



Appeal Decisions

Site visit made on 14 November 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th February 2024

Appeal A Ref: APP/C3240/C/22/3309796

Appeal B Ref: APP/C3240/C/22/3309797

Land at Yorkdale, The Barns at Coalport, Sutton Bank, Coalport, Telford TF11 9NJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeals are made by Mr Stuart Boynton (3309796) and Mrs Julie Anson-Boynton (3309797) against an enforcement notice issued by Telford and Wrekin Council.
 - The notice was issued on 28 September 2022.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of fencing (approximately marked F1 and crosshatched blue on the attached plan), an outbuilding (approximately marked G1 on the attached plan) and the installation of decking (approximately hatched yellow and marked D1 on the attached plan).
 - The requirements of the notice are to:
 1. Remove from the land permanently, the outbuilding approximately marked G1 on the attached plan.
 2. Remove from the land permanently, the fencing in the location approximately marked F1 and crosshatched blue on the attached plan.
 3. Remove from the land permanently, the decking in the location approximately marked D1 and crosshatched yellow on the attached plan and restore the land to its former condition.
 4. Remove all the materials arising from the works to comply with requirements 1-3 of this notice.
 - The period for compliance with the requirements is six months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f), (g) of 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. Appeal B proceeds on grounds (b), (c), (f), (g) only.
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Decision

1. The appeal on ground (a) is allowed insofar as it relates to the outbuilding approximately marked G1 on the plan attached to the notice and planning permission is granted on the application deemed to have been made under section 177(5) of the Act, for the outbuilding at land at Yorkdale, The Barns at Coalport, Sutton Bank, Coalport, Telford TF11 9NJ
2. The appeals are dismissed and the enforcement notice is upheld insofar as it relates to the erection of fencing (approximately marked F1 and crosshatched blue on the notice plan) and the installation of decking (approximately hatched yellow and marked D1 on the attached plan) and planning permission is refused in respect of the fencing and decking at land at Yorkdale, The Barns at Coalport, Sutton Bank, Coalport, Telford TF11 9NJ on the application deemed to have been made under section 177(5) of the Act.

Preliminary Matters

3. The appeal site is one of five single residential dwellings within a wider residential farm development which includes the properties of The Farmhouse, Montdore, Sonnet and Mapletime. Enforcement notices alleging various breaches of planning control have been issued on each of these residential sites, and separate individual appeals have been made against each one of these notices. Each appeal is subject to a separate decision and are determined on their own merits.
4. It has been requested that permission should be granted for the removal of condition 13 of permission ref: TWC/2014/0772. These appeals are only made against the enforcement notice issued and not against a decision to refuse an application for the removal of a planning condition. The appeals are therefore dealt with accordingly.
5. The appellants state that in section 4 of the notice the reasoning, in respect of the decking, is not supported by any development plan policies. The notice does clearly describe the harm that the decking causes and in the Council's statement of case this harm is further explained and also supported by development plan policies. The appellants have had an opportunity to respond in their final comments statement. I therefore do not feel that any parties have been prejudiced in this regard.

Appeals on ground (b)

6. An appeal on ground (b) is a claim that the matters stated in the notice (which may give rise to the breach of planning control) have not occurred as a matter of fact. The burden of proof falls on the appellants and the relevant test of the evidence is on the balance of probabilities. These grounds of appeals are made only in respect of the outbuilding, identified as G1 in the notice.
7. At my site inspection, I saw an outbuilding located in the position of G1 as identified on the plan attached to the notice. There is no evidence before me to suggest that the outbuilding was not situated at the site at the date the notice was issued.
8. Consequently, the appellants have failed to demonstrate that at the date the notice was issued the matters alleged had not occurred, and the appeals on ground (b) must fail.

Appeals on ground (c)

9. An appeal on this ground is a claim that the matters alleged in the notice, if they occurred, do not constitute a breach of planning control. The burden of proof falls on the appellants and the relevant test of the evidence is on the balance of probabilities. These grounds of appeals are made only in respect of the fencing and the decking.
10. Plan ref: SA29258_DC_01 Rev A was submitted to the Council in order to discharge condition 2 of permission ref: TWC/2014/0772 for the conversion of redundant farm buildings into 4no. dwellings (of which one of these dwellings forms part of the appeal site). Condition 2 was for details of materials to be agreed. The Council issued a letter dated 15 February 2018 confirming that the condition was discharged in relation to plan ref: SA29258_DC_01 Rev A, and detailing specifics in terms of downpipes and gutters, reclaimed bricks, mortar,

and cills and headers with a note stating that foul drainage layout was not approved. This letter, under the section relating to condition 2, did not refer to any fencing.

