



Appeal Decision

Site visit made on 25 February 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2020

Appeal Ref: APP/J1860/C/19/3236568

Land to the east of the road from Castlemorton to Hanley Swan, Welland (Welland Steam Rally Grounds), Worcestershire WR13 6NG

- 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 Mrs Sally Williams of Welland Steam and Country against an enforcement notice issued by Malvern Hills District Council.
- The enforcement notice was issued on 2 August 2019.
- The breach of planning control as alleged in the notice is without planning permission, the unauthorised erection of a building.
- The requirements of the notice are: 1. Demolish the building. 2. Lawfully remove all resulting materials from the land and reinstate the land to its former condition before the breach took place.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Ground (a) appeal

Main Issue

1. The main issue in this ground of appeal is the effect of the building on the character and appearance of the countryside.

Reasons

Character and appearance of the countryside

2. The appeal site consists of an extensive area of open pasture land. As well as being used for farming, the site has also been used to hold the Welland Steam and Country Rally, an established annual event which takes place over a weekend in July. The appeal building has been erected towards the middle of the site. Ex-British Railways steam operated crane ADRS 95000 is currently kept in the main part of the building. I am given to understand that the crane is used for lifting demonstrations during the rally.
3. Although the dramatic profiles of the Malvern Hills loom in the distance, the County Council's Landscape Character Assessment (LCA), includes the site and its surroundings within the '*settled farmlands with pastoral use*' landscape area. The LCA describes this area as '*a rolling, lowland, settled agricultural landscape with a dominant pastoral land use and small scale, defined by its*

hedged fields'. The landscape guidelines for this area include maintaining the overall pastoral land use.

4. The fields making up the site are bounded by mature hedges and possess a gently undulating landform. The site also contains several pre-existing structures associated with the rally, including a timber-clad administration block, two separate sections of railway-the longer of which was granted planning permission in 2012¹, lighting columns, enclosures and a Dutch barn. The barn aside, for the most part the pre-existing structures are of modest scale or they have a limited profile. Therefore, the site has a predominantly open and pastoral character consistent with the landscape qualities identified in the LCA.
5. The appeal building is a steel framed, open fronted structure, with a lean-to attached on the north side. Both the walls and roof of the building are largely covered with black profile sheeting. Overall therefore, the building has a form and appearance not dissimilar to that of a modern farm structure. Furthermore, with a floor area around 110 m² and a height of about 5.6 m, the building has quite modest proportions when compared with those of many contemporary farming structures.
6. For the most part, the building is seen from public footpaths Welland WD 507 and WD 512 which traverse parts of the site, although there are also views from the B4208 to the west. As other public views of the building are limited, its visual impact could therefore reasonably be described as relatively localised. The building is generally seen as sitting well below the skyline, against a backdrop of rising land, close to a mature hedge. These factors, together with the relatively modest proportions of the building, the predominantly dark, recessive external finishes and its rural appearance, have all assisted significantly in assimilating the built form into the landscape, such that open land still largely dominates the setting. As a result, the building is neither prominent nor perceived as an alien feature in the surrounding countryside. Given the above factors, the building has not significantly eroded the predominantly open, pastoral characteristics of the local landscape.
7. Although there was nothing to suggest that the building's footprint had previously been developed, a section of the railway is adjacent, the administration block is a short distance to the west with the further section of railway beyond, whilst to the south are several lighting columns. Also, some distance to the east is the Dutch barn, immediately beyond which are a substantial complex of farm buildings associated with Hill Court Farm, outside the site. It was not disputed that the pre-existing structures at the site were lawful in planning terms. When looking towards the building, the above structures form an appreciable part of the foreground and backdrop. Moreover, the building appears closely related to several of the structures. In the case of the Dutch barn and Hill Court Farm, the structures are of substantial scale. As other structures form a significant part of the immediate context, both individually and cumulatively, the building is not viewed as an isolated feature in the landscape surroundings.
8. In reaching the above findings, I acknowledge that planning conditions restrict the storage and display of rolling stock on the longer section of railway for more than 28 days per year. However, that section is appreciably further away

¹ Council Refs 12/00713/FUL & 12/001441/FUL.

