



Appeal Decision

Site visit made on 15 September 2020

by S Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/J1860/C/20/3250681

Brownings Acre, Alfrick, Worcester WR6 5HE

- 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 Lindsey Prodger against an enforcement notice issued by Malvern Hills District Council.
- The enforcement notice, numbered ENF/18/0204, was issued on 16 March 2020.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a building, shown approximately hatched green on the attached plan, and the unauthorised laying of an area of hard surface, shown approximately hatched blue on the attached plan. Without planning permission, the unauthorised material change of use of the Land edged red on the attached plan, from the use as agricultural land to equestrian use for recreational purposes, and laying of hard surfacing, shown approximately hatched blue on the attached plan.
- The requirements of the notice are 1. To permanently cease the use of the Land edged red on the attached plan for the keeping of horses for recreational purposes. 2. Permanently remove the unauthorised building, as approximately shown hatched green on the attached plan. 3. To permanently remove the area of hard surfacing, as approximately shown hatched blue on the attached plan
- The period for compliance with the requirements is six calendar 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 (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. 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 1990 Act for the development already carried out, namely the erection of a building, the laying of an area of hard surface and the material change of use of the land to equestrian use for recreation purposes at Brownings Acre, Alfrick, Worcester WR6 5HE, as shown on the plan attached to the notice, subject to the following conditions:
 - 1) The building hereby permitted shall be demolished and all materials resulting from the demolition shall be removed within three months of the date of failure to meet any one of the requirements set out in i) to iv) below:

- i) Within 2 months of the date of this permission, further details shall have been submitted for the written approval of the local planning authority on the external materials including colour and finish of the stable building hereby approved. Within 2 months of these details being approved the replacement roofing and wood stain treatment shall be fully implemented and the stable building shall be retained in accordance with the approved details in perpetuity.

These details shall include:-

- detailed specification of new onduline roofing materials showing profile and colour specification;
 - detailed description of the stain or paint finish applied or to be applied to the exterior walls of the building.
- ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 2) The use of the stable building and adjoining land hereby permitted shall be limited solely to the private keeping and exercising of horses and shall not be used for any commercial or public equestrian enterprise or business.
 - 3) No lighting or floodlighting shall be erected or installed on the land around the perimeters of the stable building.

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.

Procedural matter

2. Appeals were made by both Mr Lindsey Prodger and Mrs Barbara Prodger against the enforcement notice on ground (a). Since the prescribed fees were paid by Mr Lindsey Prodger only, the appeal by Mrs Barbara Prodger on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act, as amended, had lapsed. Consequently, no further action will be taken on Mrs Barbara Prodger's appeal. I will proceed in determining the appeal made by Mr Lindsey Prodger only.

Main Issue

3. This is the effect of the development on the character and appearance of the Malvern Hills Area of Outstanding Natural Beauty (AONB) with particular regard

to the design and siting of the development, and the use of the land for the keeping of horses.

Reasons

4. The appeal site is located along a rural lane on the outskirts of Alfrick and situated within the AONB. The dwellinghouse and garden sit directly to the west of the country lane, which provides vehicular access to the property. Further land belonging to the property lies to the north, south and west. The land slopes steeply east to west with the property sited at the highest level. There are far reaching views towards the surrounding landscape which consists of scattered farmsteads and dispersed rural dwellings set amongst sloping hills of pastoral land interspersed with hedges, trees and wooded hills. Public rights of way are located near the site.
5. Policy SWDP 23 of the South Worcestershire Development Plan (2016) (SWDP) states that development that would have a detrimental impact on the natural beauty of the AONB will not be permitted. The policy also reflects the statutory duty to conserve and enhance the AONB's special qualities and requires development to have regard to the AONB Management Plan.
6. The Malvern Hills AONB guidance on keeping horses in the landscape acknowledges that keeping horses is likely to require "some kind of development" but emphasises the need to avoid over concentration which can have a harmful effect on the landscape. It also recommends buildings be located within a group avoiding open fields or remote corners and minimising any impact on the area, and that materials are appropriate to the landscape with surface dressings that blend with the surroundings.
7. The stable building is positioned on the edge of the paddock, where the horses graze, to the rear of the dwellinghouse and formal gardens. The development is of a simple functional design, constructed with natural timber boarding. The building has been stained dark brown since the notice was served. The roof is covered with corrugated metal sheeting which the appellant proposes to change to a more suitable material. The stables are accessed from the lane by a rough track running parallel to the hedgerow, which forms the northern boundary to the garden. The track consists of a layer of planings which provides a solid base and allows vegetation to grow in amongst the stones. It is referred to by the notice as 'hardstanding'.
8. Policies SWDP 21 and SWDP 25 of the SWDP seek to encourage good design and to ensure that proposals are appropriate in their relationship to their surroundings and landscape setting. Against the above policy background, in principle, the keeping of horses and equestrian buildings are not precluded in the open countryside, subject to safeguarding its character and appearance and not undermining the protective aims of the AONB.
9. The wooded slopes and open fields of the AONB form the backdrop to the appeal site. The scale, materials and siting of the stables within close proximity of existing buildings, blend with their surroundings and thus the visual impact is limited and causes no significant harm to the landscape character of the AONB. The access track is set against the side boundary of the field, and due in part to its length, surface material, colour and vegetation coverage, is barely visible from beyond the site. Given the limited extent of the track's visibility,

