



Appeal Decisions

Site visit made on 17 March 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2025

Appeal A: APP/L3815/C/24/3337338

Land at Tykes Farm Barn, Somerley Lane, Earnley, East Wittering

- 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 James S. Hazelgrove against an enforcement notice issued by Chichester District Council.
 - The enforcement notice was issued on 12 December 2023.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a garage building.
 - The requirements of the notice are: (i) Demolish the said garage building and; (ii) Remove the resulting debris from the Land and; (iii) Following compliance with steps (i) and (ii) re-seed the Land with grass.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/L3815/W/24/3341283

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James S. Hazelgrove against the decision of Chichester District Council.
 - The application Ref E/23/02147/DOM, dated 12 September 2023, was refused by notice dated 11 January 2024.
 - The development proposed is erection of detached garage and store.
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Summary of Decisions

Appeal A

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

Appeal B

2. The appeal is dismissed.

Preliminary Matter

3. There has been a revised National Planning Policy Framework (the Framework) published by Government since the enforcement notice was issued. It however does not raise new issues that are determinative for the purposes of my assessment and therefore injustice to the parties does not arise.

Appeal B – The refusal of planning permission

Main Issues

4. The main issues are:

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

Reasons

5. The site relates to a small parcel of land that contains a dwelling and some buildings which are in a fairly remote location with adjoining land being open fields with treed borders. The development relates to the erection of a detached garage and store building.

Location

6. The site is located outside of a settlement boundary and is therefore in the countryside for planning policy purposes.
7. In terms of the sites planning history, there is evidence of an approval for the change of use of an agricultural building to a dwelling, with a tightly drawn and approved curtilage, as well as a certificate of lawfulness for two buildings comprising garage and workshops. There is however very little evidence that the area where the appeal building is situated benefits from a planning permission or certificate of lawfulness for purposes other than agriculture, even though the land may not have been in active agricultural use.
8. Policy 2 of the adopted Chichester Local Plan: Key Policies 2014-2029 (the LP) states that development outside of listed settlements is restricted to that which requires a countryside location or meets an essential local rural need or supports rural diversification. Policy 45 of the LP states that within the countryside, development will be granted where it requires a countryside location and meets the essential, small scale and local need which cannot be met within or immediately adjacent to existing settlements.
9. The building is a very sizable one in terms of footprint and height. The appellant's use of the building is in connection with his motor racing hobby and to allow a relative to train for indoor sports. That being so, whilst the location of the building might be very convenient for the appellant, there is very little evidence that the use of the building itself requires a countryside location or otherwise meets an essential small-scale need that cannot be met within or immediately adjacent to existing settlements.
10. The building is also used for the storage of machinery for the upkeep of the appellant's land, but there is very limited evidence as to any wider land holding that could then support the retention of this very sizable building.
11. I conclude the building is not in a suitable location, having particular regard to planning policy, and is in contravention of Policies 2 and 45 of the LP.

Character and appearance

12. The predominant character of the surrounding area is open flat agricultural land with dispersed dwellings. Whilst there might be similar barns and buildings in the area, the appeal building is very sizable at some 6.2m in height and 19.8m in length. These figures are not disputed by the appellant.
13. The building consequently has an overbearing impact on what is then a small parcel of land. This combines to result in a visually intrusive development which is at odds with the prevailing open character of the area.
14. Whilst I accept the colour of the building is appropriate, it can be seen in views from a public right of way and is therefore not well screened. It therefore does not have a minimal impact in the landscape and fails to respect or enhance the surrounding area and site. The presence of a small nearby caravan site does not alter my findings in respect of the overbearing impact of this building.
15. I conclude the development is unacceptably harmful to the character and appearance of the area in contravention of Policies 45 and 48 of the LP. These policies, amongst other things, require the scale of buildings to have a minimal impact on the landscape and rural character of the area, and, for development to respect and enhance the landscape character of the surrounding area and site. For the same reasons, the development contravenes the achieving well-designed places and conserving and enhancing the natural environment objectives of the Framework.

Other matters

16. The Council has raised concerns in respect of neighbouring living conditions but does not consider it should form a reason for refusal. I have little evidence to disagree. Reference has also been made by the Council to policies 3, 8 and 33 of the LP, but as these relate to employment provision, transport and new residential development, they have little bearing on my assessment.
17. The appellant makes reference to previous alternative access arrangements into the site, but this has little bearing on my assessment of the appeal building.

Conclusion

18. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Appeal A – The ground (f) appeal

19. The purpose of the enforcement notice is clearly to remedy the breach of planning control and it does not seek to under-enforce. Therefore, for an appeal on ground (f) to succeed it would be necessary for the appellant to explain why the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control and propose lesser alternatives steps.
20. The appellant contends that the concrete base of the building should be retained to allow for the storage of cars. However, there is very little evidence that the lawful use of the land relates to storage and retaining the concrete

base would not remedy the breach of planning control, as it forms a substantive part of the unauthorised development.

21. As no other lesser steps are before me, the appeal on ground (f) fails.

Appeal A – The ground (g) appeal

22. The appellant contends that the time given to comply with the requirements of the enforcement notice are too short.

23. The appellant wanted time to also appeal the refusal of planning permission (Appeal B). That has been achieved and there is little evidence that the period given of 6 months is now too short to comply with the requirements of the notice.

24. The appeal on ground (g) therefore fails.

Appeals A and B - Overall Conclusion

25. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission.

Formal Decisions

Appeal A

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

Appeal B

27. The appeal is dismissed.

Paul T Hocking

INSPECTOR