



Appeal Decisions

Site visit made on 9 June 2009

by **Clive Kirkbride** BA(Hons) DipTP MSc
MRTPI

an Inspector appointed by the Secretary of State
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Decision date:
25 June 2009

Appeal Ref: APP/R3325/C/08/2085840 (Appeal A)

Land (OS 9258) at Green Lane, East Chinnock, Yeovil, Somerset, BA22 9DH

- 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 A Harris against an enforcement notice issued by South Somerset District Council.
- The Council's reference is 06/00240/USE.
- The notice was issued on 14 August 2008.
- The breach of planning control as alleged in the notice is: Without planning permission (1) the formation of an access; (2) the construction of a bund; (3) the provision of a gravel hard standing, and (4) the formation of a green waste and composting area.
- The requirements of the notice are: (1) Remove the earth bund and hard standing surface material and return the area to a level surface suitable for agricultural purposes. (2) Close the unauthorised access from the Restricted Byway, remove the access ramp and reform the bank to the lines and levels of the existing hedgerow east and west of the access opening. (3) Reform the hedgerow by replanting the earth bank with a mixture of native plants to match the existing hedgerow either side of the access.
- The periods for compliance with the requirements are: a) As to requirement (1), three months. (b) As to requirements (2) and (3), four months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Appeal Ref: APP/R3325/C/08/2085842 (Appeal B)

Land (OS 9258) at Green Lane, East Chinnock, Yeovil, Somerset, BA22 9DH

- 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 A Harris against an enforcement notice issued by South Somerset District Council.
- The Council's reference is 06/00240/USE.
- The notice was issued on 14 August 2008.
- The breach of planning control as alleged in the notice is: Without planning permission the change of use of the land from use for agriculture to mixed use of the land for vehicle parking, storage of plant, equipment and materials, and composting.
- The requirements of the notice are: Stop using the land for vehicle parking, storage of plant, equipment and materials, and composting and remove from the land all vehicles, plant and equipment brought on to the land for the purpose of those uses.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Appeal Ref: APP/R3325/A/08/2085835 (Appeal C)

Land (OS 9258) at Green Lane, East Chinnock, Yeovil, Somerset, BA22 9DH

- 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 Greenland Garden Services Ltd (Mr Andrew Harris) against the decision of South Somerset District Council.
- The application Ref 07/03715/COU, dated 9 August 2007, was refused by notice dated 27 June 2008.
- The development proposed is retrospective application to store materials and a vehicle within bunded area and to compost green waste generated by the garden maintenance business run by Greenland Garden Services Ltd.

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29 JUN 2009
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Decisions

1. I direct that the Appeal B enforcement notice be corrected:
by insertion of the words "for agriculture," before "vehicle parking," in paragraph 3.
2. Subject to this correction I dismiss Appeals A and B and uphold the enforcement notices.
3. I dismiss Appeal C.

The notices and plans

4. The planning unit is the land shown edged red on the notice plans and the S78 appeal layout plan. I noted that the land remains predominantly in agricultural use, save for the specific areas where the alleged breaches have taken place. Therefore, the allegation in the Appeal B notice should read: Without planning permission the change of use of the land from use for agriculture to mixed use of the land for agriculture, vehicle parking, storage of plant, equipment and materials, and composting.
5. I have corrected the notice to this effect as this would not result in any injustice to either party.

Appeals A and B

The appeals on ground (f)

6. Unfortunately, the appellant is misguided about the reason for appealing against the issue of enforcement notices under ground (f). The ground is, in effect, that the steps required to comply with the requirements of a notice are excessive and that lesser steps would overcome the objection. No lesser steps are suggested. The steps specified are not excessive as they do no more than seek to remedy the breaches of planning control that have occurred. Therefore, the appeals on ground (f) fail.
7. The appellant questions whether it was expedient to issue the notices without waiting to see whether the appellant would appeal against the refusal of the related planning appeal. However, there is no requirement for the Council to wait and, having found the development to be unacceptable in planning terms, it might reasonably have been criticised if it had not then taken action to secure its removal. Had planning permission subsequently been granted, the notices would have ceased to have effect insofar as they were inconsistent with that permission.

Appeal C

Main issues

8. I consider these to be the effect of the appeal works on the character and appearance of the appeal site and its rural setting and on highway safety, and whether the appeal works contribute to a sustainable pattern of development.

