
Appeal Decision

Site visit made on 12 March 2020

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 March 2020

Appeal Ref: APP/G0908/C/19/3234780

Site opposite The Willows, Lonsdale Place, Flimby, Maryport CA15 8TP

- 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 Martin Kirkbride against an enforcement notice issued by Allerdale Borough Council.
 - The enforcement notice was issued on 3 July 2019.
 - The breach of planning control as alleged in the notice is: the unauthorised erection of three buildings, storage container and associated enclosures (as outlined in green on the plan attached to the enforcement notice) and the erection of the boundary enclosure to the field including the timber gate entrance.
 - The requirements of the notice are: (i) Remove the three unauthorised buildings, storage container and associated enclosures and concrete base (as outlined in green on the plan attached to the enforcement notice). (ii) Remove the unauthorised breeze block wall/wire and post fence enclosing the field and the timber entrance gate.
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, 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 falls to be considered.
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Decision

1. It is directed that the enforcement notice be amended by the deletion of the compliance period of two months, and its substitution with the compliance period of six months.
2. Subject to this amendment, the appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (c)

3. The appeal on ground (c) is that the alleged matters, if they occurred, do not constitute a breach of planning control. In this case, ground (c) relates only to part of the boundary wall. The wall has been lowered to 1m where it faces the Public Right Of Way (PROW) and therefore the Council are satisfied that this part of the development falls within the works allowed under Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). To that extent, the appeal on ground (c) succeeds, although there is no dispute that the remaining elements of the development constitute a breach of planning control.

The appeal on ground (a)

Main Issue

4. The main issue is the effect of the development on the character and appearance of the surrounding area.

Background

5. Planning permission (Ref: 2/2015/0599) has previously been granted at the appeal site for a stable building. This permission was not implemented and instead, the development that is the subject of the appeal was constructed. The appellant submitted a planning application for the development in 2018 (Ref: 2/2018/0471) which was refused and subsequently dismissed on appeal (Ref: APP/G0908/W/19/3226552).

Reasons

6. In terms of the wider landscape, the appeal site lies within 'Sub type 5a - Ridge and valley' as designated in the Council's 'Cumbria Landscape Character Guidance and Toolkit – Part One' (CLCG). Key characteristics of this area are: a series of ridges and valleys that rises gently toward the limestone fringes of the Lakeland Fells; well managed regular shaped medium to large pasture fields; hedge bound pasture fields dominate, interspersed with native woodland, tree clumps and plantations; scattered farms and linear villages found along ridges; large scale structures generally scarce.
7. The appeal site lies on the outskirts of the settlement of Flimby, close to the Pennygill Road. The PROW forks off from the road and runs to the north of the site. Although the PROW continues to the north-east of the site, the development is visible primarily on the approach from the north-west. The surrounding area is characterised by a network of large open fields which are bounded by the built-up parts of Flimby to the east, and a dense wooded area to the west.
8. The Council have submitted a photograph of the site prior to the development. This shows that it was previously an undeveloped field rising gently towards the woodland to the rear of the site, with post and wire fencing along the side boundary. It thus reflected the general landscape characteristics described in the CLCG, and made a positive contribution to the pleasant rural character of the area, as experienced from the PROW.
9. Policy DM6 of the Allerdale Local Plan (Part 1) (ALP) permits equestrian and agricultural buildings in the countryside, subject to a number of requirements. New development should be closely related to existing farm buildings or other groups of buildings. It should also respect and enhance the rural character of the local area in terms of design, scale, siting, external appearance and construction materials.
10. The Council's primary concern relates to the larger building on the site. This building rises to a height of around 5.3m. It has a broad frontage and a large shallow-pitched roof and thus appears overly dominant in its slightly elevated position above the PROW. In itself, the dark green metal cladding blends fairly well into the surroundings, and I saw other examples of similar construction in the area.

11. However, the area surrounding the appeal site has an intimate character due to the close proximity of the bands of trees. In addition, it generally has an open and undeveloped character, apart from a small number of dwellings in the vicinity. Within this context, I consider the development to be out of scale in this location, and very noticeable from the PROW due to its relatively exposed position. In addition, the enclosures to the front of the building add visual clutter which is out of keeping with the attractive rural aspect of the setting of the development.
12. Drawing these factors together, I conclude that the development unacceptably harms the character and appearance of the surrounding area, contrary to ALP Policy DM6, ALP Policy S4, which seeks to achieve high quality design, and ALP Policy S33, insofar as it seeks to protect and conserve landscape character and local distinctiveness. Whilst acknowledging the appellant's need to stable additional horses, I have no basis on which to set aside these policy requirements in terms of design.
13. Although my attention has been drawn to similar structures in the area, I am unaware of the relevant planning histories, and so I cannot be certain that the circumstances of each are directly comparable to this appeal. In any event, each case is to be determined on its own merits. Whilst I acknowledge a need for the stables, there appears to be no reason why this need could not be met by a scheme of a more sympathetic design. On my site visit, I saw that the appeal site is largely hidden from more distant vantage points. However, the National Planning Policy Framework is clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. The fact that the impact of the development may be relatively limited does not negate the need for it to meet local and national policy requirements.
14. The appeal on ground (a) therefore fails, and the deemed planning application is refused.

The appeal on ground (f)

15. The appeal on ground (f) is that the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections.
16. The enforcement notice requires the removal of all the structures on the site. The appellant argues that the removal of the later additions would allow the retention of the original stable, which is of a design that is identical to a structure near the site. However, I have found that the existing stable building unacceptably harms the character and appearance of the surrounding area.
17. I accept that planning permission for a stable was previously granted on the site and therefore the principle of such a building in this location has been established. However, from the plans before me, I am satisfied that the permitted building would be substantially smaller than the existing stable structure, and of a design that would be more in keeping with its surroundings.
18. Taking these matters into account, I am satisfied that the requirements are commensurate with the aims of the enforcement notice, and that no lesser steps would achieve those aims. Thus, the appeal on ground (f) fails.

The appeal on ground (g)

19. The appeal on ground (g) is that the time given to comply with the notice is too short.
20. In view of the need to provide adequate care and protection for his horses, the appellant contends that a compliance period of two months is insufficient. Instead, he argues that nine months is needed to enable pre-application discussions with the Council to agree a suitable style and size of building, followed by a formal planning application, and then the construction of the new buildings.
21. As noted above, planning permission has already been granted for a stable building on the site which the Council deemed to be compliant with the relevant policies. However, the appellant has increased the number of horses in his ownership and therefore a larger building is needed.
22. As the welfare of animals is involved, I consider it reasonable to extend the period of compliance to six months, which would also allow the appellant time to submit a new planning application for an alternative scheme and implement any subsequent permission.
23. To that limited extent, the appeal on ground (g) succeeds.

Conclusion

24. Subject to the amendment above, the appeal is dismissed, and the enforcement notice is upheld.

Elaine Gray

INSPECTOR