



Appeal Decision

Site visit made on 4 June 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2020

Appeal Ref: APP/A0665/W/19/3243132

Kellys Barn, Holmes Chapel Road, Lach Dennis, Northwich CW9 7SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Daw against the decision of Cheshire West & Chester Council.
 - The application Ref 18/04335/FUL, dated 2 November 2018, was refused by notice dated 5 November 2019.
 - The development proposed is to demolish a commercial building in the countryside and to construct a new building for a mixed residential/ employment use (40/60 split).
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Decision

1. The appeal is allowed and planning permission is granted to demolish a commercial building in the countryside and to construct a new building for a mixed residential/employment use (40/60 split), at Kellys Barn, Holmes Chapel Road, Lach Dennis, Northwich CW9 7SZ, in accordance with the terms of the application, Ref 18/04335/FUL, dated 2 November 2018, and subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application form gives the site address as Snig Hall, but the Council's decision notice and the appeal form give it as Kellys Barn. It is clear from the evidence that the appeal does not relate to Snig Hall, which is adjacent to the appeal site. Accordingly, I have used Kellys Barn in the site address above.
3. The application is made retrospectively, the appellant having confirmed works are complete on the application form. I saw the building for myself on site; however, the internal layout I could see from outside was not entirely consistent with the plans before me. For the avoidance of doubt, I have considered the appeal on the basis of the submitted plans and the description of development given on the application form.

Main Issues

4. The main issues are whether the development represents a suitable location for a mixed residential/employment use, having regard to national and local policies concerning development in the countryside, and the effect of the development on the character and appearance of the area.

Reasons

Background

5. The appellant indicates that a brick barn formerly on the site was demolished against his instructions during implementation of a previously approved

scheme¹, and that he sought to remedy the situation by re-building the barn as a live/work unit, before seeking permission retrospectively. I have taken note of the commentary of both parties in respect of the sequence of events preceding the appeal. Ultimately, I have limited evidence to substantiate many of these claims, including whether or not the previous structure could have been retained and such matters are not determinative to the appeal, which I have considered on its own planning merits.

6. On site, I saw that the 'office' wing was not open plan on the ground floor as indicated on the plans, but sub-divided into two rooms and a corridor. The upper floor of this wing also appeared to be furnished as bedrooms. The remainder of the building which I could see was laid out in a manner consistent with a residential use, but I saw no physical internal separation of the two parts as indicated on the plans. However, I have considered the application as made for a live/work unit in a 40/60 split of the floorspace.

Suitability of Location

7. The appeal site is located outside of the village of Lach Dennis and is in the countryside for planning purposes. Policies STRAT1 and STRAT2 of the Cheshire West and Chester Council Local Plan Part One (29 January 2015) (LP1) set out the Council's approach to achieving sustainable development and to delivering new homes through a settlement hierarchy. Policy STRAT8 of LP1 and Policy R1 of the Cheshire West and Chester Council Local Plan Part Two (18 July 2019) (LP2) support development in rural areas that serves local needs in the most accessible and sustainable locations to sustain vibrant rural communities. Policy STRAT9 permits certain types of development in the countryside, subject to it being appropriate in scale and design. Policy DM19 of LP2 adds further criteria for development in the countryside to be supported. This includes replacement of buildings on previously developed land, subject to additional criteria relating to the accessibility of the site, its effect on the character of the area, and avoiding loss of employment land or buildings.
8. The Council argues that the proposal does not accord with Policy STRAT9 as the policy restricts development to that which requires a countryside location and cannot be accommodated within settlements. However, a replacement building in the countryside will inherently require a countryside location, and the policy lists 'replacement buildings' without specification as to the uses to which they may be put, as does the list at point 4 of Policy DM19. Therefore, I find that the principle of a replacement building in the countryside is supported under Policies STRAT9 and DM19, subject to meeting other relevant criteria.
9. Paragraph 78 of the National Planning Policy Framework (the Framework) states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Paragraph 79 states that the development of isolated homes in the countryside should be avoided unless one or more of the listed circumstances apply.
10. There are few services in the village, the main ones being a service station/car repair garage, a public house and restaurant and a village hall. The site lies outside of the built-up area of the village, but not significantly so. Dwellings to

¹ Council Ref 16/02228/FUL

the rear of those on Common Lane are visible from the appeal site and are adjacent to the entrance lane. These dwellings were allowed on appeal in 2014², where the Inspector agreed with the Council that although not the most accessible location, the proposal would represent sustainable development within the overall meaning of the Framework. I also saw linear development extend for some distance along Common Lane, with the last dwelling being further from the junction with Holmes Chapel Road than the appeal site.