- from, and in visual terms largely unrelated to, most other structures at or adjoining the site. In any event, open storage and display of rolling stock is likely to have materially different visual consequences to that of the building.
9. Therefore, the building has not caused unacceptable harm to the character and appearance of the surrounding countryside. It follows that the building accords with criterion in Policy SWDP 2 of the South Worcestershire Development Plan (LP), as the open countryside is safeguarded. The building also accords with LP Policy SWDP 21, as it integrates effectively with the surroundings in terms of form and function, reflects the site characteristics and complements the character of the area. There is also accordance with criteria in LP Policy SWDP 25, as the LCA and its guidelines have been taken into account and the building is appropriate to and integrates with the character of the landscape setting. Additionally, the building accords with criterion in Policy SWDP 34, as it is compatible with the physical character of the area.
10. There is no requirement in LP Policy SWDP 34 or the other LP policies referred to above for tourism development to be justified. In any event, at paragraph 83 the National Planning Policy Framework (the Framework) supports sustainable rural tourism and leisure development where, as in this case, the character of the countryside is respected. I am given to understand that the crane was built in the mid-1950s and might well be the last surviving example of its type in existence. Therefore, the crane is of considerable heritage interest. Also, I understand that whilst the crane is currently in working order, it has deteriorated significantly due to being kept in the open over many years and unless stored undercover, the prospects for its long-term survival are limited. It might be possible for the crane to be transported to the site for the duration of the rally, in a similar manner to a locomotive or traction engine. However, given the crane's significant size this might well pose the owners, who are most likely volunteers, considerable difficulties in terms of transport, not least the probable associated costs. Moreover, as railway heritage sites invariably keep most rolling stock in the open, I am not convinced that there would be covered storage readily available elsewhere.
11. Therefore, erection of the building has assisted, albeit to a modest degree, in sustaining the tourism and leisure benefit afforded by the rally to the surrounding area and is consistent with the Framework paragraph 83. Furthermore, as a well-designed place has been achieved there is no inconsistency with the Framework paragraphs 124 and 127.

Other matters

12. The building has been erected across the route of public footpath Welland WD 507. Worcestershire County Council have therefore objected to planning permission being granted. However, that is not a material factor in considering the planning merits of the building. Granting planning permission does not of itself authorise the obstruction of a public right of way. The procedures set out in the Highways Act 1980 should be followed to determine whether the footpath can be diverted.

Conditions

13. After seeking the views of both main parties and taking their comments into account, I have imposed three planning conditions. A condition requires installation of a bat box and a bird nesting box. This is in order to ensure that

local biodiversity is safeguarded. The condition is drafted in the form set out below because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matters, because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the building authorised by the planning permission may only remain if the appellant complies with its requirements. It is only by doing so that local biodiversity would be safeguarded. Therefore, in my view the requirements of this condition are both proportionate and reasonable.

14. The second and third conditions restrict use of the building to purposes associated with the rally or for farming and require its demolition in the event that the use ceases permanently within the next ten years. Such conditions are necessary to safeguard the character and appearance of the countryside. Given the overall size of the site and its limited range of farm buildings, together with the suitability of the building in terms of farming use, it is not unreasonable to make provision for an alternative use for such purposes.
15. However, I have not imposed a condition requiring the building to be removed if the rally did not take place for two consecutive years. Such a condition would be unreasonably restrictive, as there might be any number of reasons why the rally did not take place in consecutive years without affecting use of the building. For obvious reasons, a condition requiring the development to be carried out in accordance with approved plans is unnecessary.

Conclusion

16. As the building accords with the Development Plan and the Framework, I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore fall to be considered.

Formal Decision

17. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177 (5) of the Act as amended for the development already carried out, namely the erection of a building on land to the east of the road from Castlemorton to Hanley Swan, Welland (Welland Steam Rally Grounds), Worcestershire WR13 6NG, subject to the conditions in the Schedule attached to this Decision.

Stephen Hawkins

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within three months of the date of this decision a scheme providing details of a bat box and a bird nesting box to be installed on the building is submitted in writing to the Local Planning Authority for approval and the scheme approved by the Local Planning Authority is implemented, the building shall be demolished, the resulting materials shall be removed and the site shall be restored to its condition before development took place.

After the bat box and bird nesting box have been installed on the building in accordance with the scheme approved by the Local Planning Authority, they shall be maintained in accordance with that scheme.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2) The building shall be used for storage ancillary to the operation of the Welland Steam and Country Rally, or for agriculture as defined in Section 336 (1) of the Town and Country Planning Act 1990 (as amended) and for no other purpose (including any other purpose falling within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) In the event that use of the building for storage ancillary to the operation of the Welland Steam and Country Rally, or for agriculture, permanently ceases within ten years from the date of this decision, the building shall be demolished and the site restored to its condition before the development took place.