



Appeal Decisions

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 A Ref: APP/W2845/C/21/3279492

Appeal B Ref: APP/W2845/C/21/3279517

**Land at Plot 1, 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 appeals are made by Mr E Nixon (Appeal A) and Mrs Nixon (Appeal B) against an enforcement notice issued by West Northamptonshire Council.
 - The enforcement notice was issued on 25 June 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/2018/0157.
 - The requirements of the notice are:
 - a) Complete the necessary remedial works to the unauthorised building so that it is built in accordance with the plans and details as approved under planning permission DA/2018/0157 as detailed by condition two, Drawing no 015-012-SK02 Revision A Plot One Overlay Sketch, Drawing no 015-012-003 Revision P Proposed Site & Block Plan, Drawing no 015-012-004 Revision G Proposed Plan – Plot 1 and Drawing no 015-012-005 Revision J Proposed Elevation – Plot One;
 - or
 - b) demolish the unauthorised building in the entirety ensuring that all materials resulting in 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.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (f), (g) 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.
 - Appeal B is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended.
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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 appeals are 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 appellants are 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 appellants or the council if I correct the allegation.

Procedural matter

4. Appeals were made by both Mr and Mrs Nixon against the enforcement notice on ground (a). Since the prescribed fees were paid by Mr E Nixon only, the appeal by Mrs Nixon on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act, as amended, has lapsed. Consequently, no further action will be taken on Mrs Nixon's appeal on ground (a).

Site history

5. 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, non-material amendments involving an extension to increase in length the first floor from 15m to 25m was approved (NMA/2016/0085). However, a subsequent application (NMA/2017/0065) to further extend the length of the first floor to 34m and to the ridge was considered unacceptable as a non-material amendment. This was because it was considered to *materially affect the character and appearance of the property and the surrounding ensemble of buildings... and.... not retain the overall character of the original design, and...compete with East Barn, which should remain as the dominant element within the group.*
6. An approval issued on 25 May 2018 (DA/2018/0157) allowed for a 1.5 storey element on the northern end as opposed to the full height previously sought. Application DA/2020/1148 which sought to vary condition 2 (approved plans) of DA/2018/0157 to regularise the development, as built and alleged on the notice, was refused by the planning committee by notice on 11 June 2021. The refusal reasons form the reasons for issuing the notice. Having regard to the above, the fallback position for the appellant amounts to the construction of the building in accordance with planning permission DA/2018/0157. This accords with option a) listed under section 5 of the notice, 'what you are required to do'.

Appeal A – Ground (a) and the deemed planning application

Main Issue

7. 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

8. The appeal property (Plot 1) 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.

9. The property sits within a group of former agricultural buildings, including the former farmhouse. The property faces east towards East Barn, a converted red-brick barn, and to its rear the garden land drops away steeply towards adjoining fields. Directly to the south in an elevated position is a large, detached dwelling within a substantial plot. To the north is a further large detached new build, which is the subject of a separate appeal¹. 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.
10. A landscape and visual impact assessment (LVIA) forms part of the appellant's submissions guided by the Published Northamptonshire Landscape Character Map 2003 and the Local Plan 2020 designation of Special Landscape Area. This describes the appeal site as being within a landscape character of undulating hills and valleys with a combination of arable farmland and improved pastures grazed by sheep and cattle, with limited woodland cover and scattered farmsteads.
11. The appeal site 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 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, Plot 1 appears as over dominant and inconsistent with its neighbours to the south, east and west. The development bears little resemblance to its agricultural setting and ultimately undermines the historic quality of the former farmstead.
12. Whilst I acknowledge the development of the former farmstead has created large dwellings in sizeable plots, the council's submissions provide that as originally approved, it was considered an exception to prevailing policy for new development in the countryside due to it being an 'environmental improvement'. The design of the development, due to its 'traditional proportions and appearance' was to be subservient to and reflect the adjacent nineteenth century East Barn. It seems, however, that over time Plot 1 has benefitted from incremental enlargements which have resulted in a building significantly altered to what was originally approved or intended.
13. Although elements of the design of the building may be similar to what had been approved, unlike the permitted scheme, the dwelling has been constructed 1m higher, 1.8m wider and 2m deeper, with the rear wing also extended. The increase in the footprint and height has resulted in a building of substantial structure which equates to an increase in floor area by about 206 sqm, with the ground and first floor 56.5 sqm larger than approved. The sheer increase in mass has resulted in a building which is contrived in its setting both

¹ APP/W2845/C/21/3280574

within the former farmstead and the wider rural landscape. Further to the increase in dimensions, there have been design elements which have been altered. These include: the loss of the 'stepped-in' integral double garage; timber boarding; openings and fenestration detailing; a shallower roof pitches; and a wider, deeper porch. The appellants list the changes to the elevational treatments on pages 14, 15 and 16 of their statement, several of which are a consequence of the enlargement of the property. Many of these elements have diminished the more traditional architectural form of the property and this has created a building with a more urban style which consequently appears awkward.

14. The LVIA summarises the built scheme from a landscape impact assessment not to be materially different from the consented scheme, with the difference defined as 'Not Significant'. In these circumstances I disagree with this view. It is not only the increased dimensions, but the impact that this has on the aesthetics of the building as a whole. This is experienced both in its immediate setting and within the wider SLA, which I consider to be sensitive because of the far reaching inward views across mainly uninterrupted open countryside. Whilst there may be examples of development in similar positions at the end of long tracks, the examples I saw during my visit melded with the surroundings and did not appear unduly out of character.
15. 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 footprint combined with 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. Whilst the appeal site may benefit from further planting, additional landscaping would likely be insufficient to blend the development into its setting.
16. 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.
17. 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.

18. 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 2021². 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.

Conclusion on ground (a) and the deemed planning application

19. 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.

Appeals A and B on ground (f)

20. 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.
21. 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 plans approved pursuant to DA/2018/0157. On that basis, it seems to me that the purpose of the notice under section 173(4)(a) of the Act is to remedy the breach of planning control.
22. The appellants suggest in their statement that were I to consider that individually the increased length or depth of the building is acceptable, but simultaneously conclude that, individually, the increase in another component (length, depth, height) is not acceptable, I may consider it appropriate to amend the steps required to be undertaken to complete the necessary remedial works.
23. Having regard to established caselaw, it is necessary to consider obvious alternatives to achieve the purposes of the notice at less cost and disruption. However, such proposals should be before me, and it is not for me to search

² The notice refers to the National Planning Policy Framework 2019 and the council's statement updated the reference to the 2021 version.

around for solutions. I have not been provided with details or drawings to demonstrate how any of the alternative suggestions might work. Nonetheless, given my findings in respect of the breach of planning identified by the allegation, I conclude that there are no other obvious alternatives apparent to me nor advanced by the parties. On that basis, I find that there are no lesser steps that would remedy the breach of planning control and as a result, the requirements of the notice are not considered excessive. The appeal on ground (f) therefore fails.

Appeals A and B on ground (g)

24. The appeals on ground (g) are that the period for compliance specified in the notice falls short of what should be reasonably allowed. The notice gives a period of 12 months. The appellants consider the period for compliance not reasonable given the length of time to secure Building Regulations approval; appoint a contractor; order materials; and undertake the work required. A compliance period of at least 18 months is requested.
25. It is acknowledged that contractors and materials are not as plentiful as they have been previously. However, in the absence of evidence to support the timeframe as being insufficient I am not persuaded that 12 months would be too short a time period to comply with the notice. The appeal on ground (g) therefore fails.

S A Hanson

INSPECTOR