11. There is no footway for a short distance on Holmes Chapel Road between the end of the driveway to the appeal site and the service station, but otherwise there is a footway along the length of Holmes Chapel Road to the public house at the far end of the village. I also saw that the entrance lane forms part of a public footpath through the area, indicating the short absence of a footway is not an impediment to walking from the village to the appeal site. It is therefore possible for occupants of the appeal building to access and support local facilities within the village on foot or bicycle, helping to maintain its vitality. My views in this respect are consistent with those of the Inspector in the aforementioned appeal in 2014.
12. There is no timetabled bus service, but a pre-bookable service is available on Wednesdays, Thursdays and Fridays. Even so, occupants of the building would require the private car to travel outside the village for most services and facilities. However, there is a large supermarket within 4km of the site, and the many facilities in Northwich, including public transport, are within 6 to 7km. Most journeys by car would therefore be short and no different to those from any of the existing dwellings in Lach Dennis. A live/work facility offers the potential for fewer journeys by car compared to occupants commuting to a place of work. I accept that other journeys by non-resident employees and clients may occur instead, but I have little evidence to indicate that this would result in a material increase in vehicular movements relative to a solely residential use of similar scale. Therefore, I find the proposal would generally accord with the locational requirements of criteria 7(i) and 7(ii) of Policy DM19. In view of these considerations, and the proximity of other dwellings to the site, it is also my judgement that the appeal site is not 'isolated' in terms of the Framework and the exceptions at Paragraph 79 do not need to be considered.
13. The Council points out that, under the previous application, the appellant sought to argue a business use had not operated at the previous building since 2014 and had been unsuccessfully marketed since 2008. I have limited evidence to substantiate this, and the former building is now demolished. However, the policies referred to me make no reference to resisting business uses within replacement buildings in the countryside, only to the loss of business floorspace. Even if the net floorspace for business use is less than existed previously, the Council accepted its loss when granting a wholly residential use in 2016, and the policy context now does not indicate the proposed business use would be unacceptable. Moreover, the Framework at Paragraph 83 supports the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.
14. Taking these considerations together, I find that there is policy support in principle for replacement buildings in the countryside. The location of the site

² Appeal Ref: APP/A0665/A/14/2217545

allows for occupants to access and support services in the village by means other than the private car, helping to maintain the vitality of the village community in line with aims of the Framework, whilst the majority of services, and onward public transport links, are within a short journey in Northwich, limiting the impact of car use by occupants. The evidence before me does not indicate that the business use would add materially to the number of journeys by car resulting from the development. Therefore, I conclude that the development represents an acceptable location for a live/work unit and does not conflict with the overall spatial strategy and approach to development in the countryside set out across Policies STRAT1, STRAT 2, STRAT8, STRAT9, R1 and DM19 and the Framework, subject to its effect on the character and appearance of the area.

Character and appearance

15. The building constructed on site is a substantial, U-shaped structure over two storeys, constructed primarily in red brick with numerous full height windows and shallow pitched roofs, which the Council acknowledges is similar in appearance to that approved in 2016. That was a conversion scheme and therefore likely to have reflected the general form of the previous building on the site. However, the Council points to an increase in the footprint of the constructed building of some 22% and an increase in overall height from 5.52m to 6.69m as evidence of a harmful urbanising effect.
16. Whilst taller and with wings wider in footprint, the overall shape and barn aesthetic is still similar to the approved scheme, based on the plans and imagery I have been provided with. The building is not visible from the main road, and even at the entrance to Snig Hall, I saw the site to be well screened by a boundary wall and trees in the foreground. Moreover, in these views on approach along the entrance lane, the site is framed by the massing of the adjacent Barn 2 and a tall, mature tree line to the rear such that the building appears well contained in the landscape.
17. Despite its size, the building reflects the scale and shape of an agricultural barn and makes use of materials consistent with its rural setting and those used at Snig Hall. It does not appear excessive in size next to the adjacent barn conversion or within its immediate surroundings and is well screened from surrounding views. For these reasons, I conclude that the building does not result in an urbanising effect and does not harm the character and appearance of the area. Consequently, there is no conflict with the aforementioned requirements of Policies STRAT9 and DM19 or the aims of the Framework.

Other Matters

18. No objection was raised by the Council in respect of the effect of the development on the living conditions of neighbouring occupants, biodiversity or highway safety. From all I have seen and read, I have no reasons to conclude differently to the Council in these respects.

Conditions

19. As the development has been constructed, a time limit condition is not required. However, given the differences with the internal layout I saw on site, I have imposed a condition specifying the approved plans, to provide certainