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## Appeal Decisions

Site visit made on 23 July 2024

**by Stephen Hawkins MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 August 2024**

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### **Appeal A Ref: APP/Z3825/C/22/3297703**

#### **Windacres Farm, Church Street, Rudgwick, West Sussex, RH12 3EG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr John Bailey of Windacres Farm against an enforcement notice issued by Horsham District Council.
  - The notice was issued on 6 April 2022.
  - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from use for agricultural purposes to a mixed use for agriculture and for the stationing of a storage container for human habitation ('the building').
  - The requirements of the notice are: (1) Permanently cease the use of the land for the stationing of the building. (2) Permanently cease the use of the land or any part thereof for residential human habitation. (3) Permanently remove from the land, the building and all residential paraphernalia associated with it. (4) Remove from the land all materials and debris resulting from the compliance with the above steps (1), (2) and (3). (5) Restore the land to its former condition before the breach took place.
  - The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) 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 B Ref: APP/Z3825/W/22/3290509**

#### **Windacres Farm, Church Street, Rudgwick, West Sussex RH12 3EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr John Bailey of Windacres Farm against the decision of Horsham District Council.
  - The application Ref is DC/21/1200.
  - The development proposed is described as '*relocated stationing of residential unit for temporary period.*'
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### **Decisions**

1. Appeal A-The appeal is dismissed and the enforcement notice is upheld. Planning Permission is refused on the application deemed to have been made under section 177(5) of the 1990 act as amended.
2. Appeal B-The appeal is dismissed.

### **Preliminary Matter**

3. These Decisions take into account the revised National Planning Policy Framework (the Framework), published on 19 December 2023.

## **Appeal A, Ground (a) appeal and Appeal B**

### **Background & Main Issues**

4. The appeals concern a prefabricated metal cabin used for residential purposes, stationed towards the southern edge of a substantial field. The cabin was formerly located to the south, adjacent to large modern farm buildings. An enforcement notice attacking the residential use of the cabin in its previous location was upheld at appeal in November 2019. The cabin is situated in countryside, outside the built-up area for the village in the Horsham District Planning Framework (LP). The main issues in these appeals are therefore:
  - Whether there is an essential need for residential accommodation for a rural worker.
  - The effect on the character and appearance of the surrounding countryside.
  - The effect on European Protected Sites.

### **Reasons**

#### *Need for accommodation for a rural worker*

5. Policy 20 of the LP supports new housing for rural workers outside built-up areas provided there is a functional need for the dwelling, its occupation is to support the established business use and there is evidence to demonstrate the viability of the rural business for which the housing is required.
6. The above reflects paragraph 84 of the Framework, which advises that the development of isolated homes in the countryside should be avoided other than in circumstances which include where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The Planning Practice Guidance chapter 'Housing needs of different groups' sets out some of the considerations to be taken into account when assessing the need for an isolated new home in the countryside for a rural worker.
7. My understanding is that the appellant previously occupied a nearby farm dwelling, demolished in 2017 as part of a mixed residential and commercial development that included the former farmyard. The appellant seeks temporary planning permission to reside in the cabin for three years whilst further building up their agricultural enterprise. The appellant's agricultural report states that the enterprise currently consists of 33 hectares of pasture and arable land, in the appellant's ownership for several years, with a further 24 hectares of pasture and arable land farmed on a shared basis. From the report, I understand that the enterprise rotates crops of wheat, oats and beans, with the pasture being conserved as hay or silage.
8. The appellant has clearly sustained their agricultural enterprise centred on the farm over many years. There has been significant investment in farm buildings including a corn store and lean-to in recent years, with the erection of a tractor shed also planned following the receipt of prior approval from the Council. Also, it is proposed to introduce a flock of 500 free-range hens to produce eggs. There is little doubt over the appellant's intention to build up the enterprise.
9. Be that as it may, the agricultural report indicates that activity associated with the enterprise currently falls well short of the number of man hours which

would normally equate to that of a full-time worker. Reference in the report to the appellant splitting their time between the farm and their nearby metal recycling business is also supportive of the enterprise having a current labour requirement for a part-time worker.

