

Appeal Decision

Site visit made on 2 September 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02nd October 2024

Appeal Ref: APP/J2210/C/22/3313648

Land forming part of Woodlands Farm, The Street, Adisham, Canterbury

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr John Horton of Woodland Forestry (Adisham) Ltd against an enforcement notice issued by Canterbury City Council.
- The notice was issued on 24 November 2022.
- The breach of planning control as alleged in the notice is Without planning permission the erection of a building including the connection to utilities, the siting of a post-box and the stationing of a shipping container and building materials on agricultural land in an Area of Outstanding Natural Beauty.
- The requirements of the notice are: 1. Permanently remove the Building. 2. Permanently remove the utilities box and post box. 3. Permanently remove the shipping container. 4. Permanently remove all building materials.
- The period for compliance with the requirements is six months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), and (f) of the Act. 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 Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Ground (b)

1. To succeed under this ground of appeal the appellant needs to show that the alleged breaches of planning control have not occurred. The appellant has confirmed that the appeal under this ground relates only to the alleged siting of a post box and the alleged stationing of building materials on the land.
2. A gate with a post box provides access to the site from Woodlands Road. The site is isolated parts of a field and woodland located a significant distance to the south of the gate on Woodlands Road. It is clear that the post box is not within the site and that there are no post boxes within the site.
3. Photographs provided by the Council show what the appellant has described as materials associated with the maintenance of trees and land, such as tree guards in bags. However, some of the photographs also show what appear to be fence posts, mesh fencing, pipes, window frames, a gate, and stacked timber planks/posts. These items can reasonably be described as building materials, considering they could be used in a range of building operations.
4. The appeal under ground (b) therefore succeeds in part, insofar as it relates to the siting of a post box, and the notice shall be corrected accordingly. Otherwise, the appeal under ground (b) fails.

Ground (c)

5. To succeed under this ground of appeal the appellant needs to demonstrate, on the balance of probabilities, that the alleged breaches are not in breach of planning control. The appellant's submissions under this ground of appeal relate only to the alleged stationing of building materials on the land.
6. Section 57 of the Act sets out that planning permission is required for the development of land. Section 55 of the Act provides the relevant meaning of development as 'the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'.
7. The notice does not allege that any material change of use has taken place. Considering the general nature of the building materials on the land, and the small number of items, it is likely most of them are for uses associated with an agricultural/forestry use of the land. This does not apply to the window frames and pipes, but these few items are so insignificant in size and number that they do not result in a material change in the use of the land.
8. The building materials which have been stationed on the site cover a limited area and are generally very small in size themselves. They rest in place on the land under their own modest weights, and they could easily be moved by hand. The appellant has explained how they only have a passing presence on the land, and I noted that most of the items had been moved or removed by the time of my site visit. I have no difficulty in concluding that the stationing of building materials on the land in this particular case did not involve building or other operations requiring planning permission.
9. The building and the shipping container are both large structures which remain in position under their own substantial weights. No details have been provided as to how they came to be on the land, but they have not moved since the Council's visit in February 2022. This is despite the building having a pair of wheels and a towing shackle crudely attached. I also noted a water connection leading into the building and a foul water pipe leading out, into the ground.
10. Both the building and the shipping container have a significant degree of permanence and are being used for purposes normally associated with permanent buildings. On the limited evidence, I find that the erection of the building and the stationing of the shipping container in this case both involved building or other operations requiring planning permission. I am not aware of any planning permissions they may benefit from.
11. I therefore find that the stationing of building materials on the land in this case does not comprise development requiring planning permission. This part of the alleged breach is not in breach of planning control. However, the erection of the building and the stationing of the shipping container are in breach of planning control.
12. The appeal under ground (c) therefore succeeds in part, insofar as it relates to the stationing of building materials, and the notice shall be corrected accordingly. Otherwise, the appeal under ground (c) fails.

Ground (a) and the deemed application for planning permission

13. The main issues are:

- The effect of the building and the shipping container on the character and appearance of the land, with particular regard to the Kent Downs National Landscape (the NL); and
- The effect of the building and the shipping container on biodiversity.

Character and Appearance

14. The site is located within the NL. It is a remote area of countryside characterised by rolling fields lined by trees and hedgerows, and woodland. The building is in an exposed position, close to the edge of a field, whereas the shipping container is surrounded closely by trees on three sides.
15. The building has the appearance of a large domestic outbuilding, with exposed water connections, extensive glazing, and a wood burner flue protruding from its tiled pitched roof. It is an odd and uncharacteristic feature for this location, which would be better suited to a suburban setting. It can be seen in long views from within the NL, despite its low profile and dark finish.
16. The shipping container is of typical, industrial appearance and was partially hidden amongst overhanging trees during my visit. It is light green in colour, which blends, to a limited extent, with the adjacent woodland. Views of the shipping container from outside the site are much more limited than those of the building on account of its position within the woodland. I accept that shipping containers are sometimes used for functional purposes associated with the management of rural activities, but this does not make them an expected or sympathetic part of this landscape.
17. Neither the building nor the shipping container is a typical feature for the land, or the NL. They are intrusive forms of development in this rural landscape. As uncharacteristic development in the remote countryside setting, they harm the undeveloped and natural character and appearance of the area, including the landscape and scenic beauty of the NL. That harm could not be addressed by conditions, including a condition requiring the removal of the development should a forestry use of the land cease.
18. The building and the shipping container are therefore contrary to Policies DBE3, LB1, and LB4 of the Canterbury District Local Plan (2017) (the CDLP). These seek to promote, protect and enhance the distinctive character of the District through development which reinforces and positively contributes to its local context, including landscape character, amongst other things. Policy LB1 specifically seeks to conserve and enhance the natural beauty of the NL.

