out that proposals outside of development limits will not normally be permitted except where specified exceptions apply. In the context of this appeal, each of the first three criteria of CP11 must be met in order to comply with that policy. The first of these requires the development to contribute to a sustainable rural enterprise.
12. Standing back from the personal circumstances of the appellants, what the proposals amount to in planning terms are the provision of dwellinghouses, with no proposed mechanism to link or tie the use of either dwelling to the activities on the wider site or to occupation by particular persons. Neither dwellinghouse can in itself reasonably be said to contribute to a rural enterprise. There are nearby enterprises presently associated with the occupiers of each dwelling; a carpentry workshop and an artist's studio, as well as the business units that involve some caretaking duties. Although the evidence is somewhat limited, I have no reason to doubt that these enterprises are sustainable; however there is no proposal before me to ensure that the

provision of either of the dwellings would continue to contribute to them in the longer term, and neither dwelling is put forward as a 'live/work' unit proposal or similar.

13. The second criterion to be satisfied in order to meet policy CP11 is that the development proposal should not lead to excessive encroachment or expansion of development away from the original buildings. The history of development at Loddon Park Farm appears to be of a creep outwards, including towards the main road, from the original farm complex that is set some way back; the Appeal A and B dwelling is set just south of a wall separating the field from what is now a car park, although the Appeal C and D dwelling is set further into the field, nearer the road. Given the scale of the development to date, and the potential scope for planning conditions to be able to limit any future expansion, I do not find that either proposal has the potential to result in 'excessive' encroachment or expansion of development away from the original buildings. The Council points out that significant encroachment beyond the original (1947) buildings has already occurred, and in this context I do not consider that the dwellinghouses under appeal, whether separately or cumulatively with each other, would result in any excessive encroachment or expansion above what has already occurred.
14. As to the third criterion, the development proposal should be contained within suitably located converted buildings or bring about environmental improvements by way of replacement buildings. This criterion cannot be met by either dwellinghouse, both being new buildings and not conversions or replacements.
15. Although I have not found there would be 'excessive' encroachment or expansion under the second criterion, there nonetheless is a change in the character of the land resulting from the developments, which are in an historically undeveloped part of the farm site. The actual site boundaries drawn around each of the dwellings are different in each of the planning applications comprising the section 78 appeals from those of the enforcement notices. However it would potentially be possible to limit the proliferation of residential paraphernalia around each dwelling through the imposition of planning conditions, thus overcoming the Council's concerns about curtilage size in each of the s. 78 appeals. A change in character of the whole field would not necessarily follow from allowing the appeals, but nonetheless they do result in the unnecessary urbanisation of the countryside, which is itself harmful to the quality of the environment which policy CP11 seeks to protect. This would be the case whether or not the draft allocation of nearby land for housing is confirmed, given the Council's policy approach of directing development to within development limits.
16. Overall then and notwithstanding the lack of excessive encroachment or expansion, the failure to meet the first or third of the criteria means that I am unable to conclude that either dwellinghouse proposal complies with policy CP11 or, therefore, with the Council's adopted settlement strategy which directs most new development to within development limits in order to protect the separate identity of settlements and to maintain the quality of the environment. I do not consider this strategy to be inconsistent with the policy approach of the Framework, and find that there would be resulting harm to this strategy arising from each of the proposals.

Living conditions

17. The dwellings on the field take the form of log cabins, the Appeal A & B cabin being somewhat larger than the Appeal C & D cabin. CS Policy CP1 is supportive of development proposals that provide (inter alia) attractive and functional schemes, and policy CP3 supports developments that are of a high design quality and of an appropriate scale. The Council's concern is that, at 40 and 33 sq m respectively, the dwellings are each too small to permit of an adequate standard of living. The local design standards are set out in the Borough Design Guide, a Supplementary Planning Document dating from 2012. Section 4.8, providing that all dwellings must provide adequate internal space in an appropriate layout to accommodate a range of lifestyles, is accompanied by figure 4.29 setting out the standards which apply to most housing. Exceptions are envisaged for 'more unusual forms of housing'.
18. The internal area of each dwelling here falls considerably short of the expected standard and the appeal proposals are not for unusual forms of housing but simply for dwellinghouses. I therefore find that each of the proposals conflicts with the design standards. The countryside setting of each dwelling and the ample outdoor spaces surrounding them do not result in residential accommodation that feels especially cramped or substandard for the purposes of the present occupants. The smaller dwelling is not occupied on a permanent basis, and the larger one is occupied in association with the nearby artist's studio and the wider site. However, the aim of the policy is to provide adequate living standards for anyone who might live in the property, rather than to provide a subjective answer by reference to the present occupier. In each case the limited size of the accommodation available would in my view not be adequate for many people seeking a one-bedroomed dwelling, and here there are considerable departures from the figure 4.29 standards of a minimum 50 sq m GIA in respect of one-bedroomed flats. I find that the requirements of policies CP1 and CP3 are not met because each of the dwellings is unsuitably small for the range of potential occupiers.

