



Appeal Decisions

Hearing held on 29 March 2022

Site visit made on 29 March 2022

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 06 April 2022

Appeal A Ref: APP/J1915/C/20/3244659

Black Grove Woods, Standon Green End, High Cross, SG11 1BW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Rosaleen Earley against an enforcement notice issued by East Hertfordshire District Council.
 - The notice was issued on 4 December 2019.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised erection of a yurt and two sheds.
 - The requirements of the notice are: 1. Remove the Yurt and its base, and two wooden sheds, from the land as shown in attachments A, B and C
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c), (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
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Appeal B Ref: APP/J1915/C/20/3244660

Black Grove Woods, Standon Green End, High Cross, SG11 1BW

- An identical appeal has been made by Mr Jon Fuller
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Appeal C Ref: APP/J1915/C/20/3244661

Land at Black Grove Woods, Standon Green End, High Cross, SG11 1BW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Ms Rosaleen Earley against an enforcement notice issued by East Hertfordshire District Council.
 - The notice was issued on 4 December 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the use of the land for residential occupation.
 - The requirements of the notice are to: cease all residential use of the land, including the occupation of any structure, or temporary structure, including a caravan or mobile home.
 - The period for compliance with the requirements is: 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) 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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Appeal D Ref: APP/J1915/C/20/3244662

Land at Black Grove Woods, Standon Green End, High Cross, SG11 1BW

- A similar appeal has been made by Mr Jon Fuller without the ground (a).
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Decisions

Appeals A and B: 3244659 & 3244660

1. The enforcement notice is quashed.

Appeal C: 3244661

2. It is directed that the enforcement notice is corrected by: the substitution of the plan annexed to this decision for the plan attached to the notice and by deleting the allegation and replacing it with "*without planning permission the making of a material change of use of the land to a mixed use for agriculture and the stationing of a mobile home for residential purposes as marked on the plan (as 'temporary structure') annexed to this decision*". Subject to these corrections, 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 making of a material change of use of the land to a mixed use for agriculture and the stationing of a mobile home for residential purposes at Black Grove Woods, Standon Green End, High Cross, SG11 1BW, as shown on the plan attached to this decision and subject to the following conditions:
 - 1) The occupation of the mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
 - 2) The mobile home hereby permitted shall be occupied only by the following: Mr Jon Fuller and Ms Rosaleen Earley and any resident dependants and shall be for a limited period being the period of 5 years from the date of this decision, or the period during which the premises are occupied by them, whichever is the shorter. At the end of the limited period the residential use hereby permitted shall cease and the mobile home and all equipment brought on to the land, or works undertaken to it in connection with the residential use, shall be removed and the land restored to its condition before the development took place.

Appeal D: 3244662

3. The appeal is dismissed

Background to the Appeals

4. The appellants purchased some 7.9ha of agricultural land and in 2018 made an application for a temporary agricultural dwelling on the site which was refused. The intention was to begin a low impact, sustainable vegetable, eggs and meat business on the site. They began to live on the site in a yurt which is positioned at the far end of the land, away from the road access in some woodland. The Council asked them to leave and by January 2019 they had done so, to a rented address in Ware. They found it impossible to develop the fledgling enterprise from a distance and afford to pay rent so moved back to the site, living in a lorry. It seems they also lived occasionally at a parents' address in Walthamstow, but again distance was an issue and now they are permanently on the site in a mobile home.

Getting the Notice Right

5. It was agreed at the Hearing that the notices did not reflect the reality of the situation in December 2019. By then it is clear the yurt was not being used residentially and so a ground (b) appeal might well succeed. However, the way the notices were drafted was also problematic, as the allegation of a material change of use to a residential use covered the whole site and it is far from clear the yurt and 2 sheds were operational development. The appellants' ground (a) appeal was also not to live in the yurt but to continue in the mobile home, which is much closer to the road access and the area of the site with most activity.
6. Fortunately both parties to the appeal approached it in a welcome spirit of co-operation and open-mindedness. It was agreed that as the mobile home was on site when the notices were issued and is included within the requirements of the use notice, I could correct that notice to refer to the mobile home rather than the yurt, thus bringing it within the ambit of the ground (a) appeal. The allegation should therefore refer to a mixed use of agriculture and the stationing of a mobile home for residential purposes. An amended site plan was provided to attach to the notice. The operations notice is thus redundant and can be quashed.