little harm is caused to the scenic beauty and the landscape character of the AONB.

10. The stables occupy a smaller footprint than the associated residential buildings and are positioned on a lower level within the landscape. Located within close proximity of the complex of residential buildings, the scale, form and appearance of the development is visually contained by its host and does not appear unduly dominant or isolated. From the wider area, views of the development are apparent, but the stable building has a clear affinity with and is seen within the context of the existing built development, intervening boundary treatments and landscaping.
11. As confirmed by the Malvern Hills AONB guidance on keeping horses, such land uses and associated buildings are not prohibited and are not uncommon in the Principal Wooded Hills, the landscape character of which the appeal site forms a part. The stable building, along with the use of the land for the keeping of horses, does not represent a major intrusion or significantly affect the visual openness or the character of the surrounding landscape. Furthermore, although there is evidence of other equestrian uses within the area, there did not appear to be an over concentration within the locality.
12. For the reasons outlined above, the use of the land for the keeping of horses and the stable block does not adversely affect the distinctively verdant landscape which forms part of the character and context of the local area within this part of the AONB. The development is not inappropriate to the site's rural setting and does not appear disharmonious in its context. The development has a neutral impact upon the landscape and scenic beauty of the AONB, compliant with the aims of the Framework.
13. The development complies with the essence of Policies SWDP21, SWDP23 and SWDP25 of the SWDP and the Framework insofar as its design, form, function and use is appropriate to and integrates effectively with its surroundings and the landscape and does not harm the special qualities of the AONB. The development accords with the principles set out in the National Design Guidance (October 2019) and, on agreement with the Council regarding colours and roofing material, reflect the colour palette of the Principal Wooded Hills as prescribed by the Malvern Hills AONB Partnership Guidance on the Selection and Use of Colour in Development.

Other matters

14. Justification for the stable building is questioned by an interested party, and the Council refer to the 'need' for four individual stables within the building when there are only 2 horses kept on the land. There is no requirement in the policies or guidance provided by the Council which indicate that the *need* for such buildings must be proven. Furthermore, the keeping of horses also involves storage of feed, bedding and associated equipment along with a tack/rug room. The four individual stables provide appropriate space for such paraphernalia in addition to the accommodation of the horses.
15. Dismissed appeals¹ have been referred to in representations. However, no location plan, drawings, or appeal decision letters have been provided. Additionally, the interested party does not indicate how, or why, he considers

¹ Appeal refs: 2181008 and 2183578

that those decisions are relevant to this scheme. Consequently, I am unable to comment on whether such schemes were relevant to the appeal before me.

Conditions

16. The purpose of condition 1) is to require the appellant to comply with a strict timetable for dealing with the external facing materials which need to be addressed in order to make the development acceptable in planning terms. Although the walls of the stable building have been treated with a dark wood stain, the condition ensures agreement of colour and continued compliance. The condition is drafted in this form because, 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. This is because the development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matters in question are not submitted for approval during the time set by the condition, approved (either by the local planning authority or by the Secretary of State on appeal), and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.
17. The purpose of condition 2) is to restrict the development to a private use because the implications of a commercial or other more intensive use have not been assessed regarding residential amenity, traffic generation and highway safety.
18. The purpose of condition 3) is necessary in the interests of the character and appearance of the AONB.
19. The drainage condition suggested by the council is deemed unnecessary as the development is in use and the sustainable drainage system is already in place. The track and area around the stables have been finished with a permeable planings surface, and guttering has been fitted to the roof of the stables and attached to a French drain system. I am not provided with evidence that the disposal of surface water is problematic and thus I do not consider the condition is necessary to make the development acceptable.

Conclusion

20. For the reasons given above I conclude that the appeal on ground (a) and the deemed application for planning permission succeeds. Consequently, the enforcement notice is quashed, and planning permission granted on the deemed application subject to conditions above.

S Hanson

INSPECTOR