



Appeal Decision

Site visit made on 28 June 2022

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 August 2022

Appeal Ref: APP/W2845/C/21/3280574

**Land at Plot 2, Tythe Farm, Holdenby Road, East Haddon,
Northamptonshire NN6 8DW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr John Goodman against an enforcement notice issued by West Northamptonshire Council.
 - The notice was issued on 13 July 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission the erection of a residential dwelling larger and different in appearance to that consented by the original planning permission ref: DA/2015/0459 and subsequently approved non-material amendments ref: NMA/2016/0060 and NMA/2016/0085.
 - The requirements of the notice are to:
 - a) Complete the necessary remedial works to the unauthorised building so that it is built in accordance with the plans and details as approved by Non-Material Amendment permission NMA/2016/0085 (drawing numbers: 015-012-003 Revision L, 015-012-006 Revision C and 015-012-007 Revision C) or the plans and details as approved by Non-Material Amendment permission NMA/2016/0060 (as detailed by revised Condition 2 and drawing numbers 015-012-003 Revision K, 015-012-006 Revision C and 015-012-007 Revision B);
 - or
 - b) Demolish the unauthorised building in its entirety ensuring that all materials resulting from the demolition are removed from the land and disposed of in an authorised waste transfer station
 - The period for compliance with the requirements is: 12 (twelve) 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. 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.
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Decision

1. It is directed that the breach of planning as alleged in the notice is deleted and substituted with "Without planning permission the erection of a dwelling".
2. Subject to this correction, the appeal is dismissed, 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.

Matters concerning the notice

3. The allegation should clearly refer to the breach of planning control. In this case, that is the erection of a dwellinghouse without planning permission. The intended minor correction does not undermine the basis of the notice or alter the nature of the subject development. The appellant is clearly aware as to the notice's intent. Wide powers to correct a notice are available to me under

s176(1) of the 1990 Act and I am satisfied that the correction will not cause injustice to the appellant or the council if I correct the allegation.

Site history

4. Planning permission was granted in November 2015 (DA/2015/0459) for the erection of the appeal dwelling following on from the grant of prior approval under Class MB (as it then was) in September 2014. Since the 2015 consent, two non-material amendment applications have been approved¹ and it is these that are relevant to the appeal. An application to regularise the development as built was subsequently withdrawn by the appellant and resubmitted on 7 July 2021. It was not registered by the Council. An enforcement notice was issued the following week. Having regard to the above, the fallback position for the appellant amounts to the construction of the building in accordance with the approved non-material amendment applications NMA/2016/0060 or NMA/2016/0085 to planning permission DA/2015/0459. This accords with option a) listed under section 5 of the notice, 'what you are required to do'.

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

Main Issue

5. This is the effect of the development on the character and appearance of the building and group of former farmstead buildings which are located within the Special Landscape Area.

Reasons

6. The appeal property (Plot 2) is among a cluster of buildings that occupy a relatively isolated position within the open countryside. The village of East Haddon is approximately 1km to the southwest, Holdenby village is some 1.3km to the southeast and Ravensthorpe village lies approximately 1.6km to the north of the site. The appeal property is located within the Special Landscape Area (SLA). Access is via a long private drive from Holdenby Road to the south.
7. Plot 2 sits within a group of former agricultural buildings, including the former farmhouse. The appeal property faces inwards and is perpendicular to East Barn, a converted red-brick barn, and 'Plot 1', a new build which is the subject of a separate appeal². The small enclave of five houses is encircled by undulating open countryside. The surrounding agricultural landscape is characterised by large fields whose boundaries are defined by hedgerows and interspersed with trees. Public footpaths run some 40–70 metres to the west of the site through the adjacent field and the footpath extends some 890 metres further out to the southwest side onto Holdenby Road. Another public footpath lies further to the west, approximately 500 metres away from the site and this runs to the north towards Ravensthorpe village.
8. The appeal property is a large detached two-storey dwelling with an integral double garage to one side. It stands in a large plot which extends some 40m northwards to provide a private rear garden. Plot 2 is in an elevated position and there are far reaching views across a largely open landscape, which exposes the development to distant views. While visiting the wider surrounding

¹ NMA/2016/0060 granted 2 November 2016 and NMA/2016/0085 granted 4 January 2017

² APP/W2845/C/21/3279492 and APP/W2845/C/21/3279517

area during my site visit, I walked along nearby footpaths and viewed the development from further afield where I could see the effect on the landscape. Formerly a traditional rural farmstead, the scale and form of the development is dominant within the landscape. Its mass and form are such that it portrays an uncharacteristic urban addition within the rural surroundings. From within the former farmstead, the appeal development appears awkward and inconsistent with its neighbours (with the exception of Plot 1). The development bears little resemblance to its agricultural setting and ultimately undermines the historic quality of the former farmstead.