The Appeal on Ground (a)

7. The Council accepted that in 2018 and during the early part of this appeal they did not have site of the considerable evidence the appellants had now provided as to how the site was run. However, there were still issues that needed to be cleared up.
8. The evidence provided showed the appellants to be dedicated and genuine in their intentions to run a community facing enterprise with sustainability at its heart. The whole farm is organic and they grow vegetables for sale through a veg-box scheme, breed and raise lambs and pigs for meat, also breed and raise chickens for eggs and for live bird sales. They run a forest school in the woodland area, but also provide volunteering opportunities for people to work on the farm, especially for people with mental health issues. There are no services to the site, electricity is provided by solar power and stored in batteries while water is collected solely from rainfall. Water shortages have proved to be a limiting factor but a prior approval application for a pond was refused for viability issues, which would be overcome if the appeal was allowed.
9. The appellants are members of the CSA (Community Supported Agriculture) and have received grant funding from the National Lottery for their community work. They have also received support from Hertfordshire Community Foundation for their work with volunteers and the Hearing heard from a Horticultural Therapist who works on the farm supporting adults with mental health issues.
10. A large number of supporters attended the Hearing many of whom spoke about the passion and commitment of the appellants and the value to the wider community of having an opportunity to work on the land as well as the quality of the veg-boxes and the organic meat.
11. Accounts were provided for three separate businesses run at the site, the farm, the veg-box and the forest school. Although these did not entirely convince

the Council they did suggest to me the enterprise as a whole ran at a profit assuming modest wages for the appellants. But as they live on site and are committed to a sustainable lifestyle, their outgoings are correspondingly low. The enterprise has been running for 4 years now and the last 2 years show a reasonable turnover and expansion will be much easier once the planning uncertainties have been lifted.

12. The appellants also provided a management plan for the current operation and future expansion, a sustainability assessment, a woodland management plan and action plans for bio-diversity and hedgerow and tree planting. These demonstrated a considerable amount of planning and commitment.
13. The forest school is a minor income generator but an important part of the whole process and a useful way to generate interest amongst adults who are already of a similar philosophical mindset. I agree with the Council that a forest school is not an agricultural use and if it amounted to a separate use in its own right then it would add to the mixed use of the land and would require planning permission. However, at the moment it is run on two days a week for about 20 families. Not all families will drive to the site and the access lane serves only two other farms so is not busy. In my view, at its current level, and given its integration into the farming set up, I consider the forest school is ancillary to the primary use of the land for agriculture. If that were to change however, it would require planning permission.
14. It is clear the appellants have a functional need to live on the site because of the necessity of managing watering of vegetable seedlings at a vulnerable stage of growth, monitoring temperatures in the polytunnel, dealing with the incubation and early days of chick rearing and the general labour intensiveness of the sustainability model. This wasn't challenged by the Council.
15. Taking all this together and having heard all the evidence at the Hearing, I (and I think also the Council) consider there is sufficient evidence to support the application for a temporary residential use on the site to enable the appellants to continue to develop and consolidate their enterprise.
16. There is no Council policy directly relevant but the closest is HOU5, which deals with dwellings for rural workers. This assumes the applicant is in a position to demonstrate the essential need for a worker and the viability of the enterprise. In this case the appellants do not want a permanent dwelling, in the sense of a bricks and mortar house as this would not fit with their low impact lifestyle, but as far as their current desire for a temporary mobile home on the land, they meet the criteria outlined in HOU5. It was agreed the mobile home would be conditioned as an agricultural-workers dwelling in accordance with HOU5 III.

Conditions

17. In addition to the standard agricultural workers tie, it is essential the permission is made personal to the appellants as the whole basis of the enterprise is based on their specific vision and philosophy.
18. It was also agreed the permission should be temporary. The appellants preferred 5 years the Council a lesser number, as they had already had 4 years to begin a trial run. In my view, given the nature of the farming activities, a reasonable length of time to develop the enterprise is necessary. That period has also been compromised by the pandemic. In my view there is no danger in

allowing a further 5 years and it will allow various prior approval applications to be made and implemented, it will also give some certainty to the appellants who are raising two children as well. I consider that 5 years is acceptable in this instance. No other conditions are required.

19. I shall correct the use notice as described above and then allow appeal C, quash the notice and grant planning permission for the temporary occupation of the mobile home. I shall quash the ops notice and, to avoid duplication, dismiss appeal D.

Simon Hand

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Simon Ruston MRTPI Agent
Jon Fuller Appellants
Rosaleen Earley

FOR THE LOCAL PLANNING AUTHORITY:

Bill Tilley Enforcement
Emma Mumby Planning

INTERESTED PARTIES:

Tara Farnworth
Revd Amanda Duncan
Barney Bryant
Kerry De Leslie
Vikky Lloyd
Jocelyn Crook
Rosanne Kenealy
Gini Trower
Robert Somerville
Lloyd Harrison
Tom Woolgar
Ben Mansfield

DOCUMENTS

Updated financial results and forecasts
Revised plan for the enforcement notice



The Planning Inspectorate

Plan

This is the plan referred to in the decision dated:06 April 2022

by **Simon Hand MA**

Land at: Black Grove Woods, Standon Green End, High Cross, SG11 1BW

Reference: APP/J1915/C/20/3244659

Scale: not to scale

