



Appeal Decisions

Site visit made on 6 November 2023

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Levelling Up Housing and Communities

Decision date: 27 November 2023

Appeal A Ref: APP/A2335/W/22/3295405

Appeal B Ref: APP/A2335/C/22/3299011

Appeal C Ref: APP/A2335/C/22/3299012

Land West of Castle O' Trim Farmhouse, Proctor Moor Road, Abbeystead, Lancaster LA2 0QB

Appeal A

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr and Mrs Miller against the decision of Lancaster City Council to refuse planning permission.
 - The application, Reference LCC 20/01312/FUL, dated 24 November 2020, was refused by notice dated 4 October 2021.
 - The proposed development is the erection of a temporary Rural Worker's Dwelling, Agricultural Building and Associated works.
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Appeals B and C

- 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 J Miller (Appeal B) and Mrs F Miller (Appeal C) against an enforcement notice issued by Lancaster City Council.
 - The notice was issued on 27 April 2022.
 - The breach of planning control as alleged is as follows: The laying of a hardcore track, alterations to land levels and the siting of two static caravans.
 - The requirements of the notice are as follows:
 - (a) To remove the hardcore access track as shown in the approximate position shown on Appendix B and reinstate the land to its former condition.
 - (b) To reinstate and regrade the excavated areas of land in the approximate position shown in Appendix C to the former condition and,
 - (c) To cease the use of the caravans for any residential occupancy and to remove the two static caravans from the land.
 - The Compliance period is 3 months.
 - The Appeals are proceeding on grounds (a), (b) and (g) as set out in section 174(2) of the Town and Country Planning Act 1990.
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Decisions

1. Appeals A is allowed.
2. Appeals B and C are allowed on ground (a).
3. See formal decisions below.

Preliminary matter

4. In September 2023, the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Matters of clarification

5. The Application form and the Appeal form in Appeal A refer to a '*temporary rural worker's dwelling*', as well as to an '*agricultural building and associated works*'. It is clear that the '*rural worker's dwelling*' comprises the two caravans, already on site, which together with a hardstanding and track, are the subject of the enforcement notice, for Appeals B and C.

6. In their decision notice the Council refers to what is intended to be the '*temporary rural worker's dwelling*' as being the '*siting of two caravans*'. I have dealt with the appeals accordingly and inspected the caravans during my site visit. At that time, they were not being used as residential accommodation and it was obvious that they had not been in such a use for some considerable time.

Introduction and background information

7. The Appellants' isolated farmstead, at 'Castle O' Trim', is located on the fellside of the Forest of Bowland Area of Outstanding Natural Beauty (AONB). The original farm was subdivided in 2017 and this resulted in the main farmhouse (Castle O' Trim), the farm buildings and a different rural worker's dwelling, now all being in separate ownership (4 ownerships). The main farmhouse is one of these and is a non-designated heritage asset, typical of other older farmhouses within the AONB. It appears to have been refurbished and there are UPVC windows set within the original stone- framed window openings. It has a replacement barn to the rear.

8. The Appellants' agricultural holding now extends to around 20ha and was purchased, over 6 years ago, in July 2017. Since then, the land has been in permanent pasture and presently provides the forage and fodder for beef cattle, sheep, and horses. In addition to this land the Appellants rent a further 11ha from a family member at what is referred to as a 'peppercorn rent'.

9. The Appellants have one existing large portal span agricultural building on their land which measures approximately 20m x 23m (460m²). It lies to the west of the original 'Castle O' Trim' farmhouse. The building provides housing for cattle and horses, lambing facilities for sheep, and storage of agricultural machinery. There are also two nearby smaller buildings on their land. One is a low brick-built building which has provided accommodation for pigs in the past and the other is a derelict shell of a former agricultural barn. The latter building is immediately to the south of the existing agricultural building.

