



Appeal Decision

Site visit made on 14 September 2021

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 1st October 2021

Appeal Ref: APP/E2734/C/21/3273526

Manor Farm, Wilsill, Harrogate, HG3 5EB

- 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 Bill LaBonte against an enforcement notice issued by Harrogate Borough Council.
 - The enforcement notice, numbered 17/00648/BRPC15, was issued on 16 March 2021.
 - The breach of planning control as alleged in the notice is without planning permission the erection of a stable block and tack room otherwise than in accordance with the plans approved under planning permissions referenced 18/02060/FUL or 15/02330/FUL.
 - The requirements of the notice are demolish the Stable building and Tack room and remove all materials used in their construction from the land.
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be determined.
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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 as amended for the development already carried out, namely the erection of a stable block and tack room on land at Manor Farm, Wilsill, Harrogate, North Yorkshire, HG3 5EB referred to in the notice.

Planning Permissions

2. There was an extant planning permission at the date that the appeal was made reference 18/02060/FUL ("the 2018 Permission") and this is referred to in the evidence submitted by both parties. This permission has since expired and a further permission reference 21/02284/FUL ("the 2021 Permission") has been granted for a very similar development, the main difference being that the vertically hung Yorkshire Boarding is not required to be dark stained.

Ground (a) and the deemed application for permission

3. The application for permission deemed to have been made is for the erection of stable block and tack room. The main issue in the ground (a) appeal is the effect of the development on character and appearance of the area with special reference to the Nidderdale Area of Outstanding Beauty ('the AONB').

4. The appeal site is located in Wilsill in the AONB. The statutory purpose of an Area of Outstanding Natural Beauty is to conserve and enhance the natural beauty of the area¹. Wilsill is a small village set mostly adjacent to the B6165 road and around its junction with The Raikes, and slopes generally down the valley in a southerly direction so that there are significant differences in the levels of the buildings. The development sits at a fairly elevated level within the settlement although there are also some houses further up the valley side. The character of this part of the AONB is rural with grass fields with dry stone wall boundaries, clusters of trees and houses and rural buildings mostly built from light-coloured stone and with grey-coloured or slate roofs.
5. The development is situated behind the buildings at Manor Farm and adjoining the sloping field to the north and west. It is of a simple functional design constructed with external timber boarding and a pitched slate roof. It can be seen from various viewpoints including from: the Lupton Bank (B61565)/Raikes Lane junction to the west of the site; the north of the site along Raikes Lane which rises up the valley side; and from public footpaths 15.58/82/2 and 15.58/82/1 to the north and north east of the site respectively. These views are assessed in the Landscape and Visual Impact Assessment ('the LVIA') which was submitted by the appellant.
6. Policy GS6 in the Harrogate District Local Plan 2014 – 2035 ('the Local Plan') is intended to ensure that proposals conserve and enhance the natural beauty and special qualities of the Nidderdale Area of Outstanding Natural Beauty which is in accordance with the National Planning Policy Framework ('the Framework'). Policies HP3 and NE4 of the Local Plan seek to protect, enhance and reinforce local distinctiveness and landscape character which includes visual amenity. Policies HS8 and HP4 were referred to during the course of the appeal but are not directly relevant to issues raised by the parties as they relate to extensions to dwellings and the protection of residential amenity. The impact on the character and appearance of the surrounding area is the main issue in this appeal and Policies HP3, NE4 and the Framework are clearly relevant.

Reasons

7. The LVIA was prepared by landscape architects from Smeeden Foreman Limited and is stated to have been undertaken in accordance with GLVIA3². It assesses the landscape and visual effects of an additional 1.45m eaves height (rear) and 2.0m ridge height (when compared with the 2018 Permission).
8. The Council's case is that harm is caused by the additional height of the building which they have measured at 1.77m higher than approved under the 2018 Permission. The Council has stated that the building is 0.26m too wide and 0.36 m too short when compared to the 2018 Permission, and that the size and appearance of the building harmfully impacts on the landscape character and appearance of the area. However, their stated case is that the harmful impact from the building primarily stems from its enlarged height which affects its massing and scale. The development is built and its effect on the character and appearance of the area can be seen. The assessment does not therefore turn on the difference in the measurements submitted by the parties (although

¹ Section 82 of the Countryside and Rights of Way Act 2000.

² Guidelines for Landscape and Visual Impact Assessment 3rd Edition published by The Landscape Institute and the Institute of Environmental Management and Assessment April 2013.

the appellant is using the larger height measurement of 2.0m in any event). I have taken account of the height, width and length of the building as built in my considerations regarding its scale and massing.

9. I accept that the correct basis on which to assess the development is to consider the extant permission for the stables and tack room on the site and that there is a reasonable prospect of this fallback position (now the 2021 Permission) being an alternative. Indeed the appellant's case is that the 2018 Permission should be included as a requirement of the notice should the ground (a) appeal fail, and the fact that stables are being used for the family's horses make it likely that the fallback would be implemented. It is therefore correct to compare the effect of the development subject to the notice against the effect of the development which could lawfully take place under the 2021 Permission.
10. The development can be seen from the various public and private viewpoints as set out above and it is undoubtedly more visible than it would have been under the previously consented schemes due to its increased height. It blends in well to the landscape due to its location next to the cluster of existing buildings in the settlement, and the use of natural materials complements the materials in the existing built form in the locality. The Yorkshire Boarding is not dark stained but this is not necessary as the untreated cladding is not overly obtrusive and is not causing harm.
11. Whilst the building is larger in height than the 2021 Permission, the scale and massing is not overbearing or overly dominant in its surroundings when viewed from Lupton Bank or higher up the valley side on The Raikes. It is integrated into the existing landscape including with the various groups of mature trees nearby. Whilst the development is partially viewed against the skyline when seen from Lupton Bank and the Raikes (and more so than would have been the case with a building constructed in accordance with the 2021 Permission) it is not incongruous or overly prominent and is not harmful to the character and appearance of the area. In addition, the planting undertaken by the appellant next to the development and at other locations to the north and west within the adjoining field is already providing some screening and will provide more if properly maintained as it matures.
12. The LVIA concludes that whilst the site has a high landscape value and high/medium high visual sensitivity, the overall Landscape Effects is assessed as Negligible Neutral and the Overall Visual Effect (taking account of the various viewpoints) is assessed as Minor/Negligible Neutral with the nature of the visual effects considered to be neutral³.
13. The Council submits that the development cannot be neutral as it can be seen, but I do not accept this assessment. The Local Plan policies and the Framework require, amongst other things, that development conserves and enhances the natural beauty and local distinctiveness, and it is clearly possible, as in this case, to do that with a visible building. For the reasons set out above, the development is also generally in accordance with the Guidelines on Equestrian Development in Nidderdale AONB SPD 2007 which is a material consideration. Great weight must be afforded to conserving and enhancing the landscape and scenic beauty of the AONB but my observations during site visit were not contrary to the conclusions of the LVIA. The development does not fail

³ Page 34 of the LVIA.

to conserve and enhance the landscape and scenic beauty of both the AONB generally or this part of it.

14. I do not therefore find that the development causes harm to the character and appearance of the area, the visual amenity of the landscape or the natural beauty and special qualities of the AONB. It is therefore in accordance with the Local Plan and the Framework.

Conclusion

15. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.

Zoë Franks

INSPECTOR