



Appeal Decision

Site visit made on 24 May 2022

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14 June 2022

Appeal Ref: APP/B3030/C/21/3283755

Land to the South Side of Hall Cottage Stables, High Street, Holme, NG23 7RZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Miss Judy Bradwell against an enforcement notice issued by Newark & Sherwood District Council.
 - The notice, numbered 21/00145/ENFB, was issued on 16 September 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the laying of materials to create a compacted hard surface.
 - The requirement of the notice is remove the materials forming the hard surface from the land.
 - The periods for compliance with the requirement is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) 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.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the laying of materials to create a compacted hard surface at Land to the South Side of Hall Cottage Stables, High Street, Holme, NG23 7RZ as shown on the plan attached to the notice and subject to the following conditions:
 1. Unless within the first planting season following the date of this decision a beech hedgerow is planted along the full length of the southern boundary of the land, the materials forming the hard surface shall be removed until such a time as the hedge is planted. The hedgerow must be planted with 4 plants per metre, per row, in double staggered rows. The plants must be planted at a minimum of 80 centimetres and once established be thereafter maintained at a minimum height of 2 metres for the lifetime of the development. The hedge shall thereafter be maintained, and any plants which are removed or becomes seriously damaged or diseased shall be replaced in the next planting season with other of the size and species as set out above. In the event of a legal challenge to this decision, the operation for the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
 2. The development shall only be used for the loading and unloading of vehicles and trailers, and shall not be used otherwise for the parking of vehicles or trailers.

Ground (c)

2. An appeal on this ground is on the basis that the matters stated in the notice do not constitute a breach of planning control. The appellant's case is that the hardstanding would be permitted development pursuant to the Town and Country Planning (General Permitted Development) Order (England) 2015 as minor operations within the grounds of a residential building. However, the appeal site is not within the same ownership or planning unit as the adjacent Holme Hall, and is rather part of the same planning unit as Hall Cottage Stables which are not in residential use. The permitted development rights do not therefore apply, notwithstanding that this land was in the same planning unit as Holme Hall previously. The appeal under this ground cannot succeed.

Ground (a) and the deemed application for permission

3. The main issue in this ground is the effect of the development on the setting of the listed buildings of the Stable Block and Holme Hall, and the character and appearance of the land; and on the living conditions of the occupiers of Holme Hall.

Heritage assets

4. When considering whether to grant planning permission for development which affects a listed building or the setting of a listed building, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The settings of two grade II listed buildings must be considered in this case, the Stable Block and Holme Hall. The National Planning Policy Framework 2021 ('the Framework'), which is a material consideration, advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
5. The significance of Holme Hall comes in part from its architectural and historical interest as an example of a large rural house building in North Nottinghamshire from the Georgian period. It originally sat within a designed parkland setting including gardens and orchards. The appeal site is no longer within the same planning unit as the Hall, as it has been in a different ownership and a use associated with the stables for at least 12 years.
6. The setting of a listed building can also change over time, and Planning Practice Guidance defines the setting as the surroundings in which a heritage asset is experienced. Neither the appeal site nor the northern elevation of Holme Hall can be seen from the public domain, and views of the development are further limited within the wider Stables site due to the mature trees and vegetation. The listing description for Holme Hall does not reference the northern elevation or gardens. However, the appeal site has a historic and visual relationship with the Hall and was originally part of its planned gardens and is therefore still part of its setting. The loose hardstanding used in the development is of a very similar colour and appearance to the material comprising the Hall drive and access ways. As a result, it does not appear incongruous or inappropriate in this location, nor indeed overly industrial or engineered as suggested by the Council, and the development will continue to weather down and further integrate into its surroundings over time.