10. At the time of my visit, Pedigree Charolais cattle were being housed and fed in the agricultural building and I understand that there were approximately 35 cattle on the holding at the time. There was also stabling for horses in the building, as well as hay, feedstuffs, and some farm machinery. Polythene-wrapped bales of hay, or straw, were stored immediately to the west of the building in the openair.

11. It is stated that the development of the Charolais herd is proceeding apace with the intention of having around 40 Pedigree British Charolais cows, plus stock bull/s and young stock. In addition, it is the intention to have a herd of 15 breeding female alpacas producing breeding females, studmales, and wethers; a flock of 100 commercial ewes producing lambs for sale; and 3 sows producing piglets reared for private meat sales. There are no alpacas on site at the moment.

12. The two linked static caravans are positioned to the south of the existing agricultural building, between the plywood-fenced boundary (approximately 2m in height) with the original farmhouse and the derelict shell of the former barn. The components of the proposed agricultural building were stored outside in the open, and to the north of the existing farm building.

13. The labour for the farming enterprises is provided by the Appellants with assistance from friends and family as required. It is indicated that the two caravans are required for the family (of 5 children) so that they can live close to, and monitor, the livestock. However, at the present time the Appellants live off-site with relatives. Although the caravans are on the site, it is confirmed in the appeal submissions that they are not occupied currently.

Relevant Policy

14. The development plan policies are set out in the Council's Strategic Policies and Land Allocations DPD (SPLADPD) and the Development Management DPD Policies (DMDPD). The most relevant are Policies EN2 (Areas of Outstanding Natural Beauty) and EN3 (The open countryside) of the SPLADPD and Policy DM46 (Development and Landscape Impact) of the DMDPD. The relevant policies of the National Planning Policy Framework (NPPF) are major material considerations and are set out in Sections 2 (Achieving sustainable development); 12 (Achieving well-designed spaces) and 15 (Conserving and enhancing the natural environment).

Relevant Planning History

15. As indicated above the Appellants purchased the holding and agricultural buildings in July 2017, without there being a farmhouse on the holding. The original farmhouse (Castle O' Trim), the other farm buildings and the surrounding farmland has now been split into 4 titles. The Appellants' land and buildings are described above.

16. A planning application in April 2018 sought a '*temporary agricultural worker's dwelling*' (the two caravans). This was withdrawn. A subsequent application for the same agricultural business was submitted in June 2018. A consultation response received from ADAS (the UK's largest independent provider of agricultural and environmental consultancy) determined that the proposal, at that time, was not sufficient for a full-time worker and thus this did not justify the functional need for a rural worker's dwelling. The application was again withdrawn.

17. A further application was submitted in March 2019 setting out a new business proposal for the keeping of alpacas on site, eventually increasing to 32 and again indicated to require the need for a rural worker's dwelling. The Council again concluded that the need for an agricultural worker's dwelling had still not been demonstrated and the application was refused.

18. On 1 September 2020 Planning Permission (19/00274/FUL) was again refused for the erection of an agricultural building, the siting of 2 caravans for a temporary period of 3 years and the installation of a package treatment plant. At that time

the two caravans had been sited on the land. These measure 9.2 metres in length, 3.4 metres in width and 2.55 metres in height. The hardstanding and track has also been constructed to the west, north and south of the agricultural building.

19. As well as being the subject of Appeal A, these works are now the subject of the enforcement notice Appeals B and C. It is not clear whether or not the package treatment plant has been installed. The proposed agricultural building comprises a new modern portal agricultural building with a 242sq.m footprint, measuring 11m wide x 22m long and a maximum of 5.15m in height. As referred to above the components for this are stored outdoors on site.

20. On 4 October 2021 Planning Permission was refused retrospectively for the erection of a *'temporary rural worker's dwelling (the two caravans), the agricultural building and associated works'* on the land. In relation to this application an Agricultural Report had been submitted which justified the need for an agricultural rural worker's dwelling. Although the Council accepts that this is now the case, the application was refused.

