



Appeal Decisions

Site visit made on 11 May 2021

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal A: APP/P2114/C/20/3249984

Appeal B: APP/P2114/C/20/3249985

OS Parcel 0013, Bartons Corner, Main Road, Shalfleet, Isle of Wight

- 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 appeals are made by Mr Simon Hill (Appeal A) and Ms Rosa Correia (Appeal B) against an enforcement notice issued by Isle of Wight Council.
 - The enforcement notice was issued on 24 February 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission and within the last 10 years the material change of use of the Land from agriculture/vermiculture to a mixed use of agriculture/vermiculture and residential by the siting of a static caravan used for residential purposes.
 - The requirements of the notice are: (i) To cease the use of the Land for the siting of a static caravan for residential purposes (ii) To remove the static caravan from the Land (iii) To remove all residential paraphernalia from the Land.
 - The period for compliance with the requirements is three months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (g) and Appeal B is proceeding on the grounds set out in section 174(2)(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.
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Summary of Decisions

1. The appeals are dismissed and the enforcement notice is upheld with a variation.

Procedural Matters

2. The appeals were to be determined by the written procedure. There was however evidence that I considered required testing by means of cross examination and therefore a Public Inquiry was scheduled to consider the ground (d) appeals. However, the appellants were unable to locate witnesses they intended to call and decided to withdraw their ground (d) appeals. Consequently, the appeals revert to determination by the written procedure.
3. The parties have been provided with an opportunity to make comments on the latest version of the National Planning Policy Framework (the Framework), and I have accordingly taken any relevant comments into account for the purposes of my assessment.

The ground (a) appeal

Main Issue

4. The main issue is whether there is an essential need for a residential static caravan for a rural workers accommodation at the site.

Reasons

5. The site is located in a rural area largely characterised by farmland, although there are commercial and residential uses present within the vicinity. The site itself is an elongated parcel of land, set predominantly to pasture. The caravan is located towards the rear of the site and accessed via a track.
6. The development before me concerns the continued residential occupation of the caravan. The appellant has also put forward that a 3-year temporary permission should be granted, linked to the animal breeding businesses at the site.
7. For the purposes of the adopted Island Plan, Isle of Wight Core Strategy, March 2012 (the LP), the site is not located within or immediately adjacent to a defined settlement. Policy SP1 of the LP identifies the spatial strategy for the Island and its defined settlements and circumstances where outside those areas residential development may be appropriate. Policy SP2 identifies how the Council intends to deliver its housing need over the plan period. However, the Council accepts that it cannot demonstrate a five-year housing land supply and that its annual monitoring shows delivery over the last 3 years to be in the region of 70% of its required figure. Accordingly, the Council accepts that the policies most important for the determination of the ground (a) appeal are out of date.
8. Irrespective of where the site is located in the countryside, and whether it is isolated or not, the onus remains on the appellant to demonstrate that there is an essential need for a rural workers accommodation at the site. The appellant therefore advises that he operates a llama trekking, which he also sees as beneficial to the local tourist economy, and llama breeding business from the site. There is also an extant planning permission for vermiculture activities.
9. The extent of any vermiculture activities however remain unclear, but in any event are small-scale. The llama breeding is said to generate an income, as there are between 5 and 10 cria births at the site each year, which are then said to sell for upwards of £3000. The llama trekking is said to generate £30 per trek, but the annual turnover generated by this activity, or indeed financial records relating to any of the activities, are not before me. Moreover, it is said that there is to be the construction of a barn at the site during 2021, and, whether or not that has since taken place, there are no figures or independent appraisal before me to demonstrate how this would form a viable part of any agricultural enterprise.
10. The appellant also advances a sight and sound argument as llamas are said to generally give birth in the early hours of the morning, with a native 50% survival rate. There is however no empirical evidence before me to support this assertion. Notwithstanding this, the number of animals are very low, and I am not persuaded that the activities at the site justifies a full-time rural worker needing to be on site day and night. There is also very limited evidence

concerning any technological solutions or monitoring that have been pursued to assist in the survival rate.

11. Given the very limited evidence before me concerning the essential need for a rural worker, or benefits to the local tourist economy, I am similarly not persuaded that a case has been made for a temporary planning permission, noting also the period of time that the appellant has already occupied the site and the scale of any business that subsists.
12. I conclude that there is not an essential need for a rural workers accommodation at the site. The residential static caravan therefore conflicts with the rural housing objectives of the Framework. This is a planning harm to which I attach substantial weight.

Other Considerations

13. I accept that there would not be any harm to the character and appearance of the area or harm to neighbouring living conditions. But these considerations were not disputed by the Council and the absence of these harms is not a factor that weighs in favour of the development, they merely carry neutral weight.
14. I also accept the proximity of a bus stop and that there is a nearby village which provides some services and facilities. It is contended that the site is therefore in a sustainable location, but the site is accessed via an A-road which is unlit and with no pavements, which would thus likely deter the appellant. I have very little evidence that he has been reliant upon anything other than a private motor vehicle. These are therefore considerations to which I attach limited weight.
15. I appreciate the appellant has been looking to rent a house locally, which has proved problematic, but there is limited evidence before me of his endeavours and so are considerations to which I attach limited weight.
16. The Council has rightly acknowledged that it has raised ecological considerations that were not cited within the enforcement notice. Planning permission should however not be granted where there is a risk that a development may have a significant effect on internationally designated sites either individually or in combination with other plans or projects. This situation could have led to injustice to the appellant, but as I am dismissing the appeal on other grounds, I need not consider this further.

Planning Balance

17. The Government is seeking to significantly boost the supply of housing and be responsive to local circumstances. The development contributes, albeit very modestly, to this supply. However, a single unit of residential accommodation brings only moderate benefits to the economy and limited benefits to the social well-being of the local community.
18. Given the Council accepts the policies which are most important for determining the ground (a) appeal are out-of-date, the Framework advises that 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.

19. The weight to be afforded to the benefits of the development are however limited. Consequently, when assessed against the policies in the Framework taken as a whole, they are significantly and demonstrably outweighed by the planning harm I have found. As a result, the presumption in favour of sustainable development does not apply.
20. Even though the site currently provides a home to the appellant and his family, this, and the other considerations before me, are not sufficient to outweigh the planning harm I have found. It is therefore a proportionate response to dismiss the appeal.

Conclusion

21. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal on ground (a) should fail.

The ground (g) appeal

22. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short and requests 12 months in which to comply.
23. Whilst some effects of the pandemic are still unknown, there is very little evidence before me as to why the appellants would now become homeless should a period of less than 12 months be afforded, or why express alternative arrangements would also be required for the animals presently at the site. I therefore consider that a period of 9 months strikes the appropriate balance to enable timely compliance with all the requirements of the notice, without unduly perpetuating the breach of planning control.
24. To this extent the appeal on ground (g) succeeds.

Overall Conclusion

25. For the reasons given above I conclude that the appeals should not succeed other than to the extent described on ground (g). I shall therefore uphold the enforcement notice with a variation and refuse to grant planning permission.

Formal Decisions

Appeals A and B

26. It is directed that the enforcement notice be varied by:
- substituting '*Nine months*' as the periods for compliance.
27. Subject to this variation the appeals are dismissed and 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.

Paul T Hocking

INSPECTOR