Reasons

Character and appearance

9. The appeal site is located within an area of open countryside where policies of development restraint apply. It comprises a field bounded by Chinnock Hollow to the east and Green Lane, a designated Restricted Byway, to the north.
10. The site's south western boundary is marked by a post and wire fence but, as the land falls away steeply beyond this, any views into the site from the south are long distance views. The adjoining road and lane are sunk below the level of the field and the site's boundaries are marked by tall hedges. Consequently, the bunded area, hardstanding and composting area are not readily visible from any public vantage point, even at close quarters.
11. However, the ramped and stoned access which leads off Green Lane some 30m from its junction with Chinnock Hollow is visible from the public domain. The impact of these works has been exacerbated by the need to remove a section of hedgebank. I consider that these works represent an incongruous form of development which harms the character and appearance of Green Lane and its rural setting, contrary to established planning policies for the area as conceded by the appellant.
12. Even if the access works had not been readily visible, one of the government's sustainable development objectives is to protect the open countryside for its own sake. In my view, the appeals works undermine this objective. Therefore, I conclude that the appeal works harm the character and appearance of the appeal site and its rural setting, contrary to Policy 5 of the Somerset and Exmoor National Park Joint Structure Plan (SP) and policy EC3 of the South Somerset Local Plan (LP).

Sustainability and highway safety

13. The appellant lives in nearby East Chinnock where his business is run from. He accepts that the site is not readily accessible by walking or public transport. However, the types of activity taking place on the site are not conducive to access other than by private motor vehicles and the site is not far removed from the company's operational base.
14. There have been complaints about the frequency of vehicles visiting the site, but the present 14 movements a day is relatively low in overall terms. The Council does not dispute this figure but claims that it is not minimal, considering the quiet nature of the area. However, I noted that Chinnock Hollow is a relatively busy, minor rural road and understand that it is used as a 'rat-run' by traffic avoiding Yeovil.
15. The County Highway Authority (CHA) is concerned that vehicles entering and leaving the site could meet head on along Green Lane and that this would be likely to result in vehicles turning into Green Lane having to reverse back out into Chinnock Hollow. However, the mouth of Green Lane appears to be wide enough to allow two vehicles to pass.
16. Also, visibility along Green Lane, from the point it leaves Chinnock Hollow to the top of the access ramp, enables a driver about to leave the site to see a vehicle turning into Green Lane. As a result a driver could wait at the top of

the ramp and give way to an oncoming vehicle, even though the likelihood of such an event occurring, given the present low level of vehicular activity, would be relatively remote.

17. There have not been any reported accidents as a result of vehicles using Green Lane in the four years since the appellant company started using the site and no evidence before me of any harmful conflict between vehicles and walkers or riders. Whilst the grade of the ramp is relatively steep it would appear to function adequately and the CHA has not suggested any specific conditions to address these matters, such as re-surfacing, re-grading or drainage works.
18. Therefore, I find that the appeal site is in a reasonably sustainable location in relation to the appellant's operational base and that the appeal works and current relatively low level of use of the land do not cause any material harm to highway safety, including other users of Green Lane.
19. However, had I considered allowing the appeal, it would be difficult to impose conditions which would enable the Council to prevent the relatively small area currently being used for composting from being enlarged. An intensification of use of the appeal site would be likely to generate a higher volume of traffic and, given the restricted nature of the access to the site, I consider this would be likely to result in material harm to highway safety, contrary to SP Policy 49.

Other matters

20. The present use of the site has resulted in several complaints, including the operation of noisy machinery (including a woodchipper and stone crusher, even if these have only been used occasionally) and the burning of waste. However, I am satisfied that these matters could be addressed by appropriate conditions.

Overall conclusions

21. I have found that the appeal site is in a reasonably sustainable location and that the present, relatively low level of use does not result in any material harm to highway safety, including other users of Green Lane. However, it would be difficult to control or prevent intensification of use of the land and this would result in the generation of additional traffic movements likely to cause material harm to highway safety. I have also concluded that the appeal works harm the character and appearance of the countryside.
22. The government's sustainable development objectives include support for a wide range of economic activity in rural areas and I note that the parish council is supportive. However, government support is qualified by the need for economic activity to be consistent with its aims of promoting sustainable patterns of development and maintaining local character and a high quality environment. On balance, I conclude that the actual and potential harm identified outweighs the other material considerations weighing in favour of the present use of the site, including any local economic benefit. Therefore, the S78 appeal fails.

