The Planning Inspectorate

Appeal Decisions

Site visit made on 19 June 2023

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal A: APP/C1435/C/22/3292707
Appeal B: APP/C1435/C/22/3292708
Land at Forest Glen, Courtlands Road, Nutley, Maresfield, East Sussex

- The appeals are 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 Henning Senekal (Appeal A) and Ms Laura Senekal (Appeal B) against an enforcement notice issued by Wealden District Council.
- The enforcement notice was issued on 11 January 2022.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a building to be used as a home office and workshop, and a replacement garden shed.
- The requirements of the notice are: (i) Demolish, dismantle and remove the buildings from the Land (ii) Break up and remove any hardstanding area or footings upon which the buildings are located (iii) Remove from the land all materials, rubble, rubbish, debris, tools and equipment arising from compliance with these requirements.
- The period for compliance with the requirements is 2 months.
- The appeals are 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.

Summary of Decisions

Appeals A and B

1. The appeals are allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

The ground (a) appeals

Main Issues

2. The main issues are:

   - the effect of the development on the character and appearance of the area, having particular regard to the High Weald Area of Outstanding Natural Beauty (the AONB); and,
   - the effect of the development on living conditions, having particular regard to the neighbour property, Courtlands Bungalow.

Reasons

3. The site relates to a detached dwelling with a long rear garden. It is set within largely rural surroundings within the AONB, albeit with neighbouring properties adjoining the side boundaries. The development before me relates to an outbuilding and shed within the rear garden of the dwelling.

Character and appearance

4. Great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's, which have the highest status of protection in relation to these issues. In this particular location, the AONB is characterised by its rural countryside and expansive views.

5. The outbuilding and shed are of typical form and scale for domestic structures, with a flat roof reducing their height and consequent impact. Their use as a home office, workshop and garden shed are also typical. In terms of location, the outbuilding is approximately 49m from the rear of the dwelling. Whilst this might seem a considerable distance, in the context of the layout of the rear garden and its size, particularly length, it does not result in it being completely detached from the dwelling. It is therefore neither disjointed nor isolated.

6. However, given the rural surroundings and character of the AONB, the combined treatments/materials and colours of the external surfaces, which includes a brick front elevation, grey cement fibre cladding to the remaining elevations and a deep fascia board in white, makes the outbuilding somewhat conspicuous. The appellant has however indicated a willingness to change the external appearance of the building, which could be secured by a suitably worded planning condition. Consequently, the detailed design could reflect the rural character of the AONB and would conserve it.

7. The outbuilding is located along the boundary with Courtlands Bungalow. The rear of this property then overlooks a largely undeveloped area of countryside, forming part of the AONB. However, whilst the outbuilding is clearly visible, it is partly screened by a hedgerow controlled by that property. The outbuilding is then approximately only 2.6m in height, noting also the sloping plots. I could also see during my site visit that there are a number of mature trees within the appeal site, and therefore longer and expansive views in that direction are already restricted. In the context of the plot sizes of the appeal site and neighbouring property, the outbuilding, whilst visible, is not obtrusive.

8. During my site visit I walked the nearby footpath. Whilst this only represents a snap-shot in time, contrary to some of the enlarged photographs before me, the outbuilding could only be glimpsed in views. Whilst horse-riders might be afforded a more elevated view, the structure, subject to conditions, is not intrusive within the expansive setting of this sensitive landscape. It is also not uncharacteristic within the landscape to have outbuildings within rear gardens that are of a domestic scale and design. I then have very little evidence that substantive trees were removed to facilitate the positioning of the outbuilding.

9. Whilst the outbuildings introduce built form, they are located in a rear garden, and not even at the furthest point from the dwelling. I am therefore not persuaded that it adversely affects the open character of the wider area, where it is readily possible to view other buildings and structures. The outbuilding, subject to suitably worded planning conditions, would therefore not be visually

intrusive or create unacceptable levels of light pollution and so would conserve the landscape and scenic beauty of the AONB.