21. The sole reason for refusal was as follows:

1. The application site lies within the Forest of Bowland Area of Outstanding Natural Beauty (AONB), which have the highest status of protection in relation to landscape and scenic beauty. Great weight is given to conserving the landscape and scenic beauty within such areas, as confirmed by National Planning Policy Framework. The proposed development, due to the scale, massing, materials, and siting in close proximity to the public rights of way network, results in harm to the protected AONB landscape. As such, the proposal will neither conserve or enhance the protected landscape, contrary to the provisions of Policy DM46 of the Lancaster District Review of the Development Management Development Plan Document, Policy EN2 of Strategic Policies and Land Allocations DPD 2020, and the provisions of the National Planning Policy Framework, particularly Section 15.

22. Based on the agricultural report (and set out in the Officer Report) the Council accepted that the Appellants had now provided sufficient evidence to show a firm intention and ability to develop the agricultural enterprise. It is also accepted that, despite the length of time without a dwelling on site, the functional test had also been met and that, on balance, the enterprise was economically viable.

23. With regard to whether the functional need could be fulfilled by another dwelling on the business unit or nearby, the Council refers to the statement submitted on behalf of the Appellants. The report basically concluded that the nearest possible dwellings were too far away from the site. Reference was made to a previous Inspector's decision, where it was found that dwellings in excess of 670m from the site were *'well beyond the maximum realistic distance'* for the functional test to be met.

24. Policy DM10 of the DMDPD sets out the required criteria (or tests) for both permanent and temporary dwellings for rural workers. The Officer Report for the application (Reference LCC 20/01312/FUL), now the subject of Appeal A, clearly indicates that all but one of the necessary tests have been met. Thus, the Council still considers that Criterion VI (permanent dwellings) or Criterion XI (for temporary dwellings) have not been met. These criteria are basically the same and require that *'New dwellings are sited to minimize the impact on the surrounding area, are well-designed and well-related to existing agricultural buildings or other dwellings related to the business'*.

25. The Officer Report also confirms that the siting of the caravans and the farm building do not result in any harm to the living conditions of the owners of the adjacent non-designated farmhouse (Castle O' Trim) and the other dwelling. Similarly, it is confirmed that there are no objections from the Highways Authority and that there are no determining ecological or drainage issues relating to the proposed appeal developments.

26. Having considered all of the representations and having visited the site and the adjacent properties, I see no reason to disagree with the Council's conclusions with regard to most of the required criteria in Policy DM10. I also agree with their other conclusions regarding the effect on the living conditions of neighbours, highways, flooding, drainage and ecological matters.

27. It follows, therefore, that in relation to the planning merits of all three appeals the one remaining issue relates to the effect of the proposals and the unauthorised development on the character and appearance of this part of the Forest of Bowland AONB within the open countryside. I have considered Appeal A, and the planning merits of Appeals B and C on ground (a), together. But first, I dealt with Appeals B and C on ground (b).

Appeals A and B on ground (b)

28. Under this ground of appeal it is argued that the caravans have not been in residential use and, therefore, that what is alleged in the notice has not taken place as a matter of fact. However, the notice alleges: '*the laying of a hardcore track, alterations to land levels and the siting (my underlining) of two static caravans*'. Clearly the hardcore track has been laid; land levels have been altered and the two caravans are sited on the land. I noted these during my site visit.

29. I acknowledge that the third requirement, as set out in the notice, requires any residential use of the caravans to cease and that an agricultural use only could be lawful. However, the arguments set out on behalf of the appellants appear to have been made on the basis that there has been no breach of planning control and that the requirements are excessive. These would be arguments under grounds (c) and (f), neither of which have been pleaded.

30. Because what is alleged in the notice has occurred as a matter of fact, I consider that the ground (b) Appeals cannot succeed. However, in reaching my decision with regard to the appeals made on ground (a), I have taken all of the matters raised on behalf of the Appellants into consideration.

Appeal A and Appeals B and C on ground (a)

The Main Issue

31. The main issue for all Appeals is the effect of the proposals (Appeal A) and the unauthorised development (Appeals B and C) on the character and appearance of the area in this part of the Forest of Bowland AONB.