C.S. Kirkbride

INSPECTOR



Appeal Decision

Site visit made on 20 July 2009

by **Julie Higginbottom** BA(Hons) BTP
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Decision date:
14 August 2009

Appeal Ref: APP/R3325/A/09/2103561

Vardens Farm, Broadway Road, Broadway, Ilminster, Somerset, TA19 9RE

- 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 Miss R Welch against the decision of South Somerset District Council.
- The application Ref 09/00482/COU, dated 30 January 2009, was refused by notice dated 9 April 2009.
- The development proposed is described as personal permission for temporary change of use of part farmyard to residential for mobile home.

Decision

1. I dismiss the appeal.

Procedural matter

2. The above description of the proposal is taken from the application form. The Council used a slightly different description in its decision notice. The appeal form fails to answer whether the description of development has changed from the application form, so for the avoidance of doubt, I have used the description given on the application form.

Main issues

3. I consider there to be 2 main issues. Firstly, whether there is a need for a dwelling in this location, sufficient to outweigh the aims of local and national policies that seek to restrict new development in the countryside. Secondly, the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Justification for a new dwelling in this location

4. Whilst I have not been supplied with details of the defined development area of Broadway, both parties agree that the site lies within the countryside for planning policy purposes. Here, there is a national and local presumption against new residential properties except where required to meet exceptional circumstances arising from local social and economic conditions which normally relate specifically to new housing in association with rural businesses and agriculture.

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17 AUG 2009

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5. The mobile home is to be located on land associated with Vardens Farm on the edge of the settlement of Broadway. Whilst the appeal site is associated with a farm, personal reasons (rather than any agricultural justification) have been forwarded as justification for "setting aside adopted policies".
6. Policy STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 (the Structure Plan) and Policy ST3 of the South Somerset Local Plan 1991-2011 (the Local Plan) restrict development outside defined development areas to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel.
7. The proposed occupant is a pensioner and therefore unlikely to benefit economic activity. The appellant states that she does not drive and will not use the car to access facilities outside Broadway. Whilst I have no information as to whether the appellant currently walks within Broadway and takes public transport to facilities elsewhere, the evidence indicates that her mobility will decline. It is therefore quite possible that the appellant will become more dependent on being taken by car to facilities within Broadway and those outside the settlement. In these circumstances the development would foster growth in the need to travel.
8. In view of the above points, I conclude that insufficient grounds have been put forward to justify a new dwelling in this countryside location. The proposal would therefore be in conflict with the requirements of the Structure Plan and Local Plan policies already referred to.

Effect on character and appearance

9. To my mind, this land together with the development on the other side of Broadway Road acts as a 'gateway' to the village and is therefore visually important. Whilst I appreciate that a timber agricultural building would be demolished and an existing opening stopped up, the opening up of the site frontage for the proposed new access and its visibility splays, the engineering works required to provide the driveway and the domestic character and appearance of the log cabin itself would be detrimental to the semi-rural character and appearance of this part of the north side of Broadway Road.
10. I appreciate that the appellant has indicated that a condition could be imposed to secure new planting to the rear of the visibility splays. However the loss of mature specimens and their probable replacement with immature stock would have a detrimental impact on the character and appearance of the area while the new planting becomes established and effective as a screen to the proposed development. For these reasons I conclude that the development would have an adverse impact on the character and appearance of the area. As a result, it would not meet the criteria of Policy STR6 of the Structure Plan or ST3 of the Local Plan.

Other matters

11. The appellant seeks a temporary and personal permission for the log cabin. Whilst no period of time has been suggested to define the length of the temporary permission sought, it is clear from the submitted evidence that the log cabin would be expected to be a relatively long-term solution for the appellant's accommodation needs. I note that the appellant maintains that she

cannot afford to purchase or rent a property within the village, but I have seen no firm evidence to demonstrate that other options for accommodation could not reasonably be pursued.

12. Exceptionally, personal circumstances or hardship may be material to the consideration of a planning application. However, as *The Planning System: General Principles* points out, such arguments will seldom outweigh the more general planning considerations and, in this case, I do not find the appellant's personal circumstances to be exceptional. I sympathise with her desire to stay in Broadway for social and medical support and I attach some weight to these personal circumstances, but in my opinion, for the reasons set out above, the appeal proposal is not an appropriate or satisfactory way of pursuing this objective.
13. I have had regard to all other matters raised, including some representations in support, but they are not sufficient to outweigh the considerations which have led me to my conclusion that the appeal should be dismissed.

Julie Higginbottom

INSPECTOR

