



Appeal Decisions

Site visit made on 20 July 2022

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2022

Appeal A: APP/E2734/C/22/3294663

The land situate and known as Oakwood Farm, Follifoot Lane, Kirkby Overblow, Harrogate, North Yorkshire HG3 1EY

- 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 John Schofield against an enforcement notice issued by Harrogate Borough Council.
 - The enforcement notice was issued on 10 February 2022.
 - The breach of planning control as alleged in the notice is without planning permission the erection of an agricultural barn building and the formation of a concrete pad.
 - The requirements of the notice are:
 - i) Demolish the barn building and remove all materials used in its construction from the land.
 - ii) Break up the concrete pad and remove all materials used in its construction from the land.
 - iii) Return the land to its previous condition as open grassland pasture.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/E2734/W/22/3298892

Oakwood Farm, John Metcalf Way, Panal HG3 1EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Schofield against the decision by Harrogate Borough Council.
 - The application Ref 22/00779/FUL, dated 22 February 2022, was refused by notice dated 19 April 2022.
 - The development proposed is described as 'erection of agricultural building (retrospective)'.
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Decisions

Appeal A - APP/E2734/C/22/3294663

1. It is directed that the enforcement notice is varied by:
 - 1) Deleting the words *as open grassland pasture* in requirement iii) in section five (what you are required to do).
 - 2) Deleting *six months* from section five (time for compliance) and replacing this with *9 months*.

2. Subject to these variations 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.

Appeal B - APP/E2734/W/22/3298892

3. Appeal B is dismissed.

Application for costs

4. An application for costs was made by Harrogate Borough Council against Mr John Schofield. This application is the subject of a separate Decision.

Appeal A on ground (a) the deemed planning application and Appeal B

Background

5. Planning permission has previously been refused and dismissed on appeal¹ for the barn building subject of these appeals. It is against this background that I have considered these appeals.
6. However, unlike the previous application and appeal, the appellant's submission includes a Supplementary Barn Report (SBR) and Landscape Strategy Report (LSR) including an assessment of harm and proposed landscaping.
7. The appellant's case refers to a previous prior approval for an agricultural building, reference 14/03447/PNAFUL, which has expired. Consequently, as a matter of fact there is no fallback position.
8. That building, whilst similar in scale, would have been sited with the long elevation parallel to, and viewed against Black Wood. In that way its' siting would have been more sensitive to the landscape. It would have had the appearance of a typical modern agricultural building and, as proposed, would not have included an extensive area of hardstanding. Consequently, even if it represented a realistic fallback, that development is not directly comparable.
9. Ground (a) is that planning permission should be granted for the matters stated in the notice. Since the considerations in Appeal B are the same as for Appeal A I have considered the appeals together.

Main Issue

10. The appeal site is located within the Green Belt. There is no dispute between the main parties that the development falls within the exception at paragraph 149(a) of the National Planning Policy Framework and is therefore not inappropriate development.
11. Consequently, the main issue is the effect of the barn building and concrete pad on the character and appearance of the area.

Reasons

12. The appeal site sits within Area 65 of the Harrogate and District Landscape Character Assessment: South East Harrogate Farmland (LCA). The assessment for this area states that this moderate scale, rolling landform is the dip slope of

¹ APP/E2734/W/20/3256706

- an escarpment. Small woodland blocks grow on higher ground enclose and disperse views, there are also some trees scattered along field boundaries.
13. The appeal site is not subject to any statutory landscape designations. Nonetheless, it does not necessarily follow that because a landscape is not designated it is without worth or value.
 14. It is recognised in the LCA that the landscape has some capacity to absorb rural development if small in scale, associated with existing settlement/farmsteads and if appropriate planting is used to help integrate development.
 15. In broad terms the appellant's LSR and SBR together seek to demonstrate that the landscape can accommodate the development, with landscaping, on the basis that it is a type of development already well represented in the local landscape setting.
 16. The building stands alone and is located around 400m away from Oakwood Farm. It occupies an elevated position on rising ground above an access track which is also a public right of way (PROW) and runs to the broadly north and east of the building. The land around the building and concrete pad has a well-maintained appearance with stone columns and decorative iron gates forming the entrance to the site.
 17. The building is constructed from stone under a slate roof, materials which are found locally. Whilst relatively substantial, based on the submissions, I consider the scale of the building is not inappropriate for its use, as found by the previous Inspector.
 18. However, as a consequence of the materials, albeit high quality, and the inclusion of decorative design elements, the building does not have an obvious agricultural character. Additionally, its orientation and siting unrelated to existing buildings or landscape features, mean that it does not relate well to the landscape around it. Overall, as a result of the design and siting, the building, together with the concrete pad, appear as an incongruous and intrusive development in the landscape.
 19. Notwithstanding how the area of raised ground came to be, the siting of the building on top of the land only serves to increase its prominence and incongruity in views from the PROW.
 20. I acknowledge the justification for the concrete pad. However, the extent of hardstanding also makes the storing of equipment and materials more likely, something which the Council would have no control over if permission were to be granted. Such paraphernalia exacerbates the harmful impact of the development in views, as demonstrated by the addition of large, albeit temporary, concrete enclosures.
 21. It is not unusual to see isolated field barns, they are undoubtedly accepted and valued as part of the historic agricultural landscape. However, the majority referred to in the SBR, are much smaller in scale, with those buildings at Brackenfoot Farm and Lane End Farm, appearing to form part of a farmstead or group of buildings. Additionally, most do not appear to be in use for modern agricultural purposes and do not include significant areas of hardstanding.

