



Appeal Decision

Site visit made on 16 November 2021

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/L3245/C/21/3276984

Fordhall Grange Stud, Longford, Market Drayton, Shropshire TF9 3PR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Fordhall Grange Stud against an enforcement notice issued by Shropshire Council.
- The notice, numbered 19/06529/ENF, was issued on 27 May 2021.
- The breach of planning control as alleged in the notice is Without planning permission:
 - i. The material change of use from private equestrian to mixed use for private and commercial equestrian, agriculture, dog breeding and keeping, open storage and the siting of two static caravans and one touring caravan on land for human habitation in the approximate locations marked with an 'C2', 'C3' and 'T1' on the attached plan
 - ii. Operational development to erect 4 buildings for stables and housing of animals approximate locations marked with an 'U', 'V', 'X' and 'Y' on the attached plan, and one partially built structure approximate location marked with an 'Z' on the attached plan.
 - iii. Operational development (engineering works) to increase the size of the riding arena approximate location marked with an 'A' on the attached plan.
- The requirements of the notice are to:
 1. Cease the use of the Land for commercial equestrian, residential purposes, agricultural, open storage and dog keeping and breeding; and
 2. Remove from the Land, the static caravans located in the approximate positions marked with an 'C2', 'C3' on the attached plan and all equipment, services and connections (including gas container), storage containers, soft and hard landscaping (including hardstanding), domestic cars and domestic paraphernalia in connection with the use of the static caravans for residential purposes; and
 3. Remove from the Land, the touring caravan located in the approximate position marked with an 'T1' on the attached plan; and
 4. Dismantle and demolish the four buildings in the approximate positions marked 'U', 'V', 'X' and 'Y' on the attached plan, including all hardstanding, services and one building partially erected in the approximate positions marked 'Z' on the attached plan, including all hardstanding, services; and
 5. Remove from the Land all materials and waste arising from the completion of works in 4 above, to a site licenced and suitable to receive these items;
 6. Removal from the Land all open storage items including by not limited to 4 scrap/old vehicles, tyres, scrap agricultural machinery and items, scrap metal and timber materials, fridges, blue plastic containers (drums), skip, bricks, wood, builders' bags; and
 7. Reduce the size of the riding arena (ménagement)(sic) to 40m by 20m with the siting as approved on application 10/02112/FUL; and
 8. Reinstate the Land to its former levels and condition before the unauthorised development occurred.
- The periods for compliance with the requirements are:
 - i. 6 months after this notice takes effect to comply with 1, 3, 4, 5, 6 and 7
 - ii. 8 months after this notice takes effect to comply with 2 and 7.

- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended (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.
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Decision

1. It is directed that the period for compliance with the requirements "ii. 8 months after this notice takes effect to comply with 2 and 7" is deleted and substituted with "ii. 8 months after this notice takes effect to comply with 2 and 8".
2. Subject to this correction, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Matters concerning the notice

3. Under "The periods for compliance with the requirements", Step 7 is referred to twice and there is no reference to step 8, which requires that the land is restored to its former levels and condition before the unauthorised development occurred. I consider that, in accordance with my powers under section 176(1)(a) of the 1990 Act, this error on the notice can be corrected without any injustice to either party because it is plainly a typographical mistake.

Preliminary Matters

4. The Council considers that the partially built agricultural building, which was granted consent¹ on 14 July 2010, was not implemented within the 3 year time period and consequently is unlawful. The evidence provided by the Council states that works to implement the building did not occur until some time after 14 July 2013 which was three years from the grant of the express planning permission. Steps 4 and 5 on the notice require that this building is demolished and removed from the site. This stance appears not to be refuted by the appellants.

The appeal on ground (a) and the deemed planning application

Main Issues

5. These are: whether, having regard to the aims of national and local planning policies, there is an essential need for a rural worker to live permanently at the site; the effect of the development on the character and appearance of the area; and highway safety with regard to the access.

