



Appeal Decisions

Hearing held on 11 January 2011

Site visit made on 11 January 2011

by **J Chance** BSc DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
24 February 2011

Appeal A: APP/B2355/C/10/2131323

Appeal B: APP/B2355/C/10/2131324

Land at Carter Place Stables, Carter Hall Park, Haslingden BB4 5BQ

- 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 L Wrigley (Appeal A) and Mrs S Wrigley (Appeal B) against an enforcement notice issued by Rossendale Borough Council.
- The Council's reference is C2461-1.
- The notice was issued on 27 May 2010.
- The breach of planning control as alleged in the notice is without the benefit of planning permission the unauthorised change of use of land from a mix of agriculture and equestrian use to a mix of agriculture, equestrian use and the siting and residential occupation of a mobile home and residential use of the associated curtilage.
- The requirements of the notice are:
 - (a) Cease the use of the Land for residential purposes;
 - (b) Remove from the Land the unauthorized mobile home and associated skirt.
 - (c) Remove the unauthorized the decking, patio area and associated hardstanding, fence and gas and septic tanks from the Land.
 - (d) Reinstate the Land, entailing it for soiling and seeding with grass.
 - (e) Remove all materials associated with complying with (a), (b), (c) and (d) above from the Land.
- The period for compliance with the requirements is:
 - Within six months from the date the enforcement notice takes effect in relation to steps (a), (b) and (c) above.
 - Within twelve months from the date the enforcement notice takes effect in relation to steps (d) and (e) above.
- Appeal A is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal B is proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period for Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered.

Decisions

1. I direct that the enforcement notice be corrected by:
 - a) deletion from paragraph 3 of the words "unauthorised change of use of land" and substitution of the words "material change of use of land";
 - b) deletion from paragraph 3 of the words "to a mix of agriculture, equestrian use and the siting and residential occupation of a mobile home and residential use of the associated curtilage" and substitution of the words "to a mix of

- agriculture, equestrian use and the siting of a mobile home for residential occupation and associated operational development comprising brick skirt, decking, patio area, hardstanding, fence, gas and septic tanks to facilitate the change of use"; and
- c) deletion from paragraph 4 of the words "last four years" and substitution of the words "last ten years".
2. I direct that the enforcement notice be varied by:
- a) deletion from paragraph 5 requirement (a) the words "for residential purposes" and substitution of the words "for the residential occupation of a mobile home";
 - b) deletion from paragraph 5 requirement (b) of the word "unauthorized" and substitution of the word "unauthorised";
 - c) deletion from paragraph 5 requirement (c) of the words "unauthorized the decking" and substitution of the words "unauthorised decking";
 - d) deletion from paragraph 5 requirement (d) of the words "entailing it for soiling" and substitution of the words "through topsoiling";
 - e) deletion from paragraph 5 requirement (e) of "(a), (b), (c) and (d) above" and substitution of "(b) and (c) above"; and
 - f) deletion from paragraph 6 of the words "Within six months from the date this notice takes effect i.e. on or before 26th December 2010 in relation to steps (a), (b) and (c) above. Within twelve months from the date this notice takes effect i.e. on or before 26 June 2011 in relation to steps (d) and (e) above." and substitution by the words "Within twelve months from the date this notice takes effect in relation to steps (a), (b), (c), (d) and (e) above".

Appeal A (APP/B2355/C/10/2131323)

3. Subject to the corrections and variations in paragraphs 1 and 2 above, I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B (APP/B2355/C/10/2131324)

4. I allow the appeal on ground (g), and direct that the period for compliance be varied as set out in item f) of paragraph 2 above. Subject to this variation, and the other variations listed in paragraph 2 above and the corrections listed in paragraph 1 above, I uphold the enforcement notice.

Preliminary Matters

The Notice

5. As indicated at the Hearing, as I am satisfied that no injustice will be caused to any party, I shall correct the allegation to reflect that the alleged change of use is for the siting of a mobile home for residential occupation and associated operational development to facilitate the change of use. As it is not necessary to refer to the "unauthorised" change of use, as well as the words "Without the benefit of planning permission", I shall also correct the allegation to reflect this, replacing the word "unauthorised" by the word "material". Similarly, as I consider that no injustice will be caused to any party, I shall correct the timescale given in the reasons to 10 years from 4 years for the alleged change of use and the alleged operational development facilitating the change of use.

6. As accepted by the parties at the Hearing, requirements (a), (b), (c) and (d) contain minor spelling mistakes and additional unnecessary words, or require clarification. In addition, as agreed at the Hearing, the text of requirement (e) should refer only to materials associated with complying with (b) and (c). As I am satisfied that I can vary the notice accordingly without prejudice to the interests of any party, I shall do so.

