



Appeal Decision

Site visit made on 11 May 2021

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2021

Appeal Ref: APP/C3240/C/21/3269202

Land at Former Huntington Lane Surface Mine Site, Little Wenlock, Telford TF6 5AP

- 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 Neil Enefer (Little Wenlock Farm Ltd) against an enforcement notice issued by Telford and Wrekin Council.
 - The enforcement notice was issued on 9 February 2021.
 - The breach of planning control as alleged in the notice is: *Without planning permission, the unauthorised erection of a timber framed building, and the carrying out of engineering operations and excavations so to alter ground levels.*
 - The requirements of the notice are: *1. Demolish the timber framed building, including any footings, foundations and services, and remove all materials arising from the land*
2. Cease all engineering and excavation operations on the site, and backfill the area of land shown hatched on the attached plan so to reinstate the land to its former condition, levels, contours and appearance.
 - The period for compliance with the requirements is three 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.

Ground (a) and the deemed planning application

Main Issues

2. These are: (i) the effect of the development on the character of the Strategic Landscape with regard to its scale and form; (ii) whether the residential use of the building would be appropriate in the location; and (iii) whether the excavated land would be suitably retained in respect of the former use of the land for mining operations.

Background

3. Planning permission TWC/2018/0878 was granted on 20 December 2018 for the '*Change of use to develop an agri-equestrian centre to include 20 enclosed stables and ancillary areas, 6 bay Dutch barn, ménage (sic) and car parking*'. The Council's statement maintains that pre-commencement conditions 3 (contamination/remediation) and 4 (drainage) remain outstanding

and that the partially constructed building does not accord with the application plans.

4. A further planning application TWC/2020/0976 was submitted on 12 November 2020 for the '*Erection of an agri-equestrian centre consisting of 20 enclosed stables with ancillary areas and habitable accommodation, the erection of a 6 bay Dutch barn, creation of a ménage (sic) and associated car parking*'. This was subsequently refused on the 10 February 2020.
5. The enforcement notice attacks the erection of the building which has been constructed on the land, and the engineering operations and excavations that have been undertaken to commence the construction of the manège. In these circumstances, a successful appeal under ground (a) would only grant planning permission for the development that has taken place on the appeal site.

Reasons

The effect of the scale and form of the development on the character of the Strategic Landscape

6. The appeal site is a former surface mine for the working of coal and fireclay located in the rural area to the north west of New Works and to the west of Telford. The site is an open grassed field and is bounded with hedgerows and fencing and further open grassland. Land levels vary through the site with a gentle downward slope from north to south. From within the site there are long distance views mainly to the south and west.
7. The building is set on an existing reinforced concrete pad and raised above the ground level by blocks which vary in height due to the topography of the land. Its roof is covered with slate grey bitumen tiles and its timber frame is covered with wooden sheeting, which is currently wrapped with membrane protection. The building is of significant stature with a domesticated form. This is reflected in the fenestration and the squat appearance of the building created by the shallow pitch of the roof and the substantial width of the gable ends.
8. The site lies within the Wrekin Forest Strategic Landscape and Policy NE7 Telford & Wrekin Local Plan 2011-2031 (TWLP) affords this the highest level of protection. Telford & Wrekin Strategic Landscapes Study (2015) characterises the landscape as "Wooded Estatelands" which has a complex pattern, forming irregular patchwork of woods and fields in a peaceful, rural and relatively tranquil landscape. It notes how "extensive woodland can reduce visibility within the area but is less effective in screening development in elevated views from above".
9. The appeal building is in an open and isolated elevated position in the countryside with minimal screening from vegetation within the site. Its wide domestic profile and overall substantial form is exacerbated by the site's topography and the building being elevated on blocks. This creates a visually prominent building which does not reflect the vernacular of equestrian and farm buildings expected to be found in such a location. Although the building remains unfinished, its size and design neither respects or responds positively to its context or enhances the quality of the natural environment, landscape setting and topography of the locality.
10. In this respect, the development causes harm to the character of the Strategic Landscape and has an adverse impact on its surroundings contrary to the

requirements of Policies BE1 and NE7 of the TWLP. This is also contrary to the aims of paragraph 170 of the National Planning Policy framework which seeks to protect and enhance valued landscapes.