7. The appeal site has not been used or laid out as a domestic garden for quite some time and it no longer has any functionality with the Hall. The operational element of the development therefore causes very little, if any harm to the significance of the setting of the Hall.
8. The use as a turning circle by large equestrian vehicles is different in nature to that of a garden and this does cause harm to the setting of the Hall. The Council alleges that the area is also used as a through access into the rest of the stables yard, and for the parking of vehicles. However, the only evidence of this alleged use comprises three photographs which all show the same vehicles and appear to have been taken on the same occasion. This is not sufficient to outweigh the appellant's clear assertion that the appeal site is used as a turning area only (rather than as a through road or for extended periods of parking). In addition, the appellant states that the stables business (and size of the planning unit) is fairly small in scale which will clearly affect the number of vehicles visiting it. The harm caused to the significance of the setting of Holme Hall is less than substantial in the terms set out in the Framework.
9. The significance of the stables as a heritage asset derives from its historic connection and ancillary function to Holme Hall, historic form, functional use and vernacular construction using local materials. However, as the Stable is no longer in the same ownership or use as the Hall and the listed element of the Stables is well screened from the development by a row of mature trees and vegetation, no harm is caused to the significance of the Stables or its setting through either the operational works or use for the turning of vehicles.
10. As the development causes less than substantial harm as set out in the Framework it is necessary to consider whether there are any public benefits which outweigh the considerable importance and weight which must be given to this harm. The appellant, and many of the representations received from interested parties who live in the vicinity or use the stables, state that the public road is very narrow and no longer suited to use by the large vehicles associated with the business. This is in part due to the increased size of modern horse boxes, and also because of the new residential development of the site immediately opposite. The Council's case is that the verges alongside the road are also highway, and that the appellant has not provided highways evidence including tracking analysis to show that the vehicles are unable to use the road or are causing safety issues.
11. Taking account of the many representations, and my observations of the road, verges and layout of the buildings during the site visit, it is a matter of common sense that large vehicles trying to turn and unload on the highway outside of the stables will cause obstructions and highway safety issues. The more recent residential use of the land opposite and the general increase nationally in home deliveries will have exacerbated these issues, and whilst the highway verges are wider than the road surface, they are grassed and not suitable for regular use by heavy vehicles. The development therefore provides a public benefit in highway terms to which I accord considerable weight. In addition, there is a public benefit associated with the continuation of the well-established business which utilises and therefore provides ongoing maintenance of the listed building of the Stables (and which are still being used for a purpose similar to that for which they were originally built). I attribute moderate weight to this benefit. I have had special regard to the desirability of

preserving the setting of Holme Hall, and taken overall these benefits outweigh the less than substantial harm that I have found to the significance of the setting of Holme Hall.

Character and appearance of land

12. The effect of the development on the character and appearance of the land (as separate from the effect on the setting of the listed buildings) is very similar to the considerations that I have outlined above in relation to the effects on the heritage assets. There are extremely limited views of the land from outside of the site, and the materials used in the development match those already used at the Hall. The appeal site was overgrown prior to the development being undertaken and has not been maintained as a garden for a considerable period of time. The surrounding trees and vegetation remain which provide screening and overall the development does not harm the character and appearance of the appeal site.

Living conditions

13. The Council also argues that the use of the appeal site by large vehicles causes harm to the living conditions of the occupants of Holme Hall (although I note from the representation received from the owners of the Hall that their main concern is regarding the visual disruption and effect of the development on the setting of the listed building).
14. The development lies to the north of the side elevation of the Hall, and a large hedge screens the appeal site from the ground floor and front garden of the main building. Whilst the off-shot element at the rear of the Hall is currently not screened, the retained garden area provides separation from the appeal site. Planning conditions to restrict the use of the development for the turning and unloading of vehicles only, and to provide an additional hedge along the boundary between the two properties which would provide further screening would make the development acceptable in terms of the living conditions of the occupiers of the Hall.

Conclusion

15. For the reasons set out above, I conclude that the development causes less than substantial harm to the setting of Holme Hall and that this harm is outweighed by the public benefits. I do not find that, with appropriate conditions, the development causes any harm to the Stables or to the living conditions of the occupiers of Holme Hall. The development is therefore not in conflict with the development plan or Framework, and as there are no other considerations of sufficient weight to indicate otherwise, the deemed application for planning permission should be granted.

Conditions

16. The Council has suggested several conditions that should be imposed should permission for the development be granted, although the appellant does not agree that any conditions are necessary. I have taken into account the views of the main parties, and the representations made by the interested parties including regarding the imposition of conditions.

17. As set out above, the development can be made acceptable by a restriction on parking on the appeal site and the provision of a hedge along the shared boundary.
18. Loading and unloading on the development site should be permitted in order to enable the highway benefits to be achieved, and a condition preventing loading is unnecessary due to the size of the Stables planning unit and business and therefore likely number of vehicles visiting. Overall, I am satisfied that condition 1 meets the statutory and policy tests, and is necessary to regulate the use of the appeal site and prevent harm to the living conditions of the occupiers of Holme Hall.
19. Condition 2 is required to ensure that the hedge is planted and maintained which will make the development acceptable in terms of the living conditions of the occupants of Holme Hall. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively-worded condition to secure the approval and implementation of the planting of the hedge before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
20. A condition to secure the re-wilding of the boundaries of the appeal site is not required as this has already happened naturally.

Zoë Frank

INSPECTOR