The Planning Inspectorate

Appeal Decisions

Site visit made on 18 August 2025

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Appeal A: APP/C1760/C/24/3339720
Appeal B: APP/C1760/C/24/3339721
The land and premises known as Paddock Farm, Scallows Lane, West Wellow, Romsey, Hampshire SO51 6DX

- 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 Kenelm Christopher (Appeal A) and Mrs Gina Christopher (Appeal B) against an enforcement notice issued by Test Valley Borough Council.
- The enforcement notice was issued on 29 January 2024.
- The breach of planning control as alleged in the notice is: Without planning permission, the making of a material change in the use of the land to a residential use, along with the associated building operations involving construction of a semi-detached dwellinghouse.
- The requirements of the notice are: (i) Permanently cease the residential use of the land. (ii) Demolish the semi-detached building. (iii) Remove from the land all resulting materials and waste.
- The period for compliance with the requirements is: Six months for requirement (i) and 9 months for requirements (ii) and (iii).
- The appeal is proceeding on the grounds set out in section 174(2)(a – Appeal B only), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Appeals A and B - Summary of Decision

1. The appeals are dismissed and the enforcement notice is upheld with correction and variation.

Preliminary Matters

2. The appellants have raised matters that are also pertinent to a ground (b) appeal. As the Council has had the opportunity to respond injustice to the parties does not arise from consideration of this ground of appeal also.

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.

Application for Costs

4. An application for costs was made by Mr and Mrs Christopher against Test Valley Borough Council. This application is the subject of a separate Decision.

The Enforcement Notice

5. The evidence, including from my site visit, is that the general size and design of an approved stable building[1] has been constructed in accordance with the approved plans (the planning permission), however one end of the building has been constructed for use as a dwellinghouse. There has accordingly not been the construction of a semi-detached dwellinghouse, which connotes there would be two adjoining dwellings. Injustice would however not arise from correcting the notice.

Appeals A and B – The ground (b) and (c) appeals

6. For the ground (b) appeal to succeed the onus is on the appellants to demonstrate, on the balance of probabilities, that the alleged breach of planning control has not occurred as a matter of fact. For the appeal to succeed on ground (c) the onus is on the appellants to demonstrate, on the balance of probabilities, that there has not been a breach of planning control. This could be because the matters alleged do not constitute development, planning permission has already been granted for the matters alleged in the enforcement notice or they are permitted development.

7. The appellants contend the land the subject of the notice forms part of the curtilage of the main dwelling. However, a replacement dwelling was more recently granted planning permission[2] and with-it a new planning chapter was created. The approved plan brought to my attention then clearly only shows a small area of the land the subject of the notice as being within the curtilage, as denoted by the red edge on that plan. Any supposed physical and functional link that might be purported to now exist cannot lawfully change that position given the main dwellinghouse has only recently been occupied. Curtilage is also not a use of land.

8. Even if the notice dwellinghouse had been within the curtilage, the main dwelling has been demolished with the replacement not occupied until recently. That being so, there has accordingly been no main dwelling for the notice dwellinghouse to be incidental to. I am also not persuaded that one dwellinghouse can be incidental to another. There is accordingly very little evidence that demonstrates the use of part of the stable building as a dwellinghouse would fall within householder permitted development rights.

9. It has also been contended that there has only ever been one dwelling within the planning unit, albeit in different locations. There is however very little evidence to demonstrate that the sequence of events that have transpired at the appeal site, and thus existence of dwellings in different locations at different times or for a temporary period, would not amount to a breach of planning control.

10. Condition 7 of the planning permission has also been brought to my attention. However, the planning permission for the stable building did not relate to any form of residential use and the wording of the condition simply restricts the use of the approved stable building to private use incidental to the main dwelling. There is thus very little evidence to demonstrate this grants planning permission for a residential use or supposed welfare area.

[1] Council ref 13/01911/FULLS
[2] Council ref 21/00480/FULLS

11. The case law, appeal decisions and permitted development rights cited by the appellants therefore do little to demonstrate the case. The appellants have therefore failed to demonstrate on the balance of probabilities that there has not been a breach of planning control as a matter of fact, or there has not been a breach of planning control, apart from for a small area of land, and which can be corrected by means of a substitute notice plan without causing injustice to the parties.

12. The appeal on ground (b) therefore fails and the appeal on ground (c) succeeds but only to a very limited extent.

Appeal B – The ground (a) appeal

Main Issue

13. The main issue is whether there is an essential need for a dwellinghouse and residential use of land in the countryside.