11. Condition 5 of permission ref: TWC/2014/0772 related to details of enclosures. The Council letter states that condition 5 is discharged detailing internal yard fencing in accordance with plan ref: SA29258_DC_04_A1_RevA_180213 and boundary fencing to be post and rail. Plan ref: SA29258_DC_04_A1_RevA_180213 only shows details of wrought iron railings and ventholes.
12. Plan ref: SA29258_DC_01 Rev A does have an annotation stating '*Condition 5: Fences - 1.8m High Timber Privacy fences to be added in locations as specified on site plan. Indicative fencing shown in fig 1.*' Fig 1 on the plan shows a picture of a timber privacy fence. The plan does not indicate the positioning of where this timber privacy fence is proposed to be located on the site. The Council do not specifically confirm, in their letter dated 15 February 2018, either under the discharge of condition 2 or condition 5 that this 1.8m high timber privacy is approved.
13. Taking account of all the above factors and with regard to all the evidence before me, the fencing as alleged in the notice has not been approved by the Council through the discharge of either condition 2 or 5 of permission ref: TWC/2014/0772.
14. The appellants confirm in their statement that the decking is not a raised platform. This is something I saw at my site visit as the decking is at the same level as the grassed area with garden chairs and tables on it. Decking which is laid at ground level to provide a hard surface for walking and sitting on does fall within Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Class F states that development consisting of the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse is permitted. The decking subject of this notice with gaps making it permeable is a hard surface that falls within the criteria described in Class F of the GPDO.
15. Condition 13 of permission ref: TWC/2014/0772 removes permitted development rights from the site including, amongst other things, hard surfacing. The decking therefore is not permitted development.
16. The fencing has not been approved through a discharge of conditions of permission ref: TWC/2014/0772. The decking is a hard surface that falls within the criteria described in Class F of the GPDO however, as condition 13 of permission ref: TWC/2014/0772 removes permitted rights from the appeal site including for hard surfacing, then the decking is not permitted development. Since the fencing and the decking do not benefit from any other planning permission, they thereby constitute a breach of planning control. Therefore, the appeals on ground (c) fail.

Appeal on ground (a)

17. The ground of appeal is that planning permission should be granted for the development.

Main issue

18. The main issue is whether the development preserves or enhances the character or appearance of the Severn Gorge Conservation Area and the Outstanding Universal Value of the Ironbridge Gorge World Heritage Site.

Reasons

19. The appeal site is located within the Severn Gorge Conservation Area (SGCA) and the Ironbridge Gorge World Heritage Site (IGWHS). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, paragraph 205 of the National Planning Policy Framework 2023 (the Framework) states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
20. The SGCA is made up of several character areas with the appeal site sitting within the character area of Coalport. Coalport is dominated by the former ceramics factory and associated industrial buildings, with isolated farmsteads contributing to the character of the SGCA. The appeal site is part of a larger farmstead complex, with the buildings now residential accommodation, the main structures retain the traditional design, styles and materials of the original farmstead form. The significance of the SGCA, particularly in the location of the appeal site, is the historic interest of the rural built form within the setting of the wider industrial character of the area. The UNESCO description of the Outstanding Universal Value of the IGWHS refers to 'the traditional landscape and forests of the Severn Gorge' and the farmstead that the appeal site forms part of contributes positively to the traditional landscape of rural fields interspersed with agricultural built development.

Fencing

21. The notice refers to two separate fencing at the appeal site (although marked on the notice plan as F1 and crosshatched blue). Both are high close boarded timber fencing with the one adjacent to the driveway being of a horizontal timber boarded design and the one that bounds the site with the property of Montdore being of a vertical timber boarded design.
22. Due to the height, designs and scale of the fencing, they are intrusive features that dominate the surrounding buildings and detracts from the traditional nature of the farmstead and the wider rural character. The use of timber for the fencing blends in with the character of the area however, this does not outweigh the harm caused by the height, designs and scale of the fencing. The fencing are permanent structures and whilst they do provide elements of privacy, the overall style and mass of the fencing does have a harmful effect on the character and appearance of the area.
23. I have had regard to the appellants statement of case including permission ref: TWC/2016/1125 which is for a 1.83m high fence. I do not consider this fence to be directly comparable to the fencing subject of this appeal, given its construction includes stone plinth and posts and its location does not appear to be set within a rural farmstead setting.

24. Reference is made to court judgements¹ that discuss the importance of previous decisions being material considerations and the consistency of decision making with cases that are similar in manner. The scheme approved in permission ref: TWC/2016/1125 is not directly comparable to the fencing subject of this appeal, particularly with regards to location and design.
25. Accordingly, the fencing does not preserve or enhance the character and appearance of the SGCA and IGWHS. It does not comply with Policies BE1, BE3 and BE5 of the Telford & Wrekin Local Plan and the Framework which states that development should respect and responds positively to its context and enhances the quality of the local built and natural environment, protect and enhance the Outstanding Universal Value of the Ironbridge Gorge World Heritage Site, and preserve or enhance the character or appearance of conservation areas.
26. Under this ground of appeal, the appellants reiterates the arguments relating to the fence being approved through the discharge of conditions of permission ref: TWC/2014/0772. I have dealt with this matter under ground (c).