Car Parking and Access

19. CS Policy CP6 is supportive of developments that provide appropriate vehicular parking, having regard to car ownership, and LP policy CC07 requires proposals to demonstrate how parking standards will be met. The developments proposed in the s. 78 appeals B and D show only pedestrian access into each site with no car parking provision.
20. There are two car parks adjacent to the field, and it appears from the appeal documents that each of the existing occupiers of the dwellings have access rights to those car parks in connection with their interests in the nearby business units. It appears that the provision of adequate vehicular access and car parking in relation to each dwelling could be achieved, but this is not expressly demonstrated in either application or s. 78 appeal. Although this does not appear insurmountable, because the applications do not demonstrate how these matters can be achieved for the dwellings regardless of any connection their occupiers may or may not have with the wider site, the requirements of the relevant planning policies are not met.

Personal and site circumstances

21. It follows from the above that I conclude that each of the dwellings is contrary to the development plan for the area, by conflicting with strategic policies for the distribution of development via a settlement hierarchy and with detailed policies concerning access and parking provision and in providing unacceptable living conditions by virtue of the small size of the dwellings. A number of personal and site circumstances are put forward in aid of each proposal.
22. Each of the dwellings is described by the appellants as a temporary structure which can easily be removed if circumstances change. The appeal statements plainly envisage that each dwelling would be occupied only by the appellant in each case, if necessary with planning conditions requiring occupation to be tied to the operation of Loddon Park Farm. One of the occupants has a carpentry workshop on the farm site and occupies the dwelling on a part-time basis, connected with his days working on the site. The other appellant is in full time residence, having an artist's studio and is also engaged in a caretaking role on the wider site. The Public Sector Equality Duty is engaged in respect of one of the appellants. The Human Rights Act is engaged in respect of both of them, given that the appeals each concern dwellinghouses. The main arguments put forward for the retention of the dwellings are that each of the appellants has a connection with the site which occupying their dwelling will help to facilitate, and this in itself would result in sustainable development.
23. The Planning Practice Guidance¹ advises that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. After considering all the matters raised in the appeals, I find that the circumstances here do not amount to the exceptional cases that would justify the granting of personal permissions.
24. In the case of appeals C and D the dwelling is occupied on a part time basis by the appellant who mainly lives elsewhere. Working from a carpentry workshop in a barn on the wider site is the cause of his visits and, for the reasons set out in the appeal paperwork, the commute back to his principal residence may not always be possible or acceptably comfortable. However there is ultimately no justification set out for why the appellant needs to work from the barn on the site, and why his professional interests cannot be pursued from premises where a daily commute is unnecessary or could be made acceptable. The justification falls a long way short of what would be required to justify a personal permission, especially as this is a 'second home' so not satisfying any overall housing need if its occupation were to be limited just to the appellant.
25. The dwelling in the case of appeals A and B is sought to be justified by reference to that appellant's personal circumstances, as a self-employed artist with a studio adjacent, and having duties on the wider estate involving caretaking, gardening, servicing and other responsibilities. The dwelling is said to provide affordable accommodation pursuant to the self-build and custom housebuilding provisions and to facilitate the guardianship of the wider site which is considered to have some heritage interest.

