



Appeal Decisions

Site visit made on 22 August 2023

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Appeal A: APP/C1435/C/22/3299001

Land at Little Farm, Burnt Oak Road, High Hurstwood, Buxted, East Sussex

- 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 Karl Barber against an enforcement notice issued by Wealden District Council.
 - The enforcement notice was issued on 6 May 2022.
 - The breach of planning control as alleged in the notice is: Without planning permission, change of use of the land from agriculture to a mixed use for agriculture and for the stationing of a mobile home with attached porch structure for residential purposes.
 - The requirements of the notice are: (i) Stop using the land for the stationing of a mobile home for residential purposes (ii) Demolish and dismantle the porch structure from the land (iii) Remove the mobile home from the land (iv) Remove all materials, rubble, rubbish, debris, tools and equipment arising from the compliance from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/C1435/W/22/3299087

- 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 Karl Barber against the decision of Wealden District Council.
 - The application Ref WD/2020/1219/FR, dated 8 June 2020, was refused by notice dated 25 February 2022.
 - The development proposed is: Siting of a mobile home.
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Summary of Decisions

Appeal A

1. The appeal is dismissed and the enforcement notice upheld.

Appeal B

2. The appeal is dismissed.

Appeal B – The refusal of planning permission

Main Issues

3. The main issues are:
 - i. whether there is an essential need for a mobile home to accommodate a rural worker; and,

- ii. 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).

Reasons

4. The site is located in rural surroundings and lies within the AONB. It comprises grassland as well as woodland and contains a number of small structures. The development before me relates to the stationing of a residential mobile home. The use commenced in 2020, and the appellant would be happy to accept a temporary 3-year permission.

Essential need

5. For the purposes of the Saved Policies of the Wealden Local Plan 1998 (the LP) the site is located outside of any settlement boundary. Policy DC2 of the LP states that in such locations, dwellings will be permitted for those employed in agriculture, where it can be demonstrated that there is a clearly established existing functional need, amongst other things. Policies DC17 and DC22 of the LP are then in support of this policy.
6. The National Planning Policy Framework (the Framework) post-dates these policies. Paragraph 80 of the Framework states that planning policies and decisions should avoid the development of isolated homes in the countryside unless, amongst other things, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Whilst Policy DC2 is more prescriptive, the Council's overarching approach to new residential development in the countryside is not inconsistent with that of the Framework.
7. The case of the appellant is that there is an essential need for a rural worker to live at the site. In support of this, stock numbers are outlined, most notably that there are 382 laying chickens, amongst other things, including table birds, goats and pigs.
8. Financially, some basic figures have been provided, which indicate the basis of a profitable business, albeit it would appear that no salary has been taken and there is little evidence as to where future investment for the business would be sought or that it has been planned on a sound financial basis. Whilst I then accept the appellant's intended desire to develop the enterprise concerned, and note that he had a previous farm elsewhere, there is then limited evidence before me that other suitable accommodation is not available.
9. This is particularly pertinent as the number of animals are not particularly large. The Council have highlighted that the numbers would equate to the full-time equivalent need of only 0.37 persons. Whilst I accept that the methodology used may be less relevant to the calculation of standard man days for a smallholder, there is then limited evidence from the appellant that the number of animals, or any future projections, do equate to a full-time equivalent need.
10. Moreover, even if there was a full-time equivalent need, it does not follow that there is an essential need to accommodate a rural worker at the site. I have very limited evidence about why the appellant's activities require an on-site presence day-and-night and then if so, why security and/or monitoring devices would not be suitable.

11. I conclude there is not an essential need for a mobile home to accommodate a rural worker, even for a temporary period. The development is therefore in contravention of the Framework and the overarching approach of Saved Policy DC2 of the LP.
12. I appreciate the Council is unable to demonstrate a 5-year supply of deliverable housing sites and considers the site to be in an unsustainable location. However, such matters are not of direct relevance and would not outweigh my findings in relation to this main issue, given consent is sought for rural workers accommodation, as opposed open market housing, and which will inevitably be in the countryside. I have accordingly not considered these matters further as they are not determinative.

AONB

13. The Framework states that 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.
14. The mobile home is set back some distance from the road frontage. It is also located in the vicinity of a number of small buildings/structures and is served by a hardstanding. Nevertheless, it was possible to obtain views of the mobile home from the public realm and it was not particularly well related to the other structures at the site. Indeed, it adds to the proliferation of sporadic structures associated with this site, which is harmful to the integrity of this otherwise rural and open area of landscape.
15. At the time of my site visit, a metal clad porch had been attached to the mobile home. Even discounting this, the presence of an otherwise sizable white mobile home does not reflect high quality design and nor is it reflective of other residential development in the vicinity. Accordingly, the presence of the mobile home neither conserves nor enhances the intrinsic nor wider character of the AONB.
16. I conclude the development is harmful to the character and appearance of the area, having particular regard to the AONB, in contravention of Saved Policies EN6 and EN27 of the LP and Policy SPO1 of the Wealden District Core Strategy Local Plan, 2013. These policies, amongst other things, require development to conserve or enhance the natural beauty and character of the landscape and be of an appropriate high standard of design. For the same reasons the development contravenes the conserving and enhancing the natural environment objectives of the Framework.

Other matters

17. The site is located within the zone of influence of the protected areas of the Ashdown Forest. The Council has then indicated that it would seek tariff based financial contributions as means of mitigation to offset recreational pressures, for which some may be offset until such time as a permanent residential use or dwelling was approved. This would then ordinarily be secured by means of a legal undertaking. However, given I am dismissing the appeal in respect of the main issues, I do not need to consider this matter further.
18. In considering the evidence before me and harms I have found it is therefore a proportionate response to dismiss the appeal.

Conclusion

19. For these reasons and having regard to all other relevant matters raised, I conclude that Appeal B should fail.

Appeal A – The Enforcement Notice

The ground (f) appeal

20. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives steps.

21. The appellant contends that the mobile home should be allowed to remain as a welfare unit for workers on the holding. However, there is very limited evidence why something of the size and with the facilities of this mobile home would be reasonably required. Furthermore, there is another caravan at the site, said to be used for storage, which could provide an option, and there is evidence before me that a planning permission was granted in 2018 for a day room shed.

22. There is also little evidence before me that the mobile home was on the site prior to its residential occupation, and so it is not excessive to remove the residential mobile home in order to remedy the breach of planning control.

23. The appeal on ground (f) therefore fails.

Overall Conclusion

24. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice (Appeal A) and refuse to grant planning permission (Appeal B).

Formal Decisions

Appeal A

25. The appeal is dismissed and the enforcement notice is upheld.

Appeal B

26. The appeal is dismissed.

Paul T Hocking

INSPECTOR