



Appeal Decision

Site visit made on 22 August 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 02 September 2022

Appeal Ref: APP/U2370/C/22/3299862

Land at Island Farm, Island Lane, Winmarleigh, Preston PR3 0LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Gail Crook against an enforcement notice issued by Wyre Borough Council.
- The enforcement notice was issued on 12 April 2022.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a partially completed building.
- The requirements of the notice are:
 - a) Demolish the structure in its entirety to ground level; and
 - b) Remove from the Land all resultant demolition materials and all other arisings that result from compliance with sub-paragraph (a) of this paragraph 5.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in sections 174(2)(a) and (f) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Preliminary Matters

1. The enforcement notice alleges the erection of a partially completed building. I saw that the development has not been completed. In this situation, noting Section 177(1) of the 1990 Act only allows for a grant of planning permission for the whole or part of the matters, planning permission cannot be granted for more than the partially constructed structure. However, the ground (a) appeal must still be determined on its merits. I have taken the appellant's proposed plans to be illustrative only.
2. I understand that the appellant submitted a part-retrospective application for alterations to the existing agricultural storage building (19/01233/FUL), which was refused in September 2020. The Council failed to determine the application in a timely manner, which has led to frustration. Although I appreciate the difficulties faced by both parties, I am unable to take the matter into account in this appeal.

The ground (a) appeal and the deemed planning application

Main Issue

3. As explained above, the terms of the deemed planning application are derived from the allegation. Planning permission is sought for the erection of a partially completed building. The main issues are the effect of the development on the open and rural character of the countryside and on the character and appearance of the area.

Reasons

4. The appeal building is situated to the south of a group of buildings, which are used as dwellings, and is accessed via a track from Island Lane. It incorporates parts of a previous building, which suffered storm damage. The land to the south, east and west is open countryside. The appellant explains that the land forms part of an agricultural holding totalling 150 acres. The majority of the land is arable although a small number of fields are used for grazing. The appeal building is intended for use as an agricultural equipment store and workshop.
5. The partially completed structure has a main section extending to one and a half storeys, of maximum height 6.46m, with a single-storey projecting wing. The main section includes steel beams, which are supported on blockwork with a partially-built brick facing. There is no roof. The single-storey wing is built up in concrete blocks and it has a pitched roof of profiled sheeting. The main section would include two large openings within the south elevation which, it is explained, would allow trailers and larger equipment to enter for loading and unloading. To either side of the full-height central bay would be loft storage areas, accessed from the central bay. The single-storey wing would contain two store rooms/workshops.
6. While I do not doubt that the appellant has need of an agricultural building, I am not persuaded that the appeal building has been designed for that purpose. I saw a mini-digger and handler within the main building, but these only just fitted below the floor of the loft. Manoeuvring within the building would be extremely difficult due to the first floor, the size of the openings and the floor layout of the building itself. Loading and unloading would be restricted. The appellant explains that the suspended floor could be removed, if required in the future, but this does not explain why it formed part of the initial design. The smaller workshops are similarly constrained in size, with limited floorspace, ceiling heights and door openings. I appreciate that the appellant seeks a vernacular design, but it would be possible to design a simple, vernacular building that would be appropriate to its context but more suited to its intended use as an agricultural store or workshop.
7. I also saw that there are more window openings in the structure than are shown on the submitted plans. This includes openings on the first floor of the west-facing gable that appear to serve no useful purpose in an agricultural building. The building is orientated to face south, with the two large openings also being south-facing looking over open countryside. While this takes advantage of the views and sunlight, it would create a less than ideal access arrangement for farm machinery.
8. The use of blockwork with profiled sheeting is not uncommon in agricultural buildings. I have had regard to the examples of other agricultural buildings to which the appellant refers in their supporting statement¹. However, the form and design of the appeal building does not lend itself to its intended use. I doubt the items listed to be stored, as detailed in the Design and Access Statement² could be accommodated, and accessed easily, while also allowing space for the workshop. The other building examples supplied by the

¹ Wignalls – Proposed Alterations to an Agricultural Storage Building.

² Dated 23 May 2022.

appellant tend to be large shed-type structures, of a basic plan form with large barn doors, in contrast with the form and design of the appeal building.

9. The appeal building lies to the south of other buildings and it is not visible from Island Lane, although it can be seen from a public right of way that runs to the west. It is also screened from the nearby buildings by trees and hedgerows and, to a certain extent, the slope of the land. However, the proposal would extend the built development into the countryside, which would impact on the rural character and appearance of the area. I understand that there was a previous agricultural building on the site and I saw that parts of the rear block wall remain and have been incorporated. Nonetheless, the alterations are extensive and, for the reasons explained above, the resulting building would not be reflective of a basic, utilitarian agricultural building that would be acceptable in this location.
10. The appellant argues that large agricultural buildings can be erected as 'permitted development' under the Town and Country Planning (General Permitted Development) Order 2015. However, there is no evidence that a building could be erected in this location under those rights. This consideration carries limited weight, therefore. I acknowledge the benefits of the development in that it would support the agricultural enterprise and hence the rural economy in line with paragraph 84 of the National Planning Policy Framework. However, the Framework also requires development to be sensitive to its surroundings and to recognise the intrinsic character and beauty of the countryside. The proposal would not accord with the Framework as a whole.

Conclusion

11. I conclude that the development would have an adverse effect on the open and rural character of the countryside and on the character and appearance of the area. There are no substantiated public benefits or other considerations that would outweigh that harm. It would not accord with Policy SP4 of the Council's Local Plan (2019), which enables agricultural development within the defined countryside areas, provided that it protects the open and rural character of the area, or Policy CDMP3, which requires development to be of a high standard of design appropriate to its end use, while also protecting the character of the area. As such, the proposal would not be in accordance with the development plan.

The ground (f) appeal

12. The ground (f) appeal is that the steps required by the notice to be taken, or the activities required to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. While the connection is not explicit, the wording of Section 174(2)(f) of the 1990 Act links back to Section 173 which provides that an enforcement notice shall specify the steps to be taken, or activities to cease, in order to achieve, wholly or partly, remedying the breach or remedying any injury to amenity. In this case, the notice requires the removal the structure and resulting materials. Its purpose is to remedy the breach of planning control. I must consider whether the requirements exceed what is necessary to achieve that purpose.

13. The appellant argues that the notice is excessive since there was a previous building on the site, and its reinstatement should be allowed. Due to the extent of the alterations to the building it cannot be considered a repair. There is very little of the previous building remaining and so it would not be possible to simply remove the new elements and leave a sound structure. Neither would it be possible for me to consider an alternative scheme as part of the ground (a) appeal, that being the reinstatement of the previous building. There are no detailed plans and I would not be able to vary the enforcement notice with sufficient precision. In any event, I am constrained because planning permission cannot be granted for more than the partially constructed structure, as explained above.
14. I find that the breach of planning control can only be remedied by the removal of the unauthorised structure. The requirements are not excessive to achieve the statutory purpose behind the notice. The ground (f) appeal fails, therefore.

Conclusion

15. 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.

Formal Decision

16. 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.

Debbie Moore

Inspector