¹ Paragraph: 015 Reference ID: 21a-015-20140306

26. Whilst I can see that it is convenient for the appellant to be living at close quarters to her studio and the businesses on the wider site, and there may be some limited sustainability benefits arising from this co-location, this does not amount to sufficiently pressing personal circumstances to justify the provision of a dwelling on the site, even if it is limited to the personal occupation by the appellant.
27. The documents supporting the appeal are lacking in the justification for needing an on-site presence at the site that needs to be overnight thus requiring a full time resident. Whilst the appellant refers to the use of agricultural occupancy conditions in similar situations, these are not generally tied to the occupancy in relation to a particular farm, (even if the needs of that farm provide the initial justification for the dwelling) rather than to require a dwelling to be occupied by agricultural workers generally. This is not comparable to the situation here. Additionally, there are no accounts or other information to indicate whether it is a viable long-term proposition for the appellant to rely on the income from these on-site duties and her studio for sustenance. As to the self-build and custom, and affordable, housebuilding provisions, it is not asserted by the appellant that the Council is in breach of any of its legal duties under the 2015 Act or that it is not meeting the need for affordable housing in its area.
28. Thus there is no demonstration of an exceptional case for the businesses on the site to require an on-site overnight presence, or for why the particular circumstances of the appellant cannot be met elsewhere under a plan-led approach. I am conscious of the appellants' long-standing connections with the area and of the strong local support for these proposals, but on the information before me I am unable to find that personal circumstances outweigh the harm caused by either of the dwelling proposals such that personal permissions would be justified. Therefore planning permission will be refused.

The walled garden including the brick shed and the propagation structure

29. The walled garden is described in the relevant notice as being put to a residential use, and this is not disputed in the grounds of appeal. By appealing on ground (a), permission is being sought for the development as alleged in the notice. It is sited where it appears to straddle the 'red line' boundaries supplied with each of the dwelling applications subject to the section 78 appeals. Although described as being in a residential use, this is not expressly attributable to one or the other of the dwellings but could be to either or both of them.
30. Although comprising a separate development, therefore, the development of the walled garden as a residential use is necessarily parasitic on the development of the log cabins, or at least one of them. The appellant's case in relation to appeals E and F appears to acknowledge this, seeking a planning permission for the walled garden and its built elements 'in relation to the dwelling'. As the appeals in relation to each of the dwellings are to be dismissed, there is no separate justification for retaining a garden in residential use. Any such planning permission would be inchoate as there would be no associated residential use to go with the garden. It therefore follows that the appeal on ground (a), which is to say the deemed planning application for the development of the walled garden and associated change of use of the land to a residential use, must fail.

31. As to the brick, timber and tile building and the propagation structure, these are both sited within the garden and without the residential use there is no separate justification proffered for either building. Whilst the garden is small and not readily visible from outside the field, these built elements comprise the urbanisation of the countryside and do not attract support from the relevant planning policies which seek to direct the pattern of development and constrain it within settlement limits. I find that the developments forming the subjects of appeals E and F (notices C and D) are contrary to policies CP1, CP3 and CP11 of the Core Strategy and there are no material considerations to overcome that conflict so as to justify granting planning permission.

Appeals A, C, E and F: the appeals on ground (g)

32. Further time is sought to comply with each of the notices on the grounds that finding a suitable alternative place to live will be incredibly difficult having regard to the lack of affordable accommodation in the locality, coupled with the need to finance the removal of each dwelling. The appeals on ground (g) in relation to the walled garden elements are again parasitic on the outcome of the appeals in relation to the dwellings.
33. The Council refers to the passage of time since the enforcement notices were served and the previous period during which enforcement investigations were ongoing. However I do not accept that any of this time has provided a window of opportunity for either appellant to embark on finding alternative accommodation. This is because appeals have been made on ground (a) which are only now being determined, and it would be rare to expect somebody to take any steps to comply with an enforcement notice before it has come into effect and whilst, owing to there being a pending appeal, there is genuine doubt about whether it will do so.
34. On the other hand I have been provided with no actual evidence as to the likely difficulties of finding alternative accommodation, or about how the passage of time would assist in surmounting such difficulties, or of the costs (and the appellants' abilities to finance them) of demolishing and removing the various structures. Coronavirus has been raised as a delaying factor. In relation to landlord and tenant proceedings under the general law as to eviction, a period of 6 months' notice is presently required. I accept that each of the appellants has to do more than merely vacate the premises, but consider that the dismantling or demolition works required are relatively simple and reasonably capable of being achieved within the period stipulated in the notices. Therefore I do not find that the period specified in each of the notices for complying with its requirements falls short of what should reasonably be allowed.

Conclusion

35. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notices and refuse to grant planning permission on the deemed applications made under section 177(5) of the 1990 Act. I shall also dismiss the appeals brought under section 78 against the refusals of planning permission for each of the dwellings.

Decisions

36. In relation to appeals A, C, E and F the appeals are dismissed and the enforcement notices are upheld. Planning permission is refused on each of the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

37. In relation to appeals B and D the appeals are dismissed.

Laura Renaudon

INSPECTOR