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# Appeal Decision

Site visit made on 15 May 2012

**by David Richards BSocSci DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 May 2012**

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**Appeal Ref: APP/B3410/C/12/2169959**

**Forest View, Hadley End, Yoxall, Burton-on-Trent, DE13 8PF**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Michael John Ham against an enforcement notice issued by East Staffordshire Borough Council.
- The Council's reference is ENF/2011/00278.
- The notice was issued on 5 January 2012.
- The breach of planning control as alleged in the notice is the erection of a detached building to form stable block, tack room, machinery store, and hay and feed store including installation of solar panels without planning permission.
- The requirements of the notice are: (1) Permanently remove the detached building to form stable block, tack room, machinery store, and hay feed storing and solar panels, including the footings and remove all resultant material from the site.
- The period for compliance with the requirements is 60 days.
- 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.

**Summary of Decision: The appeal is dismissed and the enforcement notice upheld.**

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## Appeal on ground (a)

### Main Issue

1. The main issue is the effect of the detached building on the character and appearance of the countryside.

### Reasons

2. The building is a detached single storey L-shaped building of substantial cavity wall construction in reclaimed red brick under a tiled roof. The longest side of the L-shape is some 18 metres in length, and the shorter some 15.8 metres. The end gables are approximately 5.5 metres in width. The eaves height is approximately 2.2 metres and the height to the ridge of the roof approximately 4.6 metres. Windows and doors have yet to be installed. When completed the accommodation would provide a machinery room at the northern end of the building, a tack room with internal w.c., two stables, a further foaling stable, a feed store and a hay store.
3. Forest View, the dwelling which forms part of the same holding, fronts onto Sandpits Lane. At the time of the site visit an extensive programme of renovation and extension works was nearing completion. The appeal building is located to the south west of the dwelling. The holding also includes a

paddock of grazing land. Planning permission was granted in August 2010 for a smaller stable block in the same location (P/2010/00842/MB). However the building which has been constructed is substantially larger than that for which permission was granted. In 2010 the Council declined to discharge a condition on this permission requiring the details of materials to be submitted and approved, due to the Appellant's intention to use reclaimed brick and tiles for the external surfaces. A retrospective planning application for the retention of the building was refused permission on 22 December 2012.

4. There is no appeal on ground (c), and it is not in dispute that planning permission is required for the development which has been carried out. The building as constructed is significantly larger than that for which permission was granted and cannot be regarded as an implementation of that permission.
5. The larger size means that it has had a significantly greater visual impact on the countryside than would have been the case if the development had been carried out in accordance with the approved details. Although the building cannot be seen from Sandpits Lane, the countryside in which it is located is open in character, particularly to the south, and the building as constructed would appear as a significant intrusion of built development in an essentially rural area. It could be readily appreciated by the public from the right of way which passes nearby. The use of brick and tiles, though not uncharacteristic of many existing buildings in the area, imparts an unduly substantial character to the building which is inconsistent with its purpose of providing essentially small scale stabling. Although I acknowledge that the Appellant has no intention of applying for a change of use, the method of construction together with the appearance and scale of the building would lend itself to conversion for other uses at some future date.
6. Policy NE1 of the East Staffordshire Local Plan (LP) resists development outside of defined development boundaries unless it is essential to the efficient working of the rural economy or it is development otherwise appropriate in the countryside, amongst other things. There is no suggestion that the building is essential for the efficient working of the rural economy. While the smaller building for which permission was granted was considered appropriate in the countryside, I consider that the present building has a harmful visual impact due to its scale. There is no evidence of need for a building of such a scale, or of such a substantial form of construction. It conflicts with the criteria (b) and (c) of the second part of Policy NE1, which require the design and siting of buildings to be compatible with the character of the surrounding area.
7. The Council has published supplementary planning guidance: Horse Related Development (SPG). This advises the use of stained timber in the construction of stables, and the avoidance of stone, brick or blockwork. The weight that can be given to the SPG is limited as I have no information on the extent of consultation. Nevertheless it relates clearly to Policy NE1 of the Local Plan, emphasising the need to avoid a proliferation of unnecessary buildings in the countryside and setting out design guidelines to minimise visual impact. I do not consider that it is incompatible with the National Planning Policy Framework, which requires recognition of the intrinsic character and beauty of the countryside. The building as constructed conflicts with this advice, and this supports my concerns over countryside impact.
8. I note that the drawings accompanying the retrospective application indicated the use of brick and tile for the external surfaces of the building. However

rather than refuse permission on grounds of conflict with the SPG, the Council attached a condition requiring the prior approval of materials, and made specific reference to the SPG in the reasons. This condition has not been discharged. In any case, as discussed above, the building as constructed is substantially different from what was approved.

9. The solar panelling is a further element which contributes to the harmful appearance of the building. While I appreciate that it generates energy which reduces the demand on the grid and assists the operation of the ground-source heating system for the main dwelling, this does not outweigh the harmful impact of a building of this scale and appearance in the countryside. The Appellant is prepared to accept a condition requiring removal of this element in the event of the appeal on ground (a) being successful, but that would not overcome the harm which arises from the building.
10. For the reasons given above I consider that the building has resulted in unacceptable harm to the character and appearance of the countryside, and conflicts with Policy NE1 of the LP which continues to carry full weight under the provisions of the National Planning Policy Framework. Accordingly, I refuse to grant planning permission on the deemed application.

### **Appeal on ground (f)**

11. Section 173(4) of the Act, as amended, says the steps required by an enforcement notice are to achieve one of two purposes. These are either to remedy the breach of planning control that has occurred, or to remedy any injury to amenity that has been caused by the breach. An appeal under ground (f) is contending that the required steps exceed what is necessary to remedy the breach of planning control or the injury to amenity, whichever the case may be.
12. In this case the steps required by the notice seek to remove the unauthorised built development, and so their purpose is to remedy the breach of planning control. Any lesser steps than those stated would not address the unauthorised operational development, and so would not meet this purpose. Therefore the steps required do not exceed what is necessary to remedy the breach.
13. The Appellant considers that lesser steps were possible as it would have been open to the Council to have required the removal of the machinery store at one end of the building and the hay store at the other, and to require the resulting building to be timber clad. However, these elements have been constructed as an integral part of the unauthorised building and are not readily detachable from it. Furthermore there are no details before me to show that the resulting building would accord with the approved stable building. In any event, as the notice is directed at remedying the breach of control, no lesser steps other than the removal of the unauthorised building would satisfy the requirements of the notice.
14. Accordingly, I conclude that the appeal under ground (f) should fail.
15. The Appellant suggests that the Council was over-hasty in resorting to enforcement action without first exploring with the Appellant other possibilities for remedying the harm. However the issuing of the notice followed refusal of permission for a retrospective planning application to retain the building as constructed. The Appellant does not dispute that a breach of control has occurred, and I do not consider there are any grounds for regarding the timely

issue of an enforcement notice to be unreasonable or inexpedient in the circumstances.

**Appeal on ground (g)**

16. The Appellant considers that the period of 60 days is far too short for compliance with the requirements of the notice, and suggests that a period of not less than four months would be more reasonable, taking account of the need to organise and carry out demolition, and winter weather. While the appeal was lodged in February this is unlikely to be a factor when the appeal decision is issued. Bearing in mind the public interest in remedying the breach of control without undue delay, I do not consider the period of 60 days for compliance to be unreasonable.
17. Accordingly, I conclude that the appeal on ground (g) should fail.

**Decision**

18. 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.

*David Richards*

INSPECTOR