



## Appeal Decision

Site visit made on 2 March 2023

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

an Inspector appointed by the Secretary of State

Decision date: 18 April 2023

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**Appeal Ref: APP/J3720/C/22/3297269**

**Parmar Manor, Stratford Road, Loxley, Warwickshire CV35 9JR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Harshad Parmar against an enforcement notice issued by Stratford-on-Avon District Council.
  - The notice, numbered 20/00553/DESB0C, was issued on 15 March 2022.
  - The breach of planning control as alleged in the notice is: Without Planning Permission, the erection of a building (in the approximate position edged in red on the plan).
  - The requirements of the notice are a) Demolish the building and b) Remove all the materials associated with requirement a) above.
  - The periods for compliance with the requirements: 4 (four) months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) 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. The appeal is dismissed and the enforcement notice is upheld as corrected and the deemed planning permission is refused.

### Ground (a) and the deemed planning application

#### Main Issues

2. The main issues are the principal of development and the effect of the development on the character and appearance of the area with particular regard to the Feldon Parkland Special Landscape Area.

#### Reasons

##### *Principle of development*

3. The appeal concerns a building located in the countryside on the edge of the village of Loxley. It is accessed from a long private drive and is within the Feldon Park Special Landscape Area. Public Right of Way SD77 runs through the site. The building sits amongst outbuildings, a stable block, garage and the bungalow, Parmar Manor. These buildings are located centrally, being surrounded by pastoral land where I viewed sheep grazing in some of the fields.
4. The appeal building, which appears nearing completion, has a footprint of 148sqm and two floors with the upper level being mostly within the roof space. The exterior of the building displays exposed blockwork which is punctured with glazed domestic-style casement window openings to each elevation. Fully glazed bi-fold patio doors provide access into the building. The roof is covered

with clay tiles and solar panels dominate the south facing slope and there are three large dormer windows on the north facing roof slope. The roof has a large overhang where lights are installed under the eaves.

5. While the Council raised concerns about the potential for the building to be used for non-agricultural uses, the appellant maintains the purpose of the building is for their agricultural business, which consists of 700 sheep and 40 hens. The sheep being raised for meat and the hens for eggs. The agricultural holding totals some 31 hectares (76.6 acres). The appellant confirms the building would be used for the storage of animal feed, the welfare of his workers and the ground source heat pump equipment on the ground floor and would accommodate the office space on the upper level for the administrative side of the agricultural business.
6. At the time of my visit, the ground floor was occupied by items for agricultural use and general storage. The walls were plastered and painted white and there were several decorative light fittings attached to the walls and within the ceiling. To one end was an area set aside for toilets and showers and to the other end, a room housed ground source heat pump equipment<sup>1</sup>. White marble style tiling partially covered the ground floor and continued up the stairs to the first floor. In this area there were three people sitting at desks surrounded with paperwork and computer equipment. To one end was a separate furnished office/meeting room and at the opposite end was a kitchen and an area set aside for toilets. The kitchen had fitted cabinets, a gas hob, sink and fridge.
7. The appellant submits that the farm enterprise employs the following workers: Transport and Logistics Manager; General Manager; Purchasing and Sales Manager; Senior Livestock Manager; Junior Livestock Manager; Groundsman; General Labourer; Bookkeeper; and Bank Office Support. The 9 employees whose responsibilities are listed within the appellant's submissions work 260 hours per week. Workers consist of those who work on the land and with the animals, and those who are office based.
8. From the appellant's 'General Overview of Parmar Manor', the proposed plan for the land is for it to be run as a small holding, 'grazing and selling sheep and goats for meat and passing hens eggs to friends and family'. The overview notes that nearly 1000 sheep and 250 goats were processed on the farm in a year. The appellant further provides that it is their ambition to become self-sufficient and run the farm with green credentials and ultimately to reintroduce horses onto the farm. It is said that for the business to succeed, the building is essential to 'house and raise the livestock to a standard close to being organic'. While there is contradictory evidence in the appellant's submissions concerning the purpose of the building, from what I observed on site, the building would not be suitable for housing livestock. Notwithstanding the statement about the use of the building for livestock, the drawings show the ground floor layout of the building mainly for agricultural storage.
9. Policy AS.10 of the Stratford-on-Avon Core Strategy 2011-31 (July 2016) (the CS) aims to help maintain the vitality of rural communities and a strong rural economy, providing for a wide range of activities and development in rural parts of the district. Under this policy<sup>2</sup>, a building or structure related to agriculture, horticulture and forestry *where it is required for such purposes* (my

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<sup>1</sup> Planning permission ref: 21/00449/FUL granted by notice dated 14 April 2021

<sup>2</sup> Policy AS.10(o)

emphasis) is a form of development that is deemed acceptable in principle in the countryside.