Policies

7. Although the enforcement notice refers to a large number of Regional Spatial Strategy (RSS) policies and 2 policies in the Lancashire Structure Plan, it was agreed at the Hearing that the policies being relied on by the Council are contained in the Rossendale District Local Plan (LP), Planning Policy Guidance: Green Belts (PPG2) and Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7), supplemented by emerging policies in the Core Strategy Development Plan Document (CS). As the RSS policies referred to add little to the principal policy background and the Council indicated at the Hearing that the Lancashire Structure Plan policies referred to have been revoked, I shall give no further consideration to these policies within my decision.

Scope

8. Although the appellants' grounds of appeal make reference to developments other than those referred to in this enforcement notice, my appeal decision deals only with the siting and residential use of the mobile home and the ancillary development facilitating that use listed in requirements (b) and (c).

The appeal on ground (a)

9. The main issues are:
- (a) whether the use of the land for the siting of a mobile home for residential occupation, and the erection/provision of the associated brick skirt, decking, patio area, hardstanding, fence, gas and septic tanks represent inappropriate development in the Green Belt;
 - (b) the effect on the openness and rural character of the surrounding area;
 - (c) whether the development is contrary to the Council's housing strategy; and
 - (d) if the development is inappropriate development in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whether the Use of the Land for the siting of a Mobile Home for Residential Occupation, and the Erection/Provision of the associated Brick Skirt, Decking, Patio Area, Hardstanding, Fence, Gas and Septic Tanks represent Inappropriate Development in the Green Belt.

10. PPG2 records a general presumption against inappropriate development within the Green Belts, indicating that such development should not be approved, except in very special circumstances.
11. Paragraph 3.12 of PPG2 indicates that the carrying out of engineering and other operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict

with the purposes of including land in the Green Belt. The siting for residential occupation of this mobile home on land which was previously not developed clearly reduces openness. In addition, the structures, such as the decking, patio area, fencing and tanks, which facilitate the material change of use of the land for the siting of the mobile home for residential occupation, also reduce openness.

12. Furthermore, two of the five purposes of including land in Green Belts are to assist in safeguarding the countryside from encroachment and prevent neighbouring towns from merging into one another. I consider that the siting of the mobile home, complete with its brick skirt, hardstanding, decking, patio area, fence, tanks, garden and accompanying domestic paraphernalia in the form of TV aerial, patio furniture and dryer for washing all contribute to domestication of the rural surroundings. This erosion of the open countryside by this development for residential use is in conflict with the purposes of including land in Green Belts identified above to assist in safeguarding the countryside from encroachment and prevent the coalescence of neighbouring settlements. As such, I find the siting of the caravan for residential occupation and the associated operational development facilitating that change of use to be inappropriate development in the Green Belt.

Effect on the Openness and Rural Character of the Surrounding Area

13. The appellants argued at the Hearing that the development which has taken place is screened by trees and/or the topography of the land or by other buildings from most public views. However, because of the location of the mobile home on the higher end of the stables site, it is seen from various locations within the area known as Carter Hall Park, from different roads and from within the main residential caravan park. It is also visible from certain points on Hud Hey Road and will be visible from higher land in long distance views. Notwithstanding the mobile home's fairly low profile, from those vantage points its effect will still be akin to that of a building.
14. As such, the mobile home and its facilitating ancillary development, some of which give the appearance of a residential curtilage, will appear almost as further built form within the stables site, effectively extending the developed part of the site further into open countryside along a local ridge in the generally undulating topography and introducing a residential element. Not only does this reduce openness, identified in PPG2 as the most important attribute of Green Belts, but it also detracts from the unspoilt character of the surrounding rural landscape.
15. The appellants indicate that they would be prepared to undertake tree planting to the south and west boundaries. However, it would be some considerable time before any such planting would become established and even if this were to provide some mitigation, the mobile home would still be visible from certain directions and particular localities.
16. I find the development which has taken place harms the character and appearance of the surrounding countryside and relates poorly to the rural landscape character. This is contrary to Policy DC.1 of the LP.

Whether the Development is contrary to the Council's Housing Strategy

17. The Council's Interim Housing Policy Statement indicates in Section 2 that outside the urban boundary of settlements in Rossendale, one of the circumstances where new residential development will be permitted is when there is a justified need for accommodation for agricultural or forestry workers. The Council confirmed at the Hearing that this would also include housing for workers on an equestrian unit, subject to an assessment for the need being justified in terms of the criteria set out in Annex A of PPS7. As I have no reason to disagree with that interpretation of the Interim Housing Policy Statement's policy intention, in order to reach a conclusion on this issue, I shall carry out an assessment against the PPS7 Annex A tests under "other considerations" in the issue below.