Reasons

14. The site is located within a rural context, characterised by fields and paddocks with a mixture of residential, agricultural and commercial uses, dispersed along a number of rural lanes. The site itself consists of a large stable building and some surrounding land.

15. The deemed planning application relates to the residential use of the land and associated building operations involved in the construction of a dwellinghouse.

16. For the purposes of the adopted Test Valley Borough Revised Local Plan DPD 2011-2029 (the LP), the site is located in the countryside. Policy COM2 of the LP states that development outside the boundaries of settlements will only be permitted if it is essential for the proposal to be located in the countryside.

17. Paragraph 84 of the Framework then states that planning policies and decisions should avoid the development of isolated homes in the countryside, unless, amongst other things, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.

18. The Council's approach to residential development is accordingly broadly consistent with the housing approach and objectives set out in the Framework.

19. There is however very little evidence of an essential need for a dwellinghouse and residential use of land in the countryside. There is very little evidence of an essential need for a rural worker to live permanently at or near their place of work in the countryside or that any of the other requirements within paragraph 84, or even more broadly within the Framework, would be satisfied.

20. I therefore conclude there is not an essential need for a dwellinghouse and residential use of land in the countryside and so the development harmfully contravenes Policy COM2 of the LP and the housing objectives of the Framework. This is a planning harm to which I attach considerable weight.

Other Considerations

21. The appellants have however requested a temporary planning permission to enable the construction of the adjacent replacement dwelling to be completed, following which the building would revert to its permitted use or potentially as

a welfare area within the stable block. A period of some 18-24 months has been suggested to enable the replacement dwelling to be completed to a suitable standard. That timeframe was however provided in February 2024, and I could see during my site visit that the replacement dwelling was nearing completion and indeed was now occupied. It is also the case that the suggested period will have elapsed by the time the requirement for cessation of the residential use now comes into effect. I can therefore now only afford the notion of a temporary planning permission very limited weight. Consideration of permitting a welfare area would then amount to a different scheme.

22. The Council has also raised planning harms in respect of nutrient neutrality and the New Forest Special Protection Area. However, in light of my above findings, I need not consider these matters further.

Conclusion

23. There are not 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 ground (a) appeal fails.

Appeals A and B - The ground (f) appeal

24. 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 appellants 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.

25. The reasons for issuing the notice have little bearing on whether the requirements are then excessive. In any event, the ground (a) appeal has failed.

26. I have then already corrected the notice. I however also accept that the demolition of this part of the building would be excessive, given it could potentially be rebuilt in accordance with the approved plans.

27. A requirement that the building be brought into accordance with the approved plans would therefore remedy the breach of planning control. Retaining everything apart from a bed as part of a supposed welfare area would however then clearly not remedy the breach of planning control given the extent of fixtures, fittings, internal room subdivisions and different fenestration that would remain.

28. The appeal on ground (f) therefore succeeds to this extent.

Appeals A and B - The ground (g) appeal

29. The appellants contend that the time given to comply with the requirements of the enforcement notice are too short as the adjacent replacement dwelling will not be completed to a suitable standard for 18-24 months.

30. That timeframe was, as I've already noted, provided in February 2024. Accordingly, a sufficient period has elapsed since the issue of the notice, the replacement dwelling is now occupied, and there is little other evidence that the time given to comply is too short.

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

Appeals A and B - Overall Conclusion

32. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the enforcement notice with correction and variation and refuse to grant planning permission on the deemed application.

Appeals A and B - Formal Decision

33. It is directed that the enforcement notice be corrected and varied by:

- deleting the words in section 3. of the notice in their entirety and replacing them with the words '*Without planning permission, the making of a material change in the use of the land to a residential use, along with associated building operations involving construction of a dwellinghouse outlined in orange on the attached plan.'*
- deleting the words in requirement 5. (ii) of the notice in their entirety and replacing them with the words '*(ii) Remove all fixtures, fittings and internal room subdivisions from the part of the building outlined in orange on the attached plan and undertake all other necessary works so that this part of the building fully accords with the approved elevations and floor-plans of planning permission 13/01911/FULLS.'*
- substituting the plan attached to this decision for the one attached to the notice.

34. Subject to this correction and variation the appeals are dismissed and the enforcement notice is upheld and 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

The Planning Inspectorate

Plan

This is the plan referred to in my decision dated:

by Paul T Hocking BA MSc MRTPI

The land and premises known as Paddock Farm, Scallows Lane, West Wellow, Romsey, Hampshire SO51 6DX

References: APP/C1760/C/24/3339720, APP/C1760/C/24/3339721

Scale: DO NOT SCALE