Background

6. The appeal site is approx. 4.5ha (11 acres) of level grassland which is rectangular in shape and lies to the north of the A53 in a countryside location to the southwest of Market Drayton. The site is accessed off a narrow lane which joins the A53 at Fordhall Junction.
7. Change of use of agricultural land to accommodate a stable block, exerciser and manège was granted by notice dated 14 July 2010² subject to two

¹ 10/02115/FUL Erection of an agricultural storage building.

² Application under Section 73A of the Town and Country Planning Act 1990

conditions which allowed for private equestrian purposes only and required express planning permission for floodlights. The stable block was to provide accommodation for 12 horses solely for the use by the applicant and the development included the horse walker and riding arena measuring 20 by 40 metres surrounded by timber post and rail fence.

8. In 2016 a temporary 3 year permission³ was granted for the siting and use of a mobile home for residential purposes to support the fledgling commercial equine business which was described at the time as the breeding of high-quality sports horse, studding ponies, schooling for horses and 2 DIY liveries. The consent was granted on the basis that the appellants had demonstrated a functional need to live on site to provide adequate care and welfare for the horses. It was on a temporary basis to allow the appellants time to demonstrate whether there was a business which could sustain the need for a permanent dwelling on site. This consent expired on 17 June 2019.

Reasons

Essential need

9. The appeal site is located within an area that does not fall within any identified settlement or the development boundary. It is also not part of any allocated development site, hub or cluster set out in the development plan.
10. National planning policy relating to essential workers' dwellings is set out in the 2021 National Planning Policy Framework⁴ (the Framework). This states that the development of isolated homes should be avoided unless they meet certain criteria. Those criteria include where "there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside." The Planning Practice Guidance⁵ provides those relevant considerations could include evidence of the necessity for a rural worker to live at or in close proximity to their place of work and the degree to which there is confidence that the enterprise will remain viable for the foreseeable future.
11. At a local level, Policy CS5 of the Shropshire Local Development Framework Adopted Core Strategy 2011 (CS) advises that new development will be strictly controlled in accordance with national planning policies including protecting the countryside. It sets out the exceptions, where proposals maintain and enhance the countryside vitality and character where they improve the sustainability of rural communities. This includes "dwellings to house agricultural, forestry or other essential countryside workers and other affordable housing / accommodation to meet a local need". The exceptions require applicants to demonstrate the need and benefit for the development and expects it to take place primarily in recognisable named settlements or be linked to other existing development and business activity.
12. It requires relevant financial and functional tests to be met. The Council's Type and Affordability of Housing Supplementary Planning Document 2012 (SPD), which is a material consideration to which I attach substantial weight, recognises that rural based enterprises sometimes require workers to live on or

³ 16/01232/FUL Retention and continued use (3 years) of a mobile home and adjoining residential curtilage at the existing equestrian holding. Granted by notice dated 16 June 2016.

⁴ Paragraph 80

⁵ Planning Practice Guidance 67-010-20190722

near the site. The business case needs to demonstrate a functional need for the occupier to be present at the business for the majority of the time. In accordance with Policy MD7a of the Site Allocations and Management of Development (SAMDev) Plan, it also states that permission will not normally be granted if other suitable buildings or dwellings on the site have been sold off in the last 3 years or if the need could be accommodated by existing buildings, dwellings on site or by suitable and available affordable dwellings nearby.

13. The appellant's submissions provide that they purchased the site in 2001 where they initially housed and managed their own animals, while living in Market Drayton. In 2006 the breeding of horses commenced with a small number of animals bred on site and the first foal sold in 2008. However, the planning application submissions and design and access statements provide that a commercial enterprise at the site began in 2014 and in 2015 the residential use of the mobile home commenced. I note that the justification for the retention of the mobile home in 2016 was to support an identified business opportunity which "predominantly involves the breeding of high quality and high value Thoroughbred cross Warmblood Sports Horses that excel in a number of equine disciplines⁶".
14. However, it appears that the proposed business of breeding high value horses has not been established and that instead the site has become home to various other activities. The breeding programme is said to have intensified across a range of breeds; Sports Horses, Welsh Mountain, Section A Ponies and Falabellas (Toy horses) with a private foaling service having been introduced alongside the equine business with schooling and livery facility. At my visit, I observed horses in the fields, ponies in the stables, riding taking place within the manège, several goats, ducks, chickens and geese on the land and 9 Spaniels kept in a pen which, I was informed were working dogs. One of the stables housed German Shepherd dogs. I could not see them but was told there were 11 and they were kept for security purposes. The appellants deny the breeding of dogs at the site in many of their submissions. However, the design and access statement to accompany the 2019 application states that "more recently, the breeding and rearing of rare breed cattle, poultry and dogs has been introduced to the site, although these activities remain ancillary to the principal equine use of the land".
15. The appellant considered that being an "acknowledged business", there was no formal requirement to further justify the activity. Nevertheless, following repeated requests from the Council, the appellants provided accounts for the years 2017 to 2020. However, these are not verified by an accountant, and they are not of sufficient detail to fully understand what aspects of the business generated an income. The Council's agricultural consultant⁷ (the Consultant) assessed the current use of the site, the impact of Covid 19 and the previous use of the site. It concluded that the business was not economically viable, and it was not clear there was an existing essential need for a worker to reside at the site.
16. The appellants' submissions cite the 2016 application as establishing the need for a resident worker on the site and that security and 'on-call' availability for horses foaling continues that need. Whilst the protection of horses from theft or injury by intruders may contribute on animal welfare grounds to the need for

⁶ Business Appraisal – Halls Holdings March 2016

⁷ Kernon Countryside Consultants Ltd

on-site accommodation, it is not by itself sufficient to justify one. Furthermore, although there is no submitted information regarding the numbers of foals that have been born at the site, it seems to me that foaling is relatively predictable and unlikely to require a continual 24 hour presence. Furthermore, Mrs Bailey's work pattern would not enable 24 hour presence on site.

17. The Consultant's report found that although the accounts showed that the enterprise was currently profitable, the rise in profit was prior to any costs for labour. To cover the level of predicted labour, the business would need to be generating a profit of more than £50,000 before labour, to provide at least £20,000 per full-time worker. Furthermore, the Consultant's report found the Business Plan set out very ambitious suggested income sources, such as for the Welsh section A and Falabella stallions generating a collective income of £0.25 million to £0.375 million, which it was viewed as 'unlikely to be achievable'. The business has been operating for several years, yet it does not generate profits sufficient to cover the labour requirement. Mrs Bailey remains in full-time employment, albeit on a shift pattern, covering 39 hours a week and Mr Bailey relies on an income from self-employed contracting work. The Council also found the appellants retained ownership of a residential property
18. Furthermore, the size of the land holding offers a constraint to the scale and nature of business which can operate from the premises and the business is limited by the number of animals which can be sustained by the amount of available land within the holding. The rule of thumb is that 1.25 to 2.5 acres is required per horse without the need for extra feed. The appellants say they rent a further 5 acres of land within 0.5 miles of the site and that further land would be sourced elsewhere to accommodate the growing business. However, there are no details provided to indicate where this additional 5 acres is or where it may be possible to source additional land nearby.
19. There is evidence before me about the future development of the stud in business plans dated May 2021 and October 2021⁸ which have been produced to accompany planning applications for the site. These documents suggest differing long term plans, the later being based on what seems to be the initial business aims for the site for the breeding of higher value, higher quality horses. Whilst that may be the ambitions of the appellants, the site has seemingly been operating as a commercial venture for some time, during which time it has not provided an income to allow Mrs Bailey to resign from her full time job or even cut her hours. Furthermore, the Council has provided information from Land Registry dated April 2021 to show that the appellants retain a residential property approximately 1.2km from the site.
20. Overall, I consider that it has not been demonstrated that there is an essential need for a rural worker to live permanently on this site or the benefits that the development would bring. The enterprise is no longer in its early stages and in the absence of detailed accounts that include full costs, including wages, and sources of income I cannot be certain that the financial information is an accurate or reliable indication of the viability of the enterprise for the foreseeable future. In this respect, the development is contrary to Policies CS5, CS6 and CS11 of the CS, Policies MD2 and MD7a of the SAMDev Plan and guidance contained within the SPD. These policies are consistent with the aims

⁸ Produced by Christy Kilgour, Kilgour & Co Limited

and objectives of the Framework, and as such the development would be at odds with it.

Character and appearance

21. The appeal site currently consists of flat, open land and is bound by fencing and hedgerows. Its developed nature spreads from the site entrance and consists of a mobile home to the south of the access, with associated driveway, storage containers, a row of small makeshift stables, a horse walker, a lunge pen, an L-shaped stable block, a manège, 3 smaller animal shelters, a horse shelter and a partially constructed agricultural shed which housed the second mobile home referred to by the notice, but which was not on site at the time of my visit. In addition to the structures, there is openly stored agricultural machinery and other materials, parked vehicles including a touring caravan, horse lorry and general domestic paraphernalia.
22. The remaining land is of an open, undeveloped character. It does not contain any significant buildings or structures and is subdivided for grazing by fencing. The development is prominent in the landscape due mainly to the low lying nature of the surroundings and the absence of significant mature landscape buffers in the form of hedgerows and trees. The A53 runs parallel to the appeal site and allows for longer views towards the site. The site and its immediate surroundings are of a general rural character. The development within the site has extended across the land, eroding the undeveloped nature of the surroundings. It appears as a visual encroachment into open countryside, which is not sensitive to its surroundings.
23. The additional buildings, the siting of a residential mobile home, the significant extension of the manège and the open storage have led to a sprawl of development on this visually prominent site, and this has a negative impact on the rural landscape. For the reasons given above, I conclude that the mixed use of the site and the associated development fail to maintain and enhance the countryside vitality and character. The development is contrary to Policies CS5, CS6, and CS17 of the CS, and Policies MD2 and MD7b of the SAMDev, which seek to manage development in the countryside and ensure that it respects its context and reinforces the character within which it is set.

Highway safety

24. The site entrance was originally approved for agricultural purposes and was considered acceptable in 2010 for the private equestrian use. However, the commercial use of the site, within the deemed planning application, will have the potential to increase traffic using the site. I saw at my visit the inadequacy of the site access arrangements particularly regarding the available space whilst waiting to enter the site and the poor visibility on exit.
25. The Council consider the site access not to have a satisfactory access geometry, visibility splays, approach route and parking and turning arrangements within the site. Furthermore, there is concern over the adequacy of the unclassified road between the A53 and the site entrance and its junction with the A53. The unclassified road is of single vehicle width with no formal passing opportunity, with a tight junction layout with the A53.
26. Policy CS6 of the CS indicates that development should be designed to be safe and accessible to all. In the absence of information to give an accurate account

of the level and type of traffic movements associated with the various activities on the site, I find that the development conflicts with this policy.

Other matters

27. In its reasons for issuing the notice, the Council referred to insufficient information to demonstrate that any ecological constraints of the site had been adequately addressed.
28. The ecology survey, carried out by Greenscape Environmental (17 May 2021) and submitted by the appellants, found no signs of bats in the stables and no suitable habitat for great crested newts. Pond 1 scored poorly on the HIS assessment and pond 2 could not be accessed. No further surveys were recommended. Consequently, I consider that the development would be compliant with Policy MD12 of the SAMDev Plan which seeks to avoid harm to Shropshire's natural assets.
29. I have read letters of support for the development and acknowledge that the appellants have provided a service that has been appreciated and of benefit to some individuals. However, this level of support does not overcome the harm to the countryside that I have found or the unproven need for the appellants to live at the site.

Conclusion on ground (a)

30. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
31. For the reasons given above I conclude that the appeal should be dismissed.

The appeal on ground (g)

32. The appeal on ground (g) is that the period specified in the notice falls short of what should be reasonably allowed.
33. The appellant seeks an extension of time to allow for the determination of a recent planning application, which was estimated as being mid October (2021), and if refused, sufficient time to allow that determination to be appealed. I am not aware if the application has been determined. However, considering the time that has passed, I consider that the compliance periods are reasonable particularly with respect to the harm I have found.
34. Accordingly, the appeal on ground (g) succeeds in this respect.

S A Hanson

INSPECTOR