



Appeal Decisions

Site visit made on 12 April 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2021

Appeal A: APP/C3240/C/20/3264702

Appeal B: APP/C3240/C/20/3264703

Land at Watling Street Grange, Redhill, Telford TF2 9PA

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr Roderic Howard and Mrs Helen Howard against an enforcement notice issued by Telford and Wrekin Council.
 - The enforcement notice was issued on 10 November 2020.
 - The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised erection of a wall and creation of hardstanding and track.
 - The requirements of the notice are:
 1. Demolish and remove from the land the unauthorised wall shown marked blue on the attached plan.
 2. Remove the hardstanding track shown hatched black on the attached plan, and return the land to its previous condition.
 - The period for compliance with the requirements is one month.
 - Appeal A is proceeding on the grounds set out in section 174(2) (a), (c) and (g) of the Town and Country Planning Act 1990 as amended. Appeal B is proceeding on grounds (c) and (g). 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 as amended.
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Decisions

1. It is directed that the enforcement notice be varied by:
 - Deleting the word "one" from paragraph 6 and substituting it with "three".
2. Subject to the variation above, Appeal A is allowed in so far as it relates to the hardstanding and track and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, as amended for the hardstanding and track shown hatched black on the plan attached to the notice, at Watling Street Grange, Redhill, Telford TF2 9PA.
3. Appeals A and B are dismissed and the enforcement notice is upheld, as varied, insofar as it relates to the wall marked in blue on the plan at Watling Street Grange, Redhill, Telford TF2 9PA and planning permission is refused in respect of the wall on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeals on ground (c) (Appeals A & B)

4. The ground of appeal is that the matters alleged in the notice, namely the erection of a wall and creation of hardstanding and track, do not constitute a breach of planning control.
5. The appellants' case is that the wall does not lie within the curtilage of Watling Street Grange, which is a Grade II listed building, and does not therefore require planning permission. In addition, there has always been a hardsurfaced access track running along the bottom of the field to provide access to the adjoining land, and in a location where there is poor drainage. New drainage was laid in this area when the barns were converted and the new hardcore laid reinstated what was there previously. It is therefore a repair which does not require planning permission. Furthermore, the track is required for agricultural purposes and does not therefore require planning permission.
6. The wall that has been constructed is situated on land to which planning permission was granted in October 2017 for the demolition of a Dutch barn and the conversion for existing barns into 8no. dwellings with associated garages.¹ Condition 22 of that planning permission stated that:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification), the following development shall not be undertaken without express planning permission first being obtained from the Local Planning Authority:

- *Extension to the dwelling*
- *Free standing building within the curtilage of the dwelling*
- *Addition or alteration to the roof*
- *Erection of a porch*
- *Hard surfacing*
- *Container for the storage of oil*
- *Satellite antenna*
- *Fences, gates or walls*
- *Any window or dormer windows."*

Consequently, in this instance, it is not necessary for a determination to be made as to whether or not the wall is within the curtilage of Watling Street Grange, because permitted development rights which may have been available for its construction have been expressly removed by Condition 22 of planning permission ref: TWC/2017/0126, dated 4 October 2017, which is extant.

7. The appellants' statement of case includes photographic evidence which indicates that there has been some form of track at the bottom of the 'little hill field' and to the east of the former barns, for at least five years. The photographs also show the new sewage pipe which was laid on the line of this track as part of the works undertaken to convert the barns. The appellants'

¹ Local Planning Authority Ref: TWC/2017/0126

assert that the track was reinstated with new hardcore once the works were complete and as a consequence of laying the pipe in that location. However, I have not been provided with any substantive evidence to show that the new track, including the area of hardstanding to the south of it, previously existed in the form and over the full extent of the area alleged in the enforcement notice. On the balance of probability, I conclude that the development of the hardstanding and track alleged in the notice is new development and not merely a repair.

8. The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO) makes provision in Part 6 of Schedule 2 for some forms of development which are reasonably necessary for the purposes of agriculture within that unit. However, the development consisting of the formation or alteration of a private way, is only permitted on the condition that before the beginning of the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the means of construction of the private way. In this case no such application has been made and the development cannot therefore be permitted development.
9. My conclusion is that the wall and the creation of the hardstanding and track is development for which no planning permission was granted by the local planning authority. This development is not permitted under any provision of the GPDO. A breach of planning control occurred and the appeals on ground (c) fail.

Appeal on ground (a), deemed planning permission (Appeal A only)

Main Issues

10. The main issues in this case are:

- The effect of the wall on the character and appearance of the area, including the setting of Watling Street Grange.
- The effect of the hardstanding and track on the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

Wall

11. Watling Street Grange is an early 19C dwelling which was constructed as part of The Sutherland Estate. The original house has a southerly aspect overlooking open farmland, with service rooms later added to the rear and large bay windows overlooking the farmyard and buildings to the north². In my opinion, its setting is derived from both its former functional relationship with the farm buildings, and its positioning within the surrounding open countryside.
12. Watling Street Grange is separated from the farm buildings by a track which provides vehicular access to Watling Street. From the evidence before me, prior to the construction of the unauthorised wall, there was a physical link between the former farmyard and Watling Street Grange. Whilst fold walls would have provided some enclosure within the yard, there was direct access

² Heritage Impact Statement, Chris Pikes Associates, dated 2 November 2018

from the track into the yard area in a location opposite the access to Watling Street Grange. That physical and visual connection reinforced the functional relationship between the properties and contributed to the setting of the heritage asset.