Whether the residential use of the building would be appropriate in the location

11. There appears to be no disagreement between the parties that the partially constructed building is designed and intended for use as a dwelling and for use in association with an equestrian and agricultural business. The plans provided show a two bedroom unit with a kitchen, utility room, bathroom and living room. The remaining space is labelled as office, canteen, toilets, storeroom, tack room and rug drying room. I note that the plans formed part of the application for planning permission which was subsequently refused by the Council on 10 February 2020¹.
12. Policy HO10 of the TWLP directs most rural dwellings towards named settlements. Exceptions to the policy include proposals that meet an identified essential need for a rural worker to live on site. Such proposals require sufficient evidence of, amongst other things: a clear functional need for the person to be readily available on the site or nearby at most times; the business is financially sound and has a clear prospect of remaining so; the dwelling is of an appropriate size commensurate with the established functional requirement; and the need cannot be met by an existing dwelling on the unit or by other existing accommodation in the area. Where there is insufficient evidence provided, temporary accommodation, such as mobile homes, for up to a period of three years may be considered. The policy provides that applications for dwellings made on the ground of providing security will not be supported.
13. The appellant's evidence provides that the development has received "a considerable amount of backing and support from potential clients that the whole business strategy has had to be re visited to allow for the volume of business that is to be expected". However, there is no business currently operating from the site and in these circumstances, "the expected increase in business" is insufficient evidence to justify the need for the dwelling. The development is contrary to Policy HO10 and paragraph 79 a) of the National Planning Policy Framework which supports the provision of dwellings in such locations where there is an essential need for a rural worker to live on-site.

Whether the excavated land would be suitably retained.

14. The Council, in its statement, has referred to land stability concerns regarding the building. However, the alleged breach of planning control on the enforcement notice refers simply to the "carrying out of engineering operations and excavations so to alter ground levels". The reasons for issuing the notice also state that "no details have been provided to show how the excavated land will be suitably retained" and that the "suitability of the excavations and design of any proposed foundations have not been fully detailed and investigated". It is my view that the enforcement notice attacks the excavation of the land to create the proposed manège only. I note that the Mining Investigation Report identified a current risk to the development from shallow mine workings and recommended that an intrusive mining investigation (comprising the sinking of

¹ TWC/2020/0976 'Erection of an agriequestrian centre consisting of 20 enclosed stables with ancillary areas and habitable accommodation, the erection of a 6 bay Dutch barn, creation of a ménage (sic) and associated car parking'.

rotary drillholes) was carried out beneath the footprint of the proposed office/stable structure to determine the presence and state of any historically worked coal seams beneath the site and provide comments on any necessary remedial measures. However, there appears no requirement for such works to be undertaken elsewhere within the site.

15. Nevertheless, significant excavation works have been undertaken within the appeal site. The Council have provided that the works have resulted in excavation of the ground level to some 3 metres with a considerable amount of soil displaced. Even with the infill of material to subsequently provide a sound level base for its proposed use as a manège, there would be a requirement for soil to be retained around the outer edge. It is not apparent from the appeal submissions what form this would take. Nonetheless, the extent of the groundworks has resulted in an evident scarring of the landscape which is clearly visible within the site and likely to be visible from more distant views, particularly from the south and west. This does not respect the landscape setting or enhance the quality of the natural environment as required by Policy BE1 of the TWLP. Furthermore, it is considered that the engineering operations and excavations that have taken place do not comply with the requirements of Policies BE1 and BE9 of the TWLP which place importance on development demonstrating that there is long term stability and that structural integrity will not be compromised by slope instability.

Other matters

16. From the evidence before me it is clear that the principle of the development of an equestrian/agricultural business has been previously agreed. I note the Council has advised the appellant that planning permission TWC/2018/0878, although not considered to have been implemented, remains extant until 20 December 2021 and has directed how that consent could be lawfully commenced.

Conclusion

17. The development does not accord with the development plan for the area when considered as a whole and there are no material considerations which would outweigh the conflict with that development plan. For the reasons given above, I therefore conclude that the appeal should not succeed.

S A Hanson

INSPECTOR