The Planning Inspectorate

Appeal Decision

Site visit made on 7 April 2021

by S A Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2022

Appeal Ref: APP/H1840/C/20/3264728
Vicarage Nurseries, Leys Road, Harvington, Worcestershire, WR11 8JA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Vicarage Nurseries Limited against an enforcement notice issued by Wychavon District Council.
- The notice was issued on 6 November 2020.
- The breach of planning control as alleged in the notice is: Without the benefit of planning permission, the unauthorised erection of polytunnels.
- The requirements of the notice are to: Permanently remove the unauthorised polytunnels and associated benches for the growing of soft fruit and the associated automated watering system.
- The period for compliance with the requirements is: 4 (four) 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 dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. Since the issue of the notice, planning permission ref. 20/02722/FUL has been granted for the retention of 27,702 sqm of polytunnels for the cultivation of soft fruit (horticulture) and engineering works for a surface water attenuation basin. The application proposed the omission of two rows of polytunnels adjacent to Leys Road and additional landscaping of the site plus revised drainage details and servicing arrangements.

3. The notice of approval is dated 28 May 2021 and included conditions requiring access, parking and turning facilities to be provided within one month in accordance with the Parking Swept Path plan; and for the first two rows of polytunnels adjacent to Leys Road to be removed within 3 months in accordance with the proposed Site Plan.

4. S180(1) of the Act provides that where planning permission is granted after the service of a copy of the enforcement notice for any development already carried out, the enforcement notice shall cease to have effect insofar as it is inconsistent with the planning permission. This means that the planning permission overrides the enforcement notice to the extent that the planning permission authorises what is being enforced against. In these circumstances, I

consider that what remains to be attacked by the notice is the two rows of polytunnels adjacent to Leys Road.

The appeal on ground (a) and the deemed planning application

Main Issues

5. Further to the granting of planning permission ref. 20/02722/FUL, and within that context, I consider the main issue to be the effect of the two rows of polytunnels adjacent to Leys Road on the visual and landscape character of the area.

Reasons

6. The appeal site falls within the Landscape Type 'Village Farmlands with Orchards' as identified in the County Landscape Character Assessment (LCA). This outlines the key characteristics of the lowland agricultural landscape, with orchards being a primary land use and lines of hedgerow fruit trees, particularly damson, being a distinctive local feature in the lowland agricultural landscape.

7. The site is situated to the southern side of Leys Road on a relatively flat parcel of land within gently undulating countryside. It is an existing horticultural nursery populated by polytunnels located to the northwest of the village of Harvington. The polytunnels are used for cultivating soft fruits and are located to the east of the central access track to the nursery. They align with the northern edge of the site where a hedge of mixed native species defines the boundary with the Leys Road. Directly opposite the site is a small terrace of houses and an individual detached property.

8. The polytunnels consist of a series of metal frames, 3.2m high and 8m wide which extend 135m in length running parallel with Leys Road. The metal frames are covered with polycarbonate sheeting during the growing season, which typically runs from late March/April to September/early October depending on weather conditions and the variety of strawberry. Outside of this time, the sheeting is removed to protect the horticultural plastic from adverse weather, but the frames remain in place. The sheeting may also be removed during hot spells to ensure the soft fruits do not spoil from the heat.

9. The council's concerns are generated by the effect of the development on longer views from the elevated highway to the northwest, which leads to Sheriff's Lench, and from Cleeve Hill to the south-east. There is also concern expressed about the visual impact on both local residents opposite the site and users of Leys Road. Furthermore, by extending to the extremities of the site boundary, little or no space is provided for conserving and restoring hedgerows or encouraging opportunities for tree planting. While the council's concerns were expressed in relation to the mass extension of the polytunnels either side of the access road into the site, I am only concerned with the effect of two rows nearest Leys Road.

10. In this respect, the effect of these two rows from longer views towards the site is negligible against the backdrop of the development that has permission. However, for the occupants of the housing opposite, the proximity and scale of the appeal development is oppressive. The extent of the length of the polytunnels just beyond the hedge, diminishes the longer views and for

approximately half of the year, the immediate view is dominated by an expanse of white polycarbonate sheeting.

11. Furthermore, while road users are likely to be primarily those driving motor vehicles, and thus views towards the site will be fleeting, Leys Road forms part of an important tourist attraction, the 50 mile long route of the 'Blossom Trail'. This is a cultural celebration of the fruit tree blossom through the Vale of Evesham and is also an approach to the village, which the Harvington Neighbourhood Plan declares as important to the visual charm of the village.

12. Overall, the two rows of polytunnels, due to their positioning are detrimental to the visual amenity and landscape setting of the locality and this conflicts with Policy SWDP21 of the South Worcestershire Development Plan 2016 (SWDP). The encroachment into the field margins is also considered harmful to the landscape and wildlife, contrary to guidelines in the landscape character assessment which, amongst other things, aim to conserve and restore traditional orchards, hedgerow fruit trees, and promote development of wide field margins for wildlife benefit. In this respect, the appeal development is contrary to Policy SWDP25 of the SWDP. As I considered that the longer views towards the site would not be compromised by the appeal development in the context of the existing permitted development, there would not be conflict with Policy EH5 of the Harvington Neighbourhood Plan 2018 which refers to the panoramic valued views from Atch Lench.

13. The appeal development does not accord with the development plan read as a whole. In the absence of material considerations to indicate otherwise, planning permission must therefore be refused. Accordingly, I dismiss the appeal on ground (a) and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act as amended.

S A Hanson

INSPECTOR