10. Whilst I appreciate general concerns, there is no requirement for outbuildings to be located within 20m of a dwelling within an AONB, only that planning permission is required, as opposed to a permitted development right exercised.

11. The shed is smaller in scale and located towards the other side boundary. It is then finished appropriately in timber. Accordingly, for the same reasons, it is not harmful to the AONB.

12. I conclude the development is not harmful to the character and appearance of the area, having particular regard to the AONB, and therefore accords with Saved Policies EN6, EN27 and DC19 of the Wealden Local Plan 1998 (the LP). These policies, amongst other things, require development to conserve or enhance the natural beauty and character of the area, be of a scale and design that respects the character of adjoining development, and, not be intrusive in the landscape. For the same reasons the development accords with the achieving well-designed places and conserving and enhancing the natural environment objectives of the National Planning Policy Framework. No conflict then arises from Policy WSC14 of the Wealden Core Strategy Local Plan 2013, which relates to the presumption in favour of sustainable development, nor Policy GD2 of the LP.

Living conditions

13. I appreciate that Courtlands Bungalow is a replacement dwelling constructed by the current occupiers, with large areas of glazing. I have already noted that the outbuilding is visible from that property, but because of the respective size of the plots and wider views it is not obtrusive.

14. There is then a window in the side elevation of the outbuilding, part of which can be seen from the neighbouring property, as it is at a higher level given the sloping plots. However, I could see during my site visit that views from that window are heavily restricted by the existing mature hedgerow and so it is therefore not a window that looks straight back into the neighbouring property or intrudes upon privacy.

15. It is also said that the outbuilding is often used until late at night, which creates light pollution. However, I am not persuaded that light from one small window in this outbuilding creates an unacceptable adverse impact to living conditions.

16. I conclude the development is not harmful to living conditions having particular regard to the neighbour property, Courtlands Bungalow, and therefore accords with Policy EN27 of the LP which requires, amongst other things, that there should not be unacceptable adverse impacts on the privacy and amenities of adjoining developments.

Planning Conditions

17. There is not a list of suggested planning conditions before me in the event I was to allow the appeal. Nevertheless, a schedule of conditions had been proposed by the Council in the event an earlier planning application to retain the developments had been granted. I will therefore consider these in light of the Planning Practice Guidance.

18. I therefore agree it is necessary to have a condition to restrict external sources of illumination in the interests of the character and appearance of the area. A condition to secure alternative treatments/materials and colours of the external surfaces of the outbuilding is then necessary considering my findings in respect of the AONB. The approved appearance should then be retained in perpetuity. Given the outbuilding is already used as a home office, periods of two and three months respectively to submit the details and then undertake the necessary works is reasonable.

19. As the outbuildings are already substantially complete and the permission arises from a deemed planning application, there is no need for a plans condition. I am then advised the hedgerow is not within the appellant's ownership, and which appeared to be the case from my site visit. The hedgerow therefore cannot be the subject of a condition to retain it to a given height.

Conclusion

20. For the reasons given above I conclude that the appeals should succeed on ground (a) and planning permission will be granted. The appeals on ground (g) therefore do not need to be considered.

Formal Decisions

Appeals A and B

21. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a building to be used as a home office and workshop, and a replacement garden shed on land at Forest Glen, Courtlands Road, Nutley, Maresfield, East Sussex referred to in the notice, subject to the following conditions:

    1.) No floodlighting, security lighting or other external means of illumination of the building to be used as a home office and workshop, and replacement garden shed, shall be provided, installed or operated at the site.

    2.) Within two months of the date of this permission, the treatments/materials and colours of the external surfaces of the building to be used as a home office and workshop shall be submitted for approval in writing by the Local Planning Authority. The agreed treatments/materials and colours of the external surfaces of the building shall then be implemented and completed within a period of three months of that approval and retained in perpetuity thereafter.

Paul T Hocking

INSPECTOR