10. The text to support the policy explains that where planning permission is required, applicants will have to demonstrate a *functional need* for the proposed building. The appellant states that there are no alternative suitable buildings that could be used and that there is insufficient space within the dwelling to accommodate the office. Notwithstanding that view, while the appellant has explained the purpose of the building and the existing and proposed agricultural business, I am not persuaded that there is a current justification for a building for the stated purposes. Furthermore, I acknowledge that part of the building houses the ground heat source equipment, however, there is no indication that its location within the building formed part of the planning approval for the development.
11. Overall, the land holding is of a size that is unlikely to sustain the employment of 9 employees working on a mostly full-time basis. Moreover, while the appellant suggests that there is an agricultural business operating at the site and that livestock have been raised and processed for meat, there is no evidence to support this, for example, in the form of accounts, details of livestock bought or sold, livestock movements, employee contracts or payments made to staff.
12. The appellant refers to Policy AS.10 of the SC which supports "An extension to a business in its established location, particularly if it would be unreasonable to expect the business to relocate in order to expand" and "Purpose-built visitor accommodation that is directly associated with and related to the scale and nature of an existing use." However, these are not deemed to be relevant to the development at Parmar Manor, which is said to be for agricultural purposes. This is because agricultural uses are specifically highlighted within the policy at points (o) and (p). The points highlighted by the appellant refer to tourism and leisure uses, and general business uses.
13. In the absence of cogent evidence to support their case, I am not persuaded that there is a current functional need for the building for the stated agricultural purposes. Moreover, it does not meet any of the development forms listed in Policy AS.10 to be considered as appropriate development in this countryside location. Accordingly, there is conflict with Policy AS.10 and also Policy CS.1 of the CS which supports sustainable development proposals that accord with the policies in the CS.

#### *Character and appearance of the area*

14. The appeal building lies within the Feldon Parkland Special Landscape Area (SLA) and within the Upper Avon character areas as identified by the Council's adopted SPD (Part B). The building is situated in countryside where the character of the rural area is one of open fields surrounded by hedges and trees interspersed with dwellings and agricultural buildings. The structure has the appearance of a domestic building due to its height, material and design. The appearance of the domestic style building in this rural setting amongst agricultural buildings has a visual impact and introduces visual harm to the character of the rural area. This is particularly so due to it being located within the SLA. The SLA provides that while there are forms of development which are considered appropriate to areas washed over by an SLA designation and while

on an individual basis some proposals may seem innocuous, cumulatively they could form part of a general decline in the quality of the landscape.

15. Although it does not fall within any of the valued landscape viewpoints identified in the Neighbourhood Development Plan<sup>3</sup>, and it is sited close to existing buildings, it is a prominent feature which is visible from the Public Right of Way located to the north of the site. The development is not compatible with the character of the surrounding development and landscape area and its appearance jars within its setting. Policy CS.12 of the CS requires that SLAs are protected by resisting development proposals that would have a harmful effect on their distinctive character and appearance and that all development must conserve or enhance the high landscape quality.
16. The scale and design of the building for agricultural purposes is at odds with the agricultural setting. Although it is viewed against a backdrop of agricultural buildings, it has the appearance of a domestic dwelling with large dormer windows, bi-fold doors and overhanging eaves. The height and design contrast with the more simplistic surrounding buildings and this heightens its prominence in the landscape. I acknowledge that the power generated by the solar panels is of great benefit to the appellants, but that does not outweigh the visual harm that I have identified.
17. While the building could be finished with materials more appropriate to its proposed use, the scale and detailing would remain out of keeping. The appeal building introduces visual harm to the character of the area and fails to conserve the distinctive character and appearance of the rural setting within the SLA. Consequently, the development conflicts with Policies CS.9, CS.12 and AS.10 of the CS.

### **Conclusion on ground (a) and the deemed planning application**

18. There are no material considerations that indicate that the deemed planning application should be determined other than in accordance with the Development Plan. For the reasons given, I conclude that the appeal on ground (a) should not succeed, and I shall refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act as amended.

### **Ground (f)**

19. An appeal on ground (f) is that the requirements of the notice are excessive. Section 173(4) of the Act is clear that a notice can have one of two purposes. Those purposes are —
  - (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
  - (b) remedying any injury to amenity which has been caused by the breach.
20. The notice requires that the development subject of the alleged breach is demolished, and all associated materials are removed from the land. On that basis, it seems to me that the purpose of the notice under section 173(4)(a) of the Act is to remedy the breach of planning control.

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<sup>3</sup> Policy NE1

21. The appellant argues that the building cannot be removed in its entirety as it houses equipment to be used in connection with the ground source heat pump granted by application ref: 21/00449/FUL. The Council has provided that the application contained no reference or plans of any plant or buildings to be installed in association with the equipment. As such, it seems that planning permission has not been granted for housing the equipment, particularly within the appeal building.
22. The appellant suggests that the building could be altered to remove the upper level, which they see as the 'more contentious' element of the proposal. Having regard to established caselaw, it is necessary to consider obvious alternatives to achieve the purposes of the notice at less cost and disruption. However, such proposals should be before me, and it is not for me to search around for solutions. I have not been provided with details or drawings to demonstrate how any of the alternative suggestions might work. Nevertheless, given my findings in respect of the breach of planning identified by the allegation, a case has not been made to justify the need for a building to provide space for a farm office and for agricultural storage.
23. It is considered by the appellant that the materials should be allowed to remain on site so that they could be reused elsewhere on the site for other permitted structures. However, I am not aware of any extant permissions or current planning applications for any other buildings or structures at the site where use could be made of the materials. As such, the removal of the materials arising from the demolition of the appeal building is considered reasonable.
24. Given that the requirements go no further than requiring the appellant to undo what has been done, they cannot exceed what is necessary to fully remedy the breach of planning control. As there are no lesser steps that would achieve the statutory purpose behind the notice, the appeal on ground (f) cannot succeed.

**Ground (g)**

25. The appeal on ground (g) is that the period for compliance specified in the notice falls short of what should be reasonably allowed. The notice gives a period of 4 months. The appellant considers the period for compliance is not reasonable given the length of time to secure contractors to undertake the works required. A compliance period of at least 9 months is requested.
26. In the absence of evidence to support the timeframe as being insufficient, I am not persuaded that 4 months would be too short a time period to comply with the notice.
27. The appeal on ground (g) therefore fails.

*S A Hanson*

INSPECTOR