



Appeal Decision

Site visit made on 23 October 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2020

Appeal Ref: APP/E2340/C/19/3230682

**Land to the south east of 5 Hall Meadows, Trawden, Colne, Lancashire
BB8 8RJ**

- 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 Antony Jones against an enforcement notice issued by Pendle Borough Council.
 - The enforcement notice was issued on 16 May 2019.
 - The breach of planning control as alleged in the notice is without planning permission and within the last four years, the unauthorised erection of a timber shed.
 - The requirements of the notice are:
 - (i) Demolish the timber shed on the land in its entirety.
 - (ii) Remove all the materials arising from the demolition of the timber shed from the Land.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. 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.

The appeal on ground (a) and the deemed planning application

2. The main issue is whether the timber shed preserves or enhances the character or appearance of the Trawden Forest Conservation Area.
3. The Conservation Area is a large area of predominantly open countryside, but also encompasses the settlement of Trawden and other villages. Much of the area is made up of pasture land (improved and non-improved) with fields delineated in the main by stone walls. The significance of the Conservation Area as set out in the Conservation Area Assessment, lies in its historical development from forest, through disafforestation, enclosures and industrial archaeology. Two historic periods are described as being outstanding in respect of the cultural landscape and built heritage, these are the medieval vaccaries and the later copyhold farms. Stone walls and historic farmsteads are also of importance.
4. Additional to the physical characteristics there are wide and extensive views in many directions. These take in the sweeping vistas of the higher moorland of the Pennines and the urban development in river valleys.

5. The appeal site consists of part of a relatively large field located above the Skipton Road, which runs through the village, in an elevated position above the main built up part of the settlement. The land slopes upwards away from the settlement and is overlooked on either side by houses and is open to its broadly western boundary. Notwithstanding the surrounding houses and the range of buildings further west of the appeal site, I observed that the locality in the vicinity of the appeal site has a distinctly rural character and appearance.
6. The appeal site is detached from but used for domestic purposes in association with a modest mid-terrace house which overlooks the land, 5 Hall Meadows. The timber shed, subject of the appeal, has a substantial, functional, more agricultural than domestic appearance. Notwithstanding its agricultural appearance, its siting is unrelated to other similar buildings or landforms such that it has an isolated, dominant and conspicuous appearance when viewed against the backdrop of the modest terrace houses at Hall Meadows.
7. I have had regard to the appellant's photographs taken from various locations around and above the settlement. Based on my own observations the shed's visual impact would be at its greatest when close to it, in particular in views from the public right of way which runs through the field to the west of the site and from the rear of those houses on Hall Road and Clifton Street.
8. I agree with the appellant that views from the Skipton Road are confined to glimpses due to the topography of the land and intervening buildings. Further, whilst the building is visible in distant views from across the valley, at such distances the impact is limited. This does not nevertheless outweigh the harm in close range views. The appellant suggested that they would be willing to provide landscaping however, given its solitary position I consider that any landscaping would appear incongruous and therefore landscaping would not overcome the identified harm.
9. I had regard to the range of buildings which sit in the field further west of the appeal site. However, I do not know the circumstances of those being permitted and observed that whilst they may have a larger footprint than the appeal building, they appear to be older and sit at a lower level than the shed. In any event, their existence does not justify the harm caused by the appeal scheme.
10. Planning permission was previously granted for a replacement shed on the site (ref: 18/0451/HHO). However, the shed that has been built is materially larger than that approved. Whilst the increase in ridge height at around 0.31m is unlikely to be perceptible, the overall footprint of the shed being around 32sqm greater than that approved, covering an area of 108sqm as opposed to the 76sqm approved, is significant.
11. The appellant has not stated whether they would erect the approved shed in the event that their appeal was unsuccessful. Nevertheless, there is an extant permission and therefore a potential fallback position to which I attach significant weight. However, the approved building is materially smaller and incorporates an open sided overhang which would break the mass of the side elevation. Consequently, I consider the fallback would be less harmful than the appeal scheme.
12. My duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of

preserving or enhancing the character or appearance of a conservation area. There is no suggestion that the outstanding features identified would be adversely affected by the proposal. However, the harm to the character and visual qualities of the area identified above also translates into harm to the wider character and appearance of the Conservation Area.

13. Given the scale of the proposal within the context of the Conservation Area as a whole, I consider the harm to be less than substantial. Nevertheless, I am mindful that in the National Planning Policy Framework (the Framework) paragraph 193 says great weight should be given to the conservation of a designated heritage asset and any harm to such assets should require clear and convincing justification.
14. Paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of such an asset, that harm should be weighed against the proposal's public benefits including, where appropriate, securing its optimum viable use. This requires a balancing exercise of harm against the public benefits of the development. In this case reference has been made by the appellant to the fact that the shed replaces a similar smaller building, that a number of existing poor-quality sheds, greenhouses and chicken coups would be removed and to the benefits associated with the construction of the shed.
15. Given that the former shed has been demolished, any affects that it previously had on the character and appearance of the Conservation Area have now gone. Its former presence therefore now has very limited weight. Any benefits associated with the removal of the existing sheds, greenhouses and chicken coups are of limited weight given that they are unassuming buildings of a modest scale and nature. Any modest benefits associated with the construction of the shed were short term. As such, these matters do not outweigh the above findings.
16. Consequently, the public benefits do not outweigh the great weight that I am required to attach to the heritage asset's conservation. Overall, I conclude that the development does not accord with the landscape and heritage protection aims of Policies ENV 1 and ENV 2 of the Local Plan for Pendle Core Strategy 2011 – 2030 Adopted 17 December 2015 and Policies 1 and 6 of the Trawden Forest Neighbourhood Plan (2018- 2030) Final Version (TFNP). It also fails to accord with national policy which seeks to conserve and enhance the historic environment.

Other Matters

17. The appellant referred to what could be built as permitted development under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015. However, there is dispute between the parties about whether the site constitutes curtilage to No.5. It is not for me to determine in the context of an appeal made under ground (a) whether the site constitutes curtilage. Therefore, in the absence of a certificate of lawfulness to demonstrate what could be built as permitted development, this matter has limited weight in the assessment of the planning merits of the appeal scheme.
18. The appellant referred to third party comments made about the shed being used for business purposes however, the Council have not raised this as a concern, and I see no reason to take a different view.

19. The appellant has drawn my attention to the land broadly east of the site which is allocated for housing in the TFNP and which is being marketed as such. The appellant contends that should this be developed; the shed would be viewed in context with this development and it would likely screen views of the shed from the Skipton Road and the east. However, whilst I acknowledge the allocation, I understand there has been no application for planning permission made for such development and therefore I cannot be certain that the land will be developed and if so in what manner. Further, I found that the shed is only seen in glimpses from the Skipton Road and its visual impact was reduced in distant views from the east, as such this matter is of limited weight in my assessment. For all these reasons the appeal on ground (a) fails.

Conclusion

20. 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 application deemed to have been made under section 177(5) of the 1990 Act as amended.

Felicity Thompson

INSPECTOR