10. Furthermore, the agricultural report estimates that even with the free-range egg production proposed, the future labour requirement for the enterprise would be roughly equivalent to half that of a full-time worker. Although it would undoubtedly be more convenient for the appellant to be on hand at the farm to supervise collections and deliveries, as well as the proposed poultry flock, that does not equate to a round-the-clock presence being essential. Therefore, I cannot reasonably be assured that there would be a functional need for residential accommodation at the farm during the period for which permission is sought.
11. In addition, little firm evidence was supplied concerning the future viability of the enterprise. For example, no business plan which clearly set out the estimated financial returns for the expanded enterprise over the period for which permission is sought, was forthcoming. In the absence of such information, the levels of income that are/would be generated by the enterprise are not clear. Nor can there be assurance that the investment costs together with the day-to-day expenses associated with the running and maintaining of the enterprise have been taken into account in any financial planning. As a result, although the enterprise may well have been financially viable in previous years, I cannot reasonably be confident that it would endure for the foreseeable future.
12. The appellant explained that incidences of rural crime in the County are amongst the highest in the UK, this being reflected in recorded crime in the surrounding area. The farm can be accessed from the village and nearby footpaths with relative ease. It is possible that the presence of the appellant within sight and sound of the farm buildings and surrounding land at most times might assist in reducing the risk of crime from, for example, thefts of high value farm vehicles, plant and machinery or crops, or incidences of vandalism or aggravated trespass. In addition, it is likely that the continuous on-site presence of the appellant would support the proposed poultry enterprise by promoting efficient egg production and assisting in safeguarding the welfare of hens.
13. Nevertheless, there is little firm evidence to indicate that installing a combination of security measures such as fencing and gates, alarm systems, tracker systems and/or remote systems such as CCTV, would not be equally as efficient and effective in terms of deterring potential criminal activity. Similarly, no explanation was offered as to why CCTV could not be used to effectively monitor the site remotely, for example to detect problems with the proposed poultry flock outside of normal working hours or in the event of severe adverse weather conditions occurring, so that emergencies are dealt with quickly. As a result, I am not persuaded that the risk from crime or to animal health lends more than limited support to granting permission for the cabin.
14. From the information supplied, it is evident that the ownership of most residential property in the village and the surrounding area would be beyond the affordability of the majority of rural workers. Even so, whether similar

considerations also apply in respect of the local rented sector is uncertain. Moreover, in the absence of further details, it is unclear whether the likely costs associated with financing the purchase or rental of property in the locality would be unaffordable on the income obtained from the enterprise. Accordingly, I am not convinced that other suitable residential property, conveniently located in relation to the farm, is unavailable.

15. Drawing the above matters together, on the evidence available I cannot reasonably be assured that there is or would in the near future be an essential need for a rural worker to be present on the farm at most times. Furthermore, based on the limited information before me I am not persuaded that the expanded enterprise would be viable and have a realistic prospect of continuing to be so.
16. In the absence of a functional need for a dwelling to support a demonstrably viable business, the stationing and residential use of the cabin is in conflict with LP Policy 20. Since the cabin is not essential to its countryside location to support the needs of agriculture there is also conflict with LP Policy 26, which seeks to protect the rural character and undeveloped nature of the countryside outside of built-up areas against inappropriate development. There are consequential conflicts with LP Policies 1, 3 and 4, which concern, respectively, sustainable development, development hierarchy and settlement expansion. In addition, in the absence of an essential need for a rural worker to live permanently at the farm there is a failure to enhance or maintain the vitality of rural communities, this being inconsistent with the Framework.

