



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/22/3309798

Appeal B Ref: APP/C3240/C/22/3309799

The land at Sonnet, 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 Richard Wardle (3309798) and Mrs Elizabeth Wardle (3309799) 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 (marked in the approximate location of F1 crosshatched blue on the attached plan), and an outbuilding (marked in the approximate location G1 on the attached plan).
 - The requirements of the notice are to:
 1. Remove from the land permanently, the outbuilding in the approximate area marked G1 on the attached plan.
 2. Remove from the land permanently, the fencing in the approximate area crosshatched blue and marked F1 on the attached plan.
 3. Remove all the materials arising from works to comply with the requirements 1 and 2 of this notice.
 - The periods for compliance with the requirements are 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. It is directed that the enforcement notice is corrected by:
 - The deletion of the words 'of F1' from section 3.
 - The deletion of the word 'F1' from section 4.
 - The deletion of the words 'and marked F1' from section 5.
2. Subject to the corrections, the appeal on ground (a) is allowed insofar as it relates to the outbuilding 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 Sonnet, The Barns at Coalport, Sutton Bank, Coalport, Telford TF11 9NJ
3. The appeals are dismissed and the enforcement notice is upheld insofar as it relates to the erection of fencing (marked in the approximate location crosshatched blue on the attached plan) and planning permission is refused in respect of the fencing at land at Sonnet, 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

4. Section 176(1) of the Act provides a wide-ranging power to correct or vary the terms of an enforcement notice provided that it would not result in injustice to the parties. The notice refers to fencing as being marked by F1 on the attached plan. The plan does not have an annotation marking F1. I have corrected the notice to reflect this. The notice and the attached plan still identify the location of the fencing as marked by blue crosshatching. I am satisfied that no injustice to the appellant or the Council would arise by my correcting the notice in this way.
5. It has been identified that the crosshatched blue area on the notice plan extends beyond the actual area where the fencing is located. The fencing is located in the crosshatched blue area and appendix 1 and 2 of the notice have photographs which show the extent of the fencing. The notice is clear in identifying the alleged fencing as the breach of planning control and what is required in order to remedy the breach.
6. The appeal site is one of five single residential dwellings within a wider residential farm development which includes the properties of The Farmhouse, Montdore, Yorkdale 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.
7. 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.

Appeals on ground (b)

8. 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.
9. 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.
10. 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)

11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. Since the fencing does not benefit from any other planning permission, it thereby constitutes 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 fencing, given its height, design and mass, is a dominating feature that has an intrusive appearance on the traditional nature of the built form and detracts from the rural character of the area. The fence is of timber construction with this type of material generally being of a sensitive nature in the setting of the area. However, this does not outweigh the harm that is caused by the scale and style of the fencing. The fencing is a permanent structure that provides an element of privacy, nevertheless, it is an incongruous feature with its height, design and massing having a harmful effect on the character and appearance of the surrounding area.
22. The appellants have referred to a court judgement¹, in particular a passage from that judgement which states "*statutorily.... preserving the character or appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.*" Following my assessment above, I find that the fencing does not make a positive contribution and does harm the character and appearance of the area.
23. I have had regard to the appellants statement of case including reference to planning permission ref: TWC/2016/1125 for a 1.83m high fence and court judgements². The court judgements discuss the importance of previous decisions being material considerations and the consistency of decision making with cases that are similar in manner. The approved fence in permission ref: TWC/2016/1125 is not directly comparable to the fencing subject of this appeal as the materials differ and the location of the fencing in permission ref: TWC/2016/1125 is not set within a rural farmstead setting.
24. 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

¹ South Lakeland District Council v Secretary of State for the Environment and another [1992]

² 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

enhance the Outstanding Universal Value of the Ironbridge Gorge World Heritage Site, and preserve or enhance the character or appearance of conservation areas.

25. Under this ground of appeal, the appellants reiterate 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).

Outbuilding

26. The outbuilding subject of the notice is attached to the outbuilding of neighbouring property Mapletime and appears as one single structure. I have therefore assessed it as one single structure accordingly.
27. It is not untypical for farmstead complexes to have associated buildings that contribute to the built form. This outbuilding, being sensitive in design and materials, has an agricultural appearance that contributes positively to the agricultural nature of the existing built development in the area. The outbuilding does have a tall pitched roof form, however, given its agricultural design and location close to the main farmstead buildings, it does not appear as a dominating structure. The size, style and materials of the outbuilding ensures that it is not out of keeping within the rural setting and is not harmful to the character and appearance or the significance of the SGCA and IGWHS.
28. The Council has drawn my attention to various evidence including the need for storage, permitted development, previously demolished buildings and permissions ref: TWC/2021/0533 and TWC/2014/0772. These matters do not alter my findings above.
29. 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

30. My attention has been drawn 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 appellant 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)

31. 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.

32. The fencing however, does not preserve or enhance the character and appearance of the SGCA and IGWHS. It does 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.
33. The fencing is 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 this structure, it has minimal public benefit which does not outweigh the cumulative harm to the SGCA and IGWHS. The fencing, therefore, fails to sustain or enhance the setting, and thereby the significance of, the designated heritage assets. It does not accord with the policies of the Framework which seek to conserve and enhance the historic environment.
34. 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.
35. 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)

36. 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)

37. 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.
38. 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 appellant 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.
39. I see no reason why the necessary works required to remove the fencing 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.
40. The appeals on ground (g) therefore fail.

Chris Baxter

INSPECTOR