If the Development is Inappropriate Development in the Green Belt, whether the Harm by reason of Inappropriateness, and any other Harm, is clearly outweighed by Other Considerations, so as to amount to the Very Special Circumstances necessary to Justify the Development

18. The appellants' case is that the use of the land for the siting of a mobile home, together with the other facilitating structures, is necessary to provide the constant care and attention required in terms of animal welfare, and also security, for the equestrian business at the site based on the breeding of foals and the selling of young horses. The appellants confirmed at the Hearing that the mobile home is intended to be used as a permanent dwelling to support the established equestrian business. I shall therefore assess the appeal development in the light of the criteria set out in Annex A of PPS7 concerning justification for accommodation for agricultural, forestry and certain full-time workers to live at or in the immediate vicinity of their place of work.

19. The first criterion to be satisfied is whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. The appellants explained at the Hearing that, because of the scale of the breeding enterprise and overall activity on the site, in order to care properly for the horses they need to live on the site. The appellants indicated at the Hearing that they normally do their final rounds at about 2100 hrs and commence feeding at about 0600 hrs. I understand that during the main breeding season CCTV images from within the main equestrian building are monitored back to the mobile home. At other times, which included during my site inspection, the cameras are taken down.

20. The appellants indicate that there are generally about 30 animals in total on the site, with 8 mares due to foal this year. While the number of brood mares has increased over the time the business has been operating, this is still not a particularly large number of such animals. I accept that there will be uncertainty over the actual timing of the births of the foals and I acknowledge that prior to the appellants' permanent presence on the site foals were lost. Furthermore, I appreciate that there will, from time to time, be sudden and serious occurrences, such as attacks of colic, which will threaten the health of individual animals.

21. Clearly, there will be short periods when the appellants will need to be present on the site night and day in case certain animals require care at short notice.

However, it seems to me that for much of the year away from the time that the foals are due, it is not necessary for the appellants to live on the site, provided that they were able to live close by to do the last evening check and early morning feed, whatever the weather conditions and conditions on the site.

22. I accept that security is a material consideration as I understand that the appellants specialise in particularly high quality stock for different equestrian purposes, primarily for the professional show jumping and dressage equestrian market including up to international competition level. Notwithstanding the site's accessibility to/from the Motorway network, the appellants did not indicate at the Hearing that the site had historically been subject to security incidents, although I note that a representation from a local Hall Park resident referred to incidents of theft and vandalism in 2004. The appellants did not say whether particular security measures had been tried and found to be unsuccessful in the past. Even if the appellants were not resident on the site, I see no reason why additional security measures would not be effective in this location, given that the site is not in a remote, isolated location, albeit that it is within countryside that is part of the Green Belt. While PPS7 indicates that the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new dwelling, it also states that this will not by itself be sufficient to justify one.
23. Overall, with regard to the functional test, I am not fully convinced that it is essential for the proper functioning of the enterprise for one or more workers to live on site permanently in a new dwelling, although I accept that for animal welfare reasons there will be occasions when it will be necessary for someone to stay overnight at the stables site. However, because this is finely balanced, I shall also look at this in conjunction with an assessment against the fourth criterion in the Annex A tests.
24. The fourth test is that the functional need could not be fulfilled by other accommodation in the area suitable and available for occupation by the workers concerned. Clearly there is no other dwelling within the stables site or surrounding land associated with the stables and no building suitable for conversion on the unit. The appellants indicated at the Hearing that they had sold their previous property at Rising Bridge Road. However, the stables site directly adjoins a mobile home park providing permanent residential accommodation and, at the time of my preliminary and formal site visits, there was a notice up advertising the availability of units and there was what appeared to be an unoccupied pitch close to the stables site. The appellants have provided no firm evidence to refute that suitable units, or pitches which might accommodate their existing mobile home, are not available on the established mobile home park, which the Council indicates is licensed for about 55 units.
25. The appellants indicated at the Hearing that they would not be able to run the business adequately and properly from residential accommodation which was not on the stables site, as they contended was the case when they had a transitional arrangement, living some of the time at a former permanent dwelling and some of the time in accommodation on the appeal site. However, living on a mobile home site immediately adjacent to the appeal site would, in my view, be a different situation from that which was the case during the transition arrangement.