22. The building off Kearby Lane is a substantial modern agricultural building located in an exposed location, prominent in public views. Whilst its function, unlike the appeal building, is self-evident from its appearance, this example reinforces my view about the adverse visual impact that such isolated development can have on their surroundings. Accordingly, it does not provide a strong argument to justify the appeal development.
23. Whilst I acknowledge the above example, it has not been demonstrated that substantial modern isolated field barns, are characteristic of the local landscape.
24. I have viewed the site from various viewpoints used within the LSR. Undoubtedly the greatest impact in terms of scale and appearance is from close range views from the PROW however, the views from viewpoints six, seven and eight highlight the isolation and elevation of the building. Indeed, the LSR identifies a moderate/adverse impact from view six with seven being similar.
25. Notwithstanding the dispute about species, the proposed landscaping would provide some mitigation, particularly in more distant views from the south and from the A658. However, any such measures would take a considerable period of time to become fully established.
26. Furthermore, since the effects of the building and concrete pad are greatest in close range views from the PROW, even with sympathetic planting, the development would be viewed as an arbitrary and discordant intrusion into the landscape which is materially harmful to the character and appearance of the area. Indeed, it is acknowledged that the likely long term visual effect in views from the PROW, with mitigation, would still be minor adverse. It cannot therefore be said that the development could, even with landscaping, protect nor therefore enhance the local landscape character.
27. The appellant sought to justify the siting by reference to the proximity to the A658 and potential conflict with users of the PROW.
28. In respect of pedestrian safety, whilst the lane is also a PROW this is not an uncommon situation in rural areas. I see no reason why drivers and pedestrians would not be able to see one another and there is room for pedestrians to move to one side to let vehicles pass. Consequently, and since it has not been demonstrated that the access and manoeuvring requirements of vehicles could not be met by a more appropriately sited building, this is a matter of little weight.
29. There are economic benefits associated with the development, as acknowledged by the Council, not least the employment of 15 people. The business also clearly supports local and national policies in respect of carbon reduction and generates its own energy needs using solar panels. However, there is no substantive evidence to demonstrate that the appeal development is the only means by which the needs of the business could be met therefore, these matters cannot outweigh the identified landscape harm.
30. The appellant, under ground (f) suggested a lesser step of walling up the window openings in matching stone however, this would not overcome the harm in respect of the siting of the building and concrete pad.

31. For the reasons given above, I find the barn building and concrete pad unacceptably harm the character and appearance of the area contrary to Policies HP3, HP5 and NE4 of the Harrogate District Local Plan 2014 – 2035. Together these policies require development to respect the spatial qualities of the local area including visual relationships, to protect the recreational and amenity value of rights of way and to protect and/or enhance the character and appearance of the landscape.
32. Whilst the impact may be reasonably localised in its extent, it conflicts with the aims of the Framework to enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
33. Given the conflict with local and national policy, the development cannot therefore be considered sustainable development for which the Framework presumes in favour.

Other Matters

34. I acknowledge third party representations of support and the absence of objections; however, these are neutral matters which cannot outweigh my findings.
35. That there would be benefits to habitats and biodiversity, are neutral matters as these measures would be necessarily required to mitigate the effects of the development on the appearance of the area.
36. The misgivings expressed about the Council's approach to the case are separate matters for the appellant and Council away from this appeal and have no bearing on the planning merits.

Overall conclusion on the ground (a) appeal and the deemed planning application and Appeal B

37. For the above reasons, I conclude that the development conflicts with the development plan read as a whole. The advanced considerations do not indicate that the appeals should be determined other than in accordance with the development plan.
38. Accordingly, the appeal on ground (a) and Appeal B should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

The appeal on ground (f)

39. The appeal on ground (f) is that the requirements of the notice exceed what is necessary. The purposes of an enforcement notice are set out in Section 173 of the Act and are to remedy the breach of planning control (s173(4)(a) or to remedy injury to amenity (s173(4)(b)). As the enforcement notice requires the barn building to be demolished, the concrete pad to be removed and all resulting materials to be removed from the land, I find the purpose is to remedy the breach of planning control. No lesser steps would achieve that purpose.
40. The appellant suggested that a lesser step of walling up the window openings in matching stone would suffice to remedy the harm. I have considered this under ground (a) and come to the opposite conclusion.

41. In order to remedy the breach of planning control, it is not excessive to require the demolition of the building and removal of the concrete pad, along with all resulting materials from the land.
42. The appellant contended that the land was not previously open grassland pasture and was a spoil heap. The appellant cannot be required to undertake works that would go beyond remedying the breach therefore, there is no scope for the notice to require some improvements to the land. Since it is sufficient to require the land to be restored to its previous condition, and the landowner should have the best knowledge of what that condition was, I shall vary the requirements accordingly.
43. The appeal on ground (f) therefore succeeds to this limited extent.

The appeal on ground (g)

44. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
45. The appellant considers a period of 18 months to be appropriate. This is on the basis that the building is used to house valuable machinery and equipment and there is no other building on the holding capable of storing the equipment. Further, in order that the building materials can be recycled the building needs to be carefully dismantled.
46. The appellant stated that they will seek to identify an alternative site where the building can be rebuilt. Once a site is identified, it will take some time for any discussions with the Council to take place and for any planning application to be prepared, submitted, and considered, and for any resulting works to be carried out. Consequently, it would be appropriate to extend the compliance period from six to nine months.
47. Although this is not the 18 months suggested by the appellant, the needs of the business must be balanced against the need to resolve the breach of planning control. Nine months strikes the right balance. The ground (g) appeal succeeds.

Conclusions

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

Felicity Thompson

INSPECTOR