#### *Character and appearance*

17. The cabin occupies a predominantly open countryside setting, adjoining a largely undeveloped area of land in rural use which is separate from the built-up area, both physically and in visual terms.
18. The angular lines, box-like profile and metal surface finishes give the cabin an obviously manufactured, utilitarian appearance which does not relate well to and is entirely at odds with the softer, more naturalistic shapes of the surrounding landscape features. The maturing hedge along the southern boundary of the field acts as a partial screen in some views. Even so, the cabin is visible from the surrounding countryside, including from public footpaths, especially when foliage is absent during the winter and early spring months.
19. The cabin is therefore perceived as an isolated and obvious, alien feature in its otherwise largely open and undeveloped rural setting. It follows that the re-siting of the cabin has, if anything, reinforced the adverse visual impacts identified by the Inspector in dismissing the previous appeal. Granting a temporary permission would perpetuate the visual harm identified.
20. Consequently, the cabin unacceptably and harmfully erodes the character and appearance of the surrounding countryside. This is in conflict with LP Policy 25 which seeks to protect the landscape character of the District against inappropriate development as well as conflicting with LP Policy 33, which requires development to conserve the natural environment, including by relating sympathetically to the local landscape.

### *European Protected Sites*

21. The site is located within the Sussex North Water Supply Zone, which is sourced from groundwater abstraction points that include the Arun Valley Special Protection Area/Special Area of Conservation and Ramsar site. According to Natural England, it cannot conclude that existing abstraction in the supply area is not having an adverse effect on the integrity of these areas of nature conservation. New developments in the supply area are therefore required to not add to this adverse effect by demonstrating water neutrality, i.e., that the use of water before the development is the same or lower after the development.
22. No strategy to demonstrate the required water neutrality, either through the incorporation of on-site measures and/or by appropriate offsetting actions capable of achieving water neutrality, was supplied. As a result, there can be no reasonable certainty that the residential use of the cabin does not contribute to the existing adverse effect on the areas of nature conservation. The seeking of a temporary permission makes little difference to the need to demonstrate water neutrality.
23. For the above reasons, residential use of the cabin conflicts with LP Policy 31 which seeks to resist development that is anticipated to have an adverse impact on sites or features for biodiversity. Furthermore, it contravenes the Conservation of Habitats and Species Regulations 2017 and is inconsistent with the Framework, which in chapter 15 seeks the conservation and enhancement of the natural environment.

### *Other matters*

24. The Inspector in the previous appeal was not persuaded on the available evidence that the appellant's residential accommodation needs could not be met by alternative means. There is little sound reason why I should not reach a similar view and accordingly attach limited weight to the appellant's personal circumstances, having regard to the evidence before me.

### **Overall Conclusions**

25. There is no essential need for the stationing and residential use of the cabin, there is unacceptable harm to the character and appearance of the surrounding countryside and adverse impacts on the areas of nature conservation, all of which is in conflict with the Development Plan, taken as a whole. Granting permission for a temporary period would perpetuate the above harm and the consequent conflicts with the Development Plan and would not be justified or reasonable.
26. Dismissing the appeals would interfere with the appellant's rights under Article 1 of the First Protocol and Article 8 of the Human Rights Act 1998, which afford individuals rights to peaceful enjoyment of their possessions and to a private and family life and home. However, those are qualified rights and interference is justified in this instance being in accordance with the law and in the public interest of upholding the Development Plan and national planning policy. As there are no lesser alternatives that would achieve the public interest aims, such interference is also proportionate.
27. Additionally, I have had due regard to the Public Sector Equality Duty (PSED) contained in s149 of the Equality Act 2010, which sets out the need to

eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who share a relevant protected characteristic and people who do not share it. The appellant's age means that they have a protected characteristic for the purposes of the PSED. Even so, upholding the enforcement notice and refusing to grant planning permission for the cabin would not involve discrimination, it would be proportionate and doing so is necessary to foster good relations in accordance with the PSED.

28. Therefore, there are no material considerations that indicate these decisions should be made other than in accordance with the Development Plan and I conclude that the appeals should not succeed.

*Stephen Hawkins*

INSPECTOR