9. I acknowledge the development of the former farmstead has created large dwellings in sizeable plots, and that Plot 2 is the smallest of the dwellings in footprint. The council's submissions provide that as originally approved, it (and Plot 1) was considered an exception to prevailing policy for new development in the countryside due to the development being an 'environmental improvement'. The design, according to the council, was conceived to reflect and be subservient to the adjacent nineteenth century East Barn. However, with the increased height reported by the council as 1m and by the appellant as 700mm and 400mm over the main and lower roof, the appeal building is clearly no longer a subservient addition to the group.
10. Furthermore, the changes to the design of the building have culminated in a structure that has a form which fails to complement its rural setting. Whilst the footprint of the dwelling remains fairly close to that previously approved, the increase in height of the main roof and the lower roof has added mass and this visually detracts from the quality of the SLA. The increase in height has also affected the architectural qualities of the building and this is particularly noticeable with the window openings to the first floor which have been raised. This visually unbalances both the front and rear elevations of the property and diminishes the more traditional qualities of the approved scheme. Whilst the use of dormer windows is not uncommon within the immediate surroundings, the addition of these to the rear roof slopes of Plot 2 appear contrived and this undermines the original concept of the building.
11. Traditional farmsteads and farm buildings are an integral part of the rural landscape and make an important contribution to the varied character of the landscape. Due to its elevated position and surrounding open countryside, the appeal property is extremely noticeable within the wider SLA. Longer views experience the building as incompatible within the rural landscape and from within the cluster of buildings and this has a negative effect on the setting of the former farmstead. Overall, I find the extent of the deviation from the approved plans by way of the increased height and elements of design, is significant and material and this has resulted in a building which detracts from the prevailing character and the appearance of the main group of buildings and the SLA.
12. In this respect, the development is contrary to Policies ENV2, ENV10 and SP1 of the Settlements and Countryside Local Plan (Part 2) for Daventry District 2011-2029 (adopted 2020) (the SCLP) which: look to protect the special qualities of the district's areas of high quality landscape which are designated as SLAs; and acknowledge the need to protect the character and setting of settlements and surrounding areas but allow development of a high quality, ensuring that the scale, density, massing, height and layout combine to ensure development blends well within the site and its surroundings. There is further

conflict with the West Northamptonshire Joint Core Strategy 2014 (WNJCS), Policy S10 which says that, amongst other things, development will protect, conserve and enhance the natural and built environment and heritage assets and their settings.

13. Policy RA6 of the SCLP recognises the intrinsic character, beauty and tranquillity of the open countryside supporting development that complies with criteria i to xii. The reason for the notice refers to criteria vi. This relates to extensions to existing buildings and thus is not relevant. Except for reference to being in accordance with policies RA1, RA2 and RA3, which have not been considered as part of this appeal, I consider that, in these circumstances, its contents are not directly applicable, although the underlying principles are relevant. Furthermore, Policy R1 of the WNJCS refers to the spatial strategy for rural areas and covers villages and small settlements/hamlets rather than the open countryside in which the appeal site is located. The relevance of the policy is therefore limited.
14. With regard to national planning policy and guidance, I find that there are also conflicts with guidance contained within both the National Design Guide 2019 and the National Planning Policy Framework 2021³. These seek to: recognise the intrinsic character and beauty of the countryside; protect SLAs and enhance valued landscapes; ensure development is sympathetic to local character; respects the surrounding built and natural environment highlighting the desirability of maintaining an area's prevailing character and setting; support visually attractive development as a result of good architecture and development which is sympathetic to local character, history and surrounding built environment and landscape setting.

Other matters

15. I acknowledge the letter of support from the occupants of 3 of the former farmstead properties. However, the degree of harm caused by the deviation from the approved planning consent is significant. Accordingly, considerable weight should be attached to the effect of the development on the historic setting of a former traditional farmstead and the effect on its wider setting within the SLA and support from these neighbours does not change my view.
16. I also note the frustration of the appellant due to their perceived unfavourable treatment by the council in dealing with the planning matters once the breach of planning control was revealed. However, my assessment of the appeal development is based on an impartial appraisal of the planning merits regarding relevant planning policies. Dissatisfaction with the Council's procedure should appropriately be made in the first instance through the authority's own complaints procedure.

Conclusion on ground (a) and the deemed planning application

17. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

³ The notice refers to the National Planning Policy Framework 2019 and the council's statement updated the reference to the 2021 version.

The appeal on ground (f)

18. An appeal on ground (f) is that the requirements of the notice are excessive. Section 173(4) of the 1990 Act is clear that a notice can have one of two purposes. Those purposes are —
- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - (b) remedying any injury to amenity which has been caused by the breach.
19. The notice requires that the development subject of the alleged breach is demolished, and all associated materials are removed from the land, or it is constructed in accordance with the approved non-material amendments NMA/2016/0060 or NMA/2016/0085. On that basis, it seems to me that the purpose of the notice under section 173(4)(a) of the 1990 Act is to remedy the breach of planning control.
20. The appellant sets out a case for the regularisation of the development as built. However, that is what is before me under a ground (a) appeal and the application deemed to have been made under section 177(5) of the 1990 Act. If that appeal were to have succeeded, planning permission would have been granted for what had been built, subject to conditions if considered reasonable and necessary. There are no lesser steps, or any obvious alternatives before me that might remedy the breach of planning control, so the appeal on this ground cannot succeed.

S A Hanson

INSPECTOR