13. The design and layout of the converted barn scheme established a central yard area in front of the new dwellings with direct access onto the track. Whilst a functional link between the barns and Watling Street Grange no longer exists, the approved development retained a physical link to the track and so remained visually well related to Watling Street Grange. Whilst maintaining that connection is important as it helps to preserve those historic connections, it is also essential that any new development does not have a harmful effect on the character and appearance of the area.
14. The wall has been constructed in local materials. Whilst its finish and detailing are not complete, its overall appearance is not uncharacteristic of the type of boundary treatment which would be found in this area. However, it is extensive in length, and in the absence of any breakages within the wall, the historic physical and visual connection between Watling Street Grange and the central yard has been lost. Consequently, the construction of the wall has resulted in a harsh and complete segregation between the barn complex and Watling Street Grange. Furthermore, the scale and dominance of the wall is such, that it appears visually incongruous in this location and it has a harmful effect on the character and appearance of the area as well as failing to preserve the setting of Watling Street Grange.
15. I appreciate the appellant's desire to create some privacy, security and to minimise risks to health and safety. However, I am not convinced that creating a complete barrier between the new development and Watling Street Grange the only way to achieve those aims. Moreover, complete segregation of the barn development from Watling Street Grange would not to my mind achieve a harmonious or sustainable environment for existing and future occupiers.
16. The unauthorised wall has a harmful effect on the character and appearance of the area and fails to preserve the setting of Watling Street Grange. It causes less than substantial harm to the significance of this listed building as a heritage asset. I have taken into account the public benefits, including issues of health and safety. However, those benefits do not outweigh the harm I have identified to the setting of Watling Street Grange and the proposal is therefore contrary to policies contained in the Framework which seek to sustain and enhance the significance of heritage assets. I find conflict with the development plan, and in particular with Policies BE1 and BE4 of the Telford & Wrekin Local Plan, adopted 2018 (TWLP), which seek to ensure, amongst other things, that new development preserves the setting of listed buildings and respects and responds positively to its context and enhances the quality of the local built and natural environment.

Track/hardstanding

17. The hardstanding and track are visually well related to Watling Street Grange and the neighbouring barn complex, and do not have a harmful impact on the character or appearance of the area. In addition, photographic evidence shows that historically there has been some form of a track in this location, and the new hardstanding and track provides a solid base in an area where there have always been drainage problems.

18. Whilst there are habitable room windows in each of the dwellings which look towards the track, those windows do not abut the track, and there are generous garden areas within the intervening space. The relationship between the barns and the track is not an unusual relationship in an agricultural setting such as this, and it would not be unreasonable for the occupiers of the land to require a track and hardstanding area in this location to service the adjoining land. Moreover, I have not been provided with any substantive evidence that would demonstrate to me that the use of the farm track for agricultural or equestrian activities would have a harmful effect on the living conditions of the occupiers of those dwellings.
19. I appreciate that the Council may have concerns regarding any commercial use of the ménage. However, the use of the ménage is controlled by planning conditions and therefore any intensification in its use is not a consideration relevant to this appeal, which relates solely to the wall and formation of a track and hardstanding.
20. I conclude that the track and hardstanding would not have a harmful effect on the living conditions of neighbouring residents by reason of noise and disturbance. I find no conflict the development plan, including Policy BE1 of the TWLP which requires new development to demonstrate that there would be no significant adverse impact on nearby properties by, amongst other things noise.

Conclusion

21. I have found that the wall has a harmful effect on the character and appearance of the area and does not preserve the setting of Watling Street Grange and planning permission will not be granted for the wall. However, with regard to the hardstanding and track which have been constructed, I consider that these works are acceptable. I shall therefore issue a split decision in relation to this appeal on ground (a).
22. Although a split decision will be issued, the notice will not be amended regarding the requirement to remove the hardstanding track. However, in granting planning permission (in split decision) for the hardstanding track, Section 180 (1) of the Act provides that: 'Where, after the service of a copy of an enforcement notice, planning permission is granted for any development carried out before the grant of planning permission, the notice shall cease to have effect so far as is inconsistent with that permission'.
23. Thus, the notice will cease to have effect with regard to the removal of the hardstanding and track (Requirement 2 in paragraph 5 of the notice).

Appeals on ground (g) (Appeals A & B)

24. The issue is whether the compliance period of six months is reasonable. The appellants have requested a period of twelve months to remove both the wall and hardstanding/track. I have granted planning permission for the hardstanding and track, and therefore only the wall would need to be removed. Whilst I have no doubt that this could be achieved within a one month period, this is a relatively short period of time if the wall is to be removed in a sustainable manner whereby the materials could be re-used. The decision I have come to is that a period of three months strikes the right balance for the

notice to be complied with in full. To this limited extent the appeals on ground (g) succeed.

Overall Conclusion

25. For the reasons given above I conclude that the appeals should exceed in part only, and I will grant planning permission for the hardstanding and track shown hatched black on the plan attached to the notice. Otherwise, I will uphold the notice with a variation and refuse to grant planning permission in respect of the wall. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

Elizabeth Pleasant

INSPECTOR