



Appeal Decision

Site visit made on 20 January 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2025

Appeal Ref: APP/C1760/C/24/3351649

Land and premises known as Mount Pleasant Game Farm, Mount Lane, Lockerley, Romsey

- 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 Peter Loizou against an enforcement notice issued by Test Valley Borough Council.
 - The enforcement notice was issued on 30 July 2024.
 - The breach of planning control as alleged in the notice is: Without planning permission the carrying out of unauthorised operational development, comprising; (i) Construction of a dwellinghouse (ii) Erection of a timber decking (iii) Erection of a timber outbuilding (iv) The formation of hardstanding, access track and footpath (v) Erection of close boarded timber fencing and metal gates that are over 1m in height adjacent to the highway.
 - The requirements of the notice are: (i) Demolish the dwellinghouse, and remove all materials and waste resulting from the demolition from the land. (ii) Demolish the timber decking, and remove all materials and waste resulting from the demolition from the land. (iii) Demolish the timber storage building, and remove all materials and waste resulting from the demolition from the land. (iv) Demolish the close boarded timber fencing and metal gates at the entrance to the land, and remove all materials and waste resulting from the demolition from the land. (v) Remove the hardstanding, track and footpath from the land.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Summary of Decision

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

Preliminary Matters

2. Further to lodging the appeal, the appellant confirmed in writing the withdrawal of various grounds of appeal. The appellant therefore seeks the appeal to be pursued on ground (a) only in respect of the erection of the timber storage building, and then ground (g) in respect of all the developments enforced against.
3. The appellant contends the enforcement notice does not require the cessation of egg production and residential occupation at the site. The notice is however very clearly only directed at operational development. The unauthorised construction of a dwellinghouse is then correctly required to be remedied by its

demolition, following which, S173(11) of the Act would not give rise to a consequent lawful use for a residential caravan site.

4. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. It however does not raise new material planning considerations for the purposes of my assessment and therefore injustice to the parties does not arise.

The ground (a) appeal

Main Issues

5. The main issues are:

- whether the building is in a suitable location having regard to planning policy; and,
- the effect of the building on the character and appearance of the area.

Reasons

6. The site relates to a parcel of land set in rural surroundings. The development for the purposes of the ground (a) appeal relates to the erection of a small and partially open fronted timber storage outbuilding.

Location

7. The site is located outside of a settlement boundary and is therefore in the countryside for planning policy purposes.
8. Policy COM2 of the adopted Test Valley Borough Revised Local Plan DPD 2011-2029 (the LP) is concerned with development outside the boundaries of settlements. It states that development will only be permitted if a) it is appropriate in the countryside as set out in a number of then listed policies, or, b) it is essential for the proposal to be located in the countryside. Neither party has provided a copy of the listed policies and therefore I presume they are not applicable to the building concerned.
9. There however thus remains a need to ensure the building is essential to be located in the countryside, given the apparent restraint on development. To this effect, the appellant advises the building is used to store timber for bird rearing pens/existing buildings at the site and logs in connection with the dwellinghouse use.
10. The building is however small and there is another outbuilding at the site, which is sizable, and for which I have little evidence as to its unsuitability or a lack of practical space to store timber in connection with the lawful use of the site. Moreover, the dwelling is to be demolished as a result of the enforcement notice and there would therefore not be an ongoing requirement to store logs.
11. Even if it is said to be a replacement structure utilising some of the original materials, it does not amount to evidence of an essential need for the building now constructed. There is accordingly development restraint in the countryside and then insufficient evidence of an essential need for the building concerned.
12. I conclude there is not an essential need for the building and so it is not in a suitable location and in contravention of Policy COM2 of the adopted LP. This is a planning harm to which I attach considerable weight.

Character and appearance

13. The building is small and partially open fronted. It utilises an existing concrete base. It could be stained a darker colour, which could be controlled by a suitably worded planning condition.
14. Whilst the building is visible in wider views, it is viewed against the backdrop of trees and located between a range of other outbuildings. This would remain the case even when the dwelling is demolished, albeit it would become slightly more prominent.
15. Although the building is comparatively makeshift, it is small and given the range of other buildings it does not appear conspicuous. No important features such as trees have been lost. Consequently, on balance, it does not have a detrimental impact on the appearance of the immediate area.
16. I conclude the building is not harmful to the character and appearance of the area and accords with Policy E2 of the LP, which requires, amongst other things, for development to not have a detrimental impact on the appearance of the immediate area. The absence of this harm attracts neutral weight.

Planning balance

17. The building is not essential to be located in the countryside, which is a harm that attracts considerable weight. There are then no material considerations which outweigh this harm.

Conclusion

18. For the reasons given above, I therefore conclude that the ground (a) appeal should fail.

The ground (g) appeal

19. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short and that 18 months would be a more reasonable timescale.
20. The appellant explains that a daughter has health issues and has benefited from stability and living around animals at the site. A medical letter has been provided which verifies this. This is also the appellant's main residence, and there will be a need to find alternative accommodation and sell the site and structures. Rearing birds would also need to be disposed of.
21. Whilst I have considerable sympathy for the appellant and these circumstances, there is now a deemed acceptance that the family will, at the very least, no longer be able to reside at the site. Whilst this will inevitably lead to upheaval, I then have little evidence to demonstrate that children will need to change schools, for example. I also have very little evidence as to the appellant's ongoing financial circumstances to demonstrate they would not be able to afford to live in the area.
22. There is accordingly little evidence to demonstrate how the best interests of the child are served by extending the compliance beyond the already reasonably generous period given of 9 months. There is thus little to persuade me that additional time will make the inevitable transition any smoother or more

practicable and I note the latter part of the compliance period would now fall during the school summer holidays.

23. I then have very little evidence to demonstrate why the disposal of the rearing birds or need to find alternative accommodation is an impediment to complying with the notice in the 9 months given. I appreciate the appellant indicates they will also want to sell the site and structures, but there is very little to convince me that a longer timeframe will make this any more feasible, given the sales process cannot be predicted, and the appellant also wishes to try and seek removal of a covenant. I however note from the estate agent letter that they are said to already hold a number of interested parties, which demonstrates a quick sales process may be achieved.
24. Whilst the Council had indicated a period of 12 months could have been agreed had the entirety of the appeal been withdrawn, that was not the case, and I am in any event not bound by this. Accordingly, a period of 9 months strikes the appropriate balance for the above reasons and so as to not unduly perpetuate the breaches of planning control.
25. The appeal on ground (g) therefore fails.

Overall Conclusion

26. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

27. 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.

Paul T Hocking

INSPECTOR