



Appeal Decision

Site visit made on 26 September 2023

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/J0405/C/23/3315749

Land at Aylesbury Road, Wingrave, Buckinghamshire, HP22 4QT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Dr Azhar Lodhi against an enforcement notice issued by Buckinghamshire Council
- The notice was issued on 6 December 2022.
- The breach of planning control as alleged in the notice is without planning permission, unauthorised siting of a shipping container.
- The requirements of the notice are
 1. Permanently remove the shipping container shown in the approximate position on the attached plan with a black 'X' from the Land.
 2. Restore the Land to grazing land by the sowing of grass seed.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (the 1990 Act) 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.

Decision

1. It is directed that the allegation in the enforcement notice is deleted in full and replaced with 'without planning permission, operational development consisting of the siting of a shipping container.'
2. Subject to the variation, the appeal is dismissed, 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.

Preliminary Matter

3. A retrospective planning application¹ to retain two shipping containers was refused by the Council on 18 May 2022. Whilst the shipping container to the south of the field was subsequently removed, the Council served an enforcement notice to require the removal of the remaining container on the northern parcel of land and it is this container which is the subject of the notice.

The Notice

4. The appellant had questioned whether or not the Council was alleging that the shipping container was operational development and the Council confirmed that it was. The parties therefore agreed to amend the wording to include the reference to operational development. I will therefore amend the allegation to 'without planning permission, operational development consisting of the siting of a shipping container.' There is no injustice caused to either party as a result of this clarification.

¹ 21/01881/APP

Main Issues

5. The main issues are (i) the effect of the development on the character and appearance of the area and (ii) whether there is justification for the development having regard to its location and the relevant development plan policies.

Reasons

Character and Appearance

6. The appeal site is within an open agricultural field within the countryside outside of the settlement boundary with mature hedgerows and trees to the northern border. The site is within the Quainton Wing Hills Area of Attractive Landscape which is characterised by open rolled landscaped countryside with very limited built development in a rural and picturesque setting. The openness of the field contributes to the rural landscape and the character and appearance of the area.
7. The development is located towards the northern corner of the field and is a green shipping container of around 21 square metres with a length of just under 8 metres. Access to the field is from the A418 and there is an informal track for vehicles through the middle of the field. From the access point at the junction with the road, there are limited views of the development. However, the development is likely to be more visible in winter months when there is less tree coverage to the rear. Within the field itself, the development is prominent against the relatively flat surrounding landscape particularly with polytunnels and animal shelters nearby which create a cluttered appearance.
8. Whilst the development is smaller than the shipping container that has been removed, it is still of a scale and bulk that is a prominent feature in a countryside location where shipping containers are not normally found. The size, scale and utilitarian appearance of the development undermines the open and attractive character of the landscape which includes the field.
9. The development does therefore harm the character and appearance of the area. It is therefore contrary to Policy BE2 the Vale of Aylesbury Local Plan (2021) (the Local Plan) which states, amongst other things, that development should respect and complement the physical characteristics of the site including scale and context. Policy NE4 of the Local Plan refers to respecting local character and minimizing impact on visual amenity. It is also in conflict with Policy 5 of the Wingrave with Rowsham Neighbourhood Plan (2015) (the NP) which refers to the scale and massing of the development reflecting the character of the site. It is also contrary to Paragraph 174 of the National Planning Policy Framework which refers to protecting and enhancing valued landscapes.

Justification

10. Policy E9 of the Local Plan sets out six separate criteria which need to be met in order to permit new agricultural buildings. Criteria (a) and (b) refer to development being necessary for the purposes of agriculture on the unit or locally where facilities are to be shared and the size is commensurate with the needs of the holding.'

11. With regard to the extent of the size of the unit, the Council has provided a site plan which was submitted for the previous planning application which includes both the appeal site and the southern land where the other container has been located. The extent of the agricultural enterprise is limited to the keeping of sheep and goats.
12. At the time of my site visit as well as a group of sheep on the southern land, there were approximately 10 goats and 2 rams on the northern part of the land divided by stock fencing and a track. A similar number of animals were present at the time of the Council's visit in February 2022 when there were 37 sheep and 7 goats on site. No explanation is provided as to why the development needs to be a permanent facility for the care of the number of animals present on the unit particularly when goats and sheep do not normally require a high degree of supervision.
13. At the time of my site visit, the development contained a fridge, animal food, as well as a toilet, sink and shower and a modest kitchen area. It is not clear why those facilities are required in connection with the existing use of the unit. Visits from vets are likely to take place where there are animals present without the need for indoor facilities and no explanation is provided as to why medicines and feed cannot be stored off site.
14. The appellant refers to the need for a storage facility for feed/medicine plus staff amenity to run an agricultural animal based project. The appellant may intend to develop a goat milk product and upscale production but the justification for the development needs to relate to an existing need not future plans. Whilst the appellant refers to the development needing to be vandal proof and a deterrent to potential thefts that assumes that the existing enterprise requires a permanent on site facility of the size of the development.
15. The appellant indicates that information about the enterprise was supplied to the Council when planning permission was granted for stock fencing, gates and parking for 5 cars in 2019. However, that information is not before me and information provided in 2019 is unlikely to address why a permanent structure of the size and scale of the development is now required. There is no assessment by the appellant to show how the size of the development with its various facilities is commensurate to the size and activities of the enterprise.
16. I therefore do find that the size and nature of the existing enterprise does not justify the presence of the development in a countryside location. The development is therefore contrary to Policy E9 of the Local Plan, which amongst other things, refers to the size of any development being commensurate with the needs of the holding. It is also contrary to Policy 1 of the NP which, amongst other things, supports development outside of the defined boundary settlement only when it is necessary for the purposes of agriculture or forestry or for enterprise, diversification, recreational tourism that benefits the rural economy without harming countryside interests.

Conclusion

17. I have found that the development does harm the character and appearance of the area. I have also found that the size and nature of the existing enterprise does not justify the presence of the development in a countryside location. There are no material considerations to outweigh the conflict that I have found with the development plan as a whole.

18. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

E Griffin

INSPECTOR