Decking

27. The decking given its style and materials is a discordant feature that is not in keeping with the traditional character of the buildings and the rural area. The decking may not be highly visible from public vantage points however, it is prominent within the immediate setting, particularly if the fencing is to be removed. Whilst the appeal property and surrounding dwellings are residential, the built form is of a traditional farmstead complex and the decking is an incongruous feature that detracts from the nature of these buildings and compromises the character and appearance of the surrounding area.
28. The appellants reiterate arguments relating to the decking not being a raised platform or hard surfacing. These matters are dealt with under ground (c).
29. The decking does not preserve or enhance the character and appearance of the SGCA and IGWHS. It does not comply with Policies BE1, BE3 and BE5 of the Telford & Wrekin Local Plan and the Framework which states that development should respect and responds positively to its context and enhances the quality of the local built and natural environment, protect and enhance the Outstanding Universal Value of the Ironbridge Gorge World Heritage Site, and preserve or enhance the character or appearance of conservation areas.

Outbuilding

30. The outbuilding subject of the notice is attached to the outbuilding of neighbouring property Montdore and appears as one single structure. I have therefore assessed it as one single structure accordingly.
31. Whilst the outbuilding has a tall pitched roof, the structure, due to its design and positioning, does not have an overly dominating appearance within the setting of the farmstead. It is not unusual for farmsteads to have associated buildings within close proximity to the main buildings. The outbuilding contributes to the built form of the site and surrounding buildings with the

¹ North Wiltshire District Council v Secretary of State for the Environment (1993) 65 P & CR 137; Baroness Cumberlege v Secretary of State for Communities & Local Government [2017] EWHC 2057 and R (Midcounties Co-Operative Limited) v Forest of Dean District Council [2017] EWHC 2056

materials of the structure not having a detrimental effect on the historic agricultural character of the farmstead and the wider surrounding area. The size, style and materials of the outbuilding are sympathetic to its surroundings and does not have a harmful effect on the character and appearance or the significance of the SGCA and IGWHS.

32. I have had regard to the Council's statement of case including reference to need for storage, permitted development and permissions ref: TWC/2021/0533 and TWC/2014/0772. These matters do not alter my findings above.
33. The structure as a whole and therefore the outbuilding as described in the notice does preserve the character and appearance of the SGCA and IGWHS. It does comply with Policies BE1, BE3 and BE5 of the Telford & Wrekin Local Plan and the Framework which states that development should respect and responds positively to its context and enhances the quality of the local built and natural environment, protect and enhance the Outstanding Universal Value of the Ironbridge Gorge World Heritage Site, and preserve or enhance the character or appearance of conservation areas.

Other matters

34. The appellants have provided evidence in relation to planning permissions ref: TWC/2021/0533 and TWC/2021/0534 both of which are for the development of dwellings including a car port. These developments lie to the west of the appeal site with the appellants describing the design of the dwellings as contemporary. Insufficient evidence has been provided with regards to the justification for granting permission for these developments, and they are a significant distance from the appeal site and do not form part of the farmstead complex. These developments do not alter my findings above.

Conclusion on ground (a)

35. The outbuilding does preserve the character and appearance of the SGCA and IGWHS and does not conflict with policies of the development plan or the Framework, so planning permission should be granted for it.
36. The fencing and decking however, do not preserve or enhance the character and appearance of the SGCA and IGWHS. They do not accord with the development plan as a whole and there are no other considerations which indicates my decision should be made other than in accordance with the development plan.
37. The fencing and decking are harmful to the SGCA and IGWHS, and thereby the significance of the heritage assets. Nevertheless, I consider the harm to be less than substantial and in accordance with paragraph 208 of the Framework, this harm should be weighed against any public benefits of the proposal. Given the domestic nature of these structures, they have minimal public benefit which do not outweigh the cumulative harm to the SGCA and IGWHS. The fencing and decking, therefore, fails to sustain or enhance the setting, and thereby the significance of, the designated heritage assets. They do not accord with the policies of the Framework which seek to conserve and enhance the historic environment.
38. I conclude that the appeals should succeed in part. I will grant planning permission for the outbuilding but it is proportionate and necessary to uphold

the notice and refuse to grant planning permission in respect of the fencing and decking.

39. I shall not vary the notice so as to delete the requirement to remove the outbuilding. Section 180 of the Act provides that where planning permission is granted after the service of an enforcement notice, for any development carried out before the grant of permission, the notice shall cease to have effect so far as inconsistent with that permission. In other words, the grant of permission for the outbuilding shall override the requirement of the notice to remove the outbuilding.

Appeals on ground (f)

40. These grounds of appeals are made only in respect of the outbuilding. Given my conclusion with respect to ground (a) above, there is no need to consider ground (f) in relation to the outbuilding.

Appeals on ground (g)

41. Ground (g) is that the period for compliance with the notice falls short of what is reasonable. In this notice, the time to comply with the requirements is six months. The appellants seek a time period of 12 months in which to comply with the requirements of the notice.
42. The appellants primary argument for seeking an increase in the period for compliance relates to the outbuilding, indicating that additional time is needed in order for the appellants to find alternative arrangements for the storage of items that are in the outbuilding. Given the outbuilding has been granted permission then this argument falls away.
43. I see no reason why the necessary works required to remove the fencing and decking within six months, could not be achieved. There is no compelling evidence before me to indicate otherwise. As such I conclude that the periods for compliance with the notice requirements do not fall short of what should reasonably be allowed.
44. The appeals on ground (g) therefore fail.

Chris Baxter

INSPECTOR