Reasons

32. I have fully inspected the Appeals site and seen the existing buildings and their immediate surroundings, from both near and distant viewpoints. I have seen the site from parts of the nearby public footpaths; from the garden and driveway of the neighbouring non-designated farm house (Castle O' Trim); from various distances along the access approach road (Proctor Moss Road) and from close quarters, adjacent to all of the existing buildings.

33. Having fully reflected on my inspection; all of the written submissions and particularly the detailed and comprehensive Landscape and Visual Impact Assessment (LVIA), I do not share the Council's conclusions that the developments result in harm to the protected AONB landscape. Whilst acknowledging the current general untidy nature of the site, I agree with the conclusions set out in the LVIA that the existing and proposed developments will conserve, rather than harm the character and appearance of this part of the AONB.

34. As I have done in my own assessment, the LVIA took into account the landscape related policies and documentation relating to landscape character and the visual amenity. I also consider that it gives due consideration to the policies and recommendations of the Forest of Bowland AONB contained within the AONB Management Plan.

35. The baseline study of the LVIA confirms the Appeals site as being within the Lancashire landscape character type of 'Moorland Fringe' and the landscape character area of 'Bowland and Gritstone Fringes'. The site is also within the Forest of Bowland landscape character type of 'Moorland Fringe and the landscape character area of Hare Appletree'. The LVIA, therefore acknowledged that, because of its designation in the AONB, the sensitivity of the landscape to accommodate change is deemed to be high. I agree with this conclusion.

36. I also agree with the findings of the LVIA that the greatest effects of the existing and proposed developments are localised within the site boundary. As indicated above, the site is in an untidy and, in some places, an unkempt condition. However, in terms of the effect of the development, it is clear from my own inspection, as well as from the LVIA photographs (various Visual Baselines), that the main elements of what is proposed and what is on site already (including the caravans) are well-screened from viewpoints from the surrounding 'Moorland Fringe'.

37. From the north, looking south along the track, the proposed agricultural building would be perceived as being part of a typical farm grouping. It would be seen as being well within the site, bounded by the Appellants' existing farm building and the 'Castle O' Trim' farmhouse and its replacement barn. It would not be perceived as extending beyond the overall farm building boundaries, into the AONB.

38. Due to their specific position in the middle of the existing farm buildings neither would the two caravans, in my view, be seen as being obtrusive, unlike the one which is in another ownership located to the south-east of the farmhouse. This other caravan, which appears to be on land associated with 'Hillcrest' is distinctly noticeable from the approach road.

39. The appeals caravans, on the other hand, can hardly be seen due to the fact that they are screened by the dilapidated stone barn from the west. The caravans are also screened on the eastern boundary by the 2m fence, although the tops are still noticeable from the front and driveway of the 'Castle O' Trim' farmhouse.

40. With regard to the track and hardstanding areas, which lie along the west and northern boundaries of the site, these have the appearance of a typical farm track. Although surfaced in part, with lightly coloured stone chippings, the track itself is not distinctly noticeable from distant viewpoints, or when approaching from the west.

41. In any case, it appears that some of the hardstanding in front of the existing farm building has been in place for some time. The newly laid track is fenced on both sides and having been constructed in this location means that the Appellants have access to their existing farm building without passing along the neighbouring farmhouse's driveway to the east.

In conclusion, therefore I do not consider that the track and hardstanding cause any visual harm to this part of the AONB.

Overall Conclusion on Appeal A, and ground (a) for Appeals B and C

42. I agree with the conclusions set out in the LVIA that the site is able to accommodate the development as proposed (the agricultural shed) and as partly carried out (the caravans, hardstanding and track), without causing any undue harm to the character and appearance of this part of the AONB.

