



## Appeal Decision

Hearing Held on 14 January 2021

Site visit made on 15 January 2021

**by Simon Hand MA**

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

**Decision date: 1 February 2021**

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**Appeal Ref: APP/W1850/C/20/3248036**

**Land at Shuttifield Coppice, Storridge, Malvern, WR13 5ES**

- 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 Tom Harnden against an enforcement notice issued by Herefordshire Council.
  - The enforcement notice, numbered EN2019/002934/ZZ, was issued on 27 January 2020.
  - The breach of planning control as alleged in the notice is without planning permission, the erection of a building shown in the approximate position on the Land labelled 'Storage Building' on the attached Plan.
  - The requirements of the notice are 1. Take down the building and 2. Remove from the Land all building materials and rubble arising from compliance with requirement 1 above and 3. Restore the Land to its condition prior to the erection of the building.
  - The period for compliance with the requirements is 1. 90 days after the notice takes effect. 2. 100 days after the notice takes effect. 3. 120 days after the notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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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 erection of a storage building on land at Shuttifield Coppice, Storridge, Malvern, WR13 5ES referred to in the notice, subject to the following conditions:
  - 1) There shall be no importation to the site of materials for sale or for processing on-site for sale or use off-site.
  - 2) Before any lighting is installed a scheme showing numbers, position, and intensity of the proposed lights shall be submitted to the Local Planning Authority and agreed in writing. No lighting shall be installed other than that in an approved scheme.

### Costs Application

2. An application for costs was made at the Hearing and is subject to a separate decision letter.

### **The Appeal on Ground (a)**

3. The background to the appeal is important. In 2013 prior approval for an agricultural storage building was granted on the site. However, when the building was erected it was different to that which had been considered for prior approval. An application to regularise the situation was made in 2018 and refused by the Council. A subsequent appeal<sup>1</sup> was refused in 2019. The Inspector found the building did not harm the scenic beauty of the AONB but there was no evidence it would be used to promote the economic and social wellbeing of the AONB.
4. It seems from what little evidence is available that the previous appellant ran an agricultural and construction machinery retail business in Malvern and there was concern the barn would be used to store machinery associated with the business. It also seems that use had partly commenced and the access lane was being used by heavy traffic unconnected to agriculture. This at least was the impression gained by local residents and the British Horse Society who objected to the application. It was not an issue that was directly mentioned in the Inspector's decision, although it would clearly seem to have influenced local residents' objections to the appeal.
5. Following the failure of the appeal the previous appellant sold the land and the barn to Mr Harnden, the current appellant. Mr Harnden runs a tree surgery and woodland management business, which operates mostly within the area of the AONB. The type of work he undertakes is hedge cutting and laying, fencing and all types of boundary management, tree surgery, orchard pruning, woodland thinning, complete removal and timber extraction, flail mowing and wood chipping. For this he has a Land Rover, two tractors, a flail mower, three trailers, a large chipper and numerous smaller pieces of equipment. Currently the equipment is stored in rented buildings at Storridge Farm and Leigh Sinton, both nearby. The arrangement at Storridge Farm is temporary, as evidenced by a letter from the farmer.
6. Mr Harnden also applied to regularise the situation but the Council declined to determine the application as it was substantially the same as the previous application and subsequently issued the enforcement notice subject to this appeal.
7. Two policies are mentioned as relevant, LD1 from the Herefordshire Core Strategy and CNDP5 from the Cradley Neighbourhood Development Plan. LD1 is concerned to protect the landscape and townscape of the AONB. The Council are concerned the design of the barn was not positively influenced by the character of the landscape as required by LD1. As to CNDP5, the Council does not consider the development is "*necessary to promote the economic and social well-being of the designated area and their communities*". These then are the two main issues. Although the notice refers only to the operational development of the barn, the use of the barn and the site as a whole has an important bearing on the acceptability of the development and I shall take that into account.
8. It is proposed that the barn would be used to store Mr Harnden's equipment for his business as well as provide storage for woodland products gained from the land. Mr Harnden proposes to manage the site, which is over 5ha, in

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<sup>1</sup> APP/W1850/W/19/3225291 – issued 2 October 2019

accordance with the management plan provided. This would entail a proper management of the woodland to allow replanting and coppicing and drainage of some marshy areas. Gradual replacing of fir trees with native species, grazing of pasture with sheep and mowing for hay and clearing brambles to open up more pasture. Planting some boggy areas with willow and hazel and possibly keeping some chickens and geese. It is intended to use the wood obtained from these activities for fencing, firewood and mulch. Much to be used on-site but any excess to be sold. It is also proposed to import wood chippings to use as mulch using excess chippings from off-site forestry jobs undertaken by the appellant.

9. It was agreed at the hearing that all of this was either agricultural or forestry related and as such does not require planning permission. It was also accepted that because of this, there was no reason why prior approval for a barn would not be forthcoming on the site. This then forms the background to my consideration of the appeal.
10. At the previous appeal the Inspector found the building did not harm the scenic beauty of the wider AONB, but this conclusion has not proved sufficient for the Council who argue that LD1 requires that the design of the barn should have been positively influenced by the character of the landscape. Although oddly worded I think this is what the first bullet point of LD1 is meant to say. However, it is difficult to understand exactly what that means in practice when considering the design and positioning of a barn. I have not been directed to any information as to typical barn design types found in the AONB that ought to be replicated, so I assume it simply means the barn should fit in with the landscape as well as possible. To that end I was able to see it is a typical agricultural barn, with a green metal clad lower section and wooden upper parts, and a green metal roof. The Council suggested that because it was just a typical barn it somehow was contrary to the policy, but there is nothing in the policy, or its explanatory paragraphs in the plan to suggest that agricultural buildings should be designed in a particular way, or take a non-standard form to somehow fit in with the landscape. I'm not sure how a barn can be criticised for looking like a barn?
11. The barn sits in a small valley and is surrounded by trees. These have been thinned out on the upper slopes to the north, so the barn is visible from the bridleway that runs through the site along the nearby ridge. Another bridleway runs along the access track to the nearby farm, from where more distant glimpses are seen of the barn. However, what can be seen is a barn, tucked away in a hollow. It does not stand out, and the materials and colours blend in with the background. It is difficult to think how a barn could be less intrusive or positioned better within the site. On that basis I can only agree with the previous Inspector and also conclude, to the extent that is possible, the barn was influenced by the landscape of the AONB and so does comply with LD1.
12. CNDP5 was where the previous appeal fell down, but this appeal is entirely different. This time the appellant works almost entirely within the AONB, and his work is of such a nature that it is both necessary for the maintenance of the scenic beauty of the AONB and needs to be located within the AONB to reduce travel times. It would not make sense to require rural businesses who operate within the AONB to be located outside the area and have to travel in every day for work. As the representative of the AONB Partnership noted, the AONB

- exists partly to stimulate appropriate economic activity within its boundaries as it is a living and working landscape.
13. The Council seemed to interpret the word “*necessary*” in the phrase “*necessary to promote the economic and social well-being of the designated area and their communities*” as meaning it could go nowhere else, but I can think of no business that operates within an AONB that could not be located anywhere else in the surrounding rural area, and neither could anyone else at the Hearing when asked. In my view CNDP5 means the business is needed for the benefit of the AONB, that is, the work carried out is necessary within the AONB. In that sense an agricultural machinery storage unit for a business operating in Malvern is not necessary within the AONB, but a business that helps maintain the woodlands and landscape of the AONB clearly is.
  14. The building itself is necessary, as the appellant needs somewhere to store his equipment, and also somewhere to store any produce, such as hay and timber, gained from the site itself. It was agreed that some sort of building was acceptable on the land, and I can find nothing wrong with the one that has been built. In my view it causes no harm to the landscape and is necessary for the appellant’s business, for the management of the land and for the AONB. Thus it is not contrary to policies LD1 or CNDP5.
  15. A number of conditions were discussed at the Hearing. I agree that any activities that are not related to agriculture and forestry would require planning permission, but I accept that sometimes it is difficult to determine exactly what is happening on a site and whether it falls within the definition of forestry or not. To that end it was agreed the appellant had no intention of bringing wood or other materials onto the land in order to process them and then sell them. There were fears that firewood could be imported, stored and then sold, or timber brought in to be worked into fencing and then sold off etc. The only imports of materials would be excess mulch or timber for use on the site itself. Given the size of the site this would be naturally limited in scope. Therefore a condition saying there shall be no import of materials for sale or for processing on-site for use off-site would be necessary and acceptable.
  16. There is currently no power at the site, but the appellant did indicate that lighting in the barn would be useful. Given the sensitivity of the site, relatively isolated in a small wooded valley, light spill from inside the barn or external lighting could well be harmful to the tranquillity and ambience of the area so a condition requiring any lighting to be agreed with the Council before installation would be a sensible precaution. Subject to those conditions I shall allow the appeal and quash the notice.

*Simon Hand*

Inspector