26. At the Hearing, the appellants were unable to say whether it might be possible to install a different or extended system for monitoring the animals which could be operated from/relayed to the adjacent mobile home park. Moreover, they had not given consideration to whether security measures could be installed which might generate some form of warning or alert back to the mobile home park in the event of someone breaking into the site. However, even if no extended monitoring or alarm system were possible, I consider that were the appellants to relocate to a pitch on, or move into a unit already installed on, the adjacent mobile home park, the functional needs of the equestrian business relating to proper care and overall welfare of the animals could still be met. As such, I am not satisfied that the functional need could not be met through other accommodation in the area and I find that the development being enforced against fails this test in Annex A of PPS7.
27. In terms of the second test, relating to the need for a full-time worker, the Council has raised no concerns in respect of this and I am satisfied from the evidence provided that this test is met.
28. With regard to the financial test, although there are clearly some omissions, including vets fees, from the financial statements provided and there are no financial forecasts, I accept that the business has been established for some years and has been profitable during that time. While I have slight concerns about the limitations of the financial figures put forward and the lack of financial projections, these are not so serious that they would cause me to consider that the financial test in Annex A of PPS7 was not met.
29. In terms of satisfying other planning requirements, I have already indicated that the tree planting proposed by the appellants would not fully mitigate the adverse visual impact of the appeal development on the countryside. Furthermore, the suggested conditions to limit the number and size of mobile homes on the site at any one time to one no larger than the current footprint; and to tie the occupancy of the mobile home to the equestrian business would not overcome the harm caused to the openness and visual amenity of the Green Belt and the surrounding countryside. Moreover, compliance with these conditions would not change my consideration that the functional test could be fulfilled by other accommodation in the area.
30. I therefore find that permanent residential accommodation at the appeal site is not justified in terms of the PPS7 Annex A tests. Consequently, the circumstances in the Council's Interim Housing Policy Statement for new residential development to be permitted outside the urban boundary of settlements in Rossendale for workers on this equestrian unit are not met. The development, the subject of the enforcement notice, is therefore contrary to the Council's housing strategy.
31. The appellants have drawn my attention to the support from nearby residents on the Hall Park site. However, this does not justify retention of a development which harms the Green Belt and surrounding countryside. Furthermore, I note that other recipients of the enforcement notice support the steps required by the notice.
32. Overall, I conclude that the other considerations put forward are not sufficient to clearly outweigh the substantial harm to the Green Belt by reason of

inappropriateness, the harm to the openness and rural character of the surrounding area and the harm to the Council's housing strategy, which would continue if I were to allow this appeal. Consequently, they do not amount to the very special circumstances necessary to justify allowing the inappropriate development which has resulted from this material change of use to continue. The development conflicts with the intentions of Policies DS.3 and DC.1 of the LP, national policy guidance in PPG2 and PPS7, and emerging Policies 1, 2, 3 and 24 part 5 of the CS.

33. I conclude that the appeal on ground (a) fails.

The appeals on ground (g)

34. The grounds are that the compliance period of 6 months to cease the residential use and remove the mobile home and associated operational development from the land is too short. The appellants are requesting a 12 months compliance period, as set for steps (d) and (e), in order to re-house themselves and their horses by relocating the business or selling off the animals as necessary.

35. The period for compliance is intended to provide a reasonable period within which to carry out the steps required. I am in no doubt that the actions and works required under steps (a), (b) and (c) can be practically and physically carried out within 6 months. It is also in the public interest that enforcement action is concluded expeditiously, so that the harm to the Green Belt, countryside and the Council's housing strategy can be remedied. However, it is right when the requirements of the notice have serious implications for someone's home and their business and sole source of income that the timescale of the action is proportionate and reflects the personal circumstances. In addition, the welfare of the horses, some of which will have young foals in 6 months time, is important in this case. The appellants will need time to find accommodation which is suited to their needs and those of their animals, and any relocation of the animals will need to be carefully planned.

36. Under the circumstances, I find that the 6 month period for compliance with the first 3 requirements is too short. A period of 12 months would, in my view, strike an appropriate balance and would not be too long a period before harm to the public interest would be remedied. I shall vary the enforcement notice accordingly to reflect a 12 month compliance period and remove the two references to dates, prior to upholding the notice. The appeals on ground (g) therefore succeed.

J Chance

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr A Coney MRICS, FAAV	P Wilson and Company
Mr L & Mrs S Wrigley	Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mr N Birtles BA(Hons), MRTPI	Principal Planning Officer Rossendale Borough Council
Mr B Taylor	Principal Planning Enforcement Officer Rossendale Borough Council
Mr D Dobson	Principal Licensing Enforcement Officer Rossendale Borough Council

INTERESTED PERSONS:

Mr S Barnes	Co-owner of the Land
Mr G Parkinson	Interested person

DOCUMENTS

Document 1	Council's letter of notification of the Hearing and list of persons notified
Document 2	Representations received in response to the notification