43. I consider that the developments therefore accord with Policies EN2 (Areas of Outstanding Natural Beauty) and EN3 (The open countryside) of the SPLADPD and Policy DM46 (Development and Landscape Impact) of the DMDPD. I also consider that the proposed rural worker's dwelling accords with Policy DM10 of the DMPD. Planning permission will, therefore be granted and the enforcement notice will be quashed. I am also satisfied that the developments are not contrary to policies in the relevant sections (2, 12 and 15) of the NPPF.

44. Because Appeals B and C have succeeded on ground (a), the appeals on ground (g) do not fall to be considered.

Other Matters

45. Having seen the appeals site from the garden and driveway of the 'Castle O' Trim' farmhouse, I can understand the frustrations and concerns of the owners of this adjacent dwelling. Clearly, they have had to endure the current untidy situation for some considerable time.

46. However, once the original holding was split into 4, it was inevitable that adjacent owners would wish to develop their land, whether as an agricultural business and/or for residential use. This has clearly happened and not just in the Appellants' case.

47. In the Appellants' case the intention was always to establish their agricultural business and provide a dwelling on their land, although it has taken a considerable time to reach the present stage.

48. Nevertheless, in my view they have now demonstrated that the enterprise accords with the relevant development plan policies and, in particular, that a temporary rural worker's dwelling and a new farm building are justified in planning terms. I have also concluded that the development as carried out/proposed is not contrary to the aims of protecting the character and appearance of the AONB.

49. In reaching my conclusions in all 3 Appeals I have taken into account all of the submissions made by and on behalf of the Appellants, by the Council and by interested persons. These include the Officer Report(s); the full planning history of the site; the Appellants' initial submissions; the detailed statements; the final submissions; the LVIA; the photographic evidence and all of the correspondence from the occupiers of the 'Castle O' Trim' farmhouse.

50. However, none of these alter my conclusions on the main points of issue in all three Appeals. Nor is any other factor of such significance to change my decisions that all three appeals should succeed.

Conditions

51. I consider that standard conditions relating to commencement of development; the carrying out of development in accordance with approved drawings; landscaping; the normal restriction for a temporary rural worker's dwelling (the caravans) and restriction of permitted development rights are necessary. These are set out in the Schedule below.

Formal Decisions

Appeal A

52. Appeal A is allowed and planning permission is granted for the erection of a 'Temporary Rural Worker's Dwelling, Agricultural Building and Associated works' on Land West of Castle O' Trim Farmhouse, Proctor Moor Road, Abbeystead, Lancaster LA2 0QB, subject to the conditions set out in the Schedule below.

Appeals B and C

53. Appeals B and C are allowed, and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under Section 177(5) of the Act, subject to the same conditions set out in the Schedule below.

Anthony J Wharton

Inspector

Schedule of Conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following plans, all dated November 2020: SC/Miller/01; SC/Miller/02; SC/Miller/03 and SC/Miller/04.
3. The use hereby permitted for the Rural Worker's Dwelling (the two caravans) shall be for a limited period, being the period of 3 years from the date of this decision. The use hereby permitted shall be discontinued and the dwelling (the two caravans) shall be removed from the site at the end of this period. The land shall be restored to its former state on or before a further three months after the expiration of the three-year period, in accordance with a scheme of work to be agreed in writing by the Local Planning Authority.
4. The occupation of the dwelling (the two Caravans) hereby approved shall be limited to persons solely, or mainly, working, or last working, in the locality in agriculture or in forestry or a widow or widower of such a person, and to any resident dependants.
5. No development shall commence until a scheme of hard and softlandscaping has been submitted and approved in writing by the Local Planning Authority. The approved scheme shall be carried out within the first planting season following the occupation of the dwelling (the two caravans) and the completion of the agricultural building.
6. The parking and service areas for the agricultural building shall be laid out in accordance with the approved details. Such areas shall be permanently retained for the purpose of parking and manoeuvring of vehicles, as the case may be.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out under Schedule 2, Part 1 (Development within the curtilage of a dwellinghouse) Classes A, B, C, D and E other than those expressly authorised by this permission.

End of Schedule