Biodiversity

19. The site is not within or especially close to ancient woodland and there is no evidence that the building or the shipping container are likely to have had any effect on irreplaceable habitats. No details have been provided to show the whole of the NL or the appeal site is a site of county importance for nature conservation.

20. As the site was previously undeveloped, the building and the shipping container are likely to have had some effect on biodiversity, but there is little information to suggest such effect would be anything other than negligible in this instance. Furthermore, it is notable that significant planting has taken place within and around the site as part of a substantial afforestation and rewilding effort across 53 hectares.
21. The benefits to biodiversity from planting new woodland, hedgerow, and wildflower meadow on former arable farmland are clear. The progress of the appellant's Higher Tier Countryside Stewardship Scheme at the site is commended in a letter¹ from Natural England's Land Management Adviser, which states 'I can see no negative aspect of your welfare facility or your container that you store your equipment in on site'. None of this has been disputed by the Council. The evidence suggests that the building and the shipping container may be associated with those biodiversity improvements, even if they are not required for those purposes.
22. On the evidence, it is unlikely that the building or the shipping container have had any notable effect on biodiversity. I therefore find no conflict with Policy LB8 of the CDLP, which seeks to retain, protect and enhance notable ecological features of conservation value, amongst other things. However, as it has not been shown that the biodiversity improvements rely on the building and the shipping container, the development does not draw support from Policy LB8 either.

Other Matters and Conclusion on Ground (a) and the deemed application for planning permission

23. The fact that the Council may have granted prior approval for forestry buildings nearby, including within the NL, does not show that forestry buildings are acceptable in principle in this location. Furthermore, any planning permissions granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) are subject to strict conditions and limitations. On the evidence, I consider there to be less than a theoretical possibility that new buildings with the same effects as the building and shipping container in this case could be erected on the site with the benefit of planning permission granted by the GPDO.
24. The Kent Downs Area of Outstanding Natural Beauty Management Plan 2021-2026 (the NL Management Plan) promotes the extension and increased connectivity of woodlands, and sets out a number of principles and objectives applicable to the ongoing management of the NL. I have also been referred to Policy EMP13 of the CDLP, which supports new agricultural buildings, where there is a demonstrated economic need for them, and where harm to setting and landscape is avoided.
25. There is little information, economic or otherwise, to show that the building or the shipping container are required for the appellant to continue the management of the land. I appreciate that welfare and storage space may assist land management activities, but the evidence does not show how the building and shipping container are required for these purposes, or how any

¹ Dated 13 December 2022, the appellant's Appendix B

such need may outweigh the harm they cause to the character and appearance of the area.

26. For the above reasons, I find that the NL Management Plan and Policy EMP13 offer very little support, if any, to the development. Any planning permissions granted by the GPDO also lend very little support to the development. Moreover, I am unconvinced that the building and the shipping container are required to manage the land effectively, notwithstanding the positive effects of the planting and rewilding on biodiversity.
27. Overall, the harm caused by the building and the shipping container to the character and appearance of the area is not outweighed by the matters weighing in their favour. The building and the shipping container are contrary to the development plan as a whole and there are no other considerations which indicate planning permission should be granted in this instance.
28. The appeal under ground (a) therefore fails and the deemed application for planning permission is refused.

Ground (f)

29. To succeed under this ground of appeal the appellant needs to show that the steps required to be taken exceed what is necessary to remedy the breaches of planning control or, as the case may be, to remedy injury to amenity.
30. The notice requires the removal of the breaches of planning control from the land. Its purpose is therefore to remedy the breaches, rather than any injury to amenity. Retaining the building and the shipping container, even for temporary periods, would not achieve the purpose of the notice. There are no lesser steps or obvious alternatives which would achieve the purpose of the notice with less cost or disruption.
31. The appeal under ground (f) therefore fails.

Conclusion

32. For the reasons given above, I conclude that the appeal should succeed in part only under grounds (b) and (c), but otherwise the appeal fails. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Formal Decision

33. It is directed that the enforcement notice is corrected by the deletion of the following text: 'the siting of a post-box', 'and building materials on agricultural land in an Area of Outstanding Natural Beauty (AONB)', 'and post box', and '4. Permanently remove all building materials'. Subject to the corrections, 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 Act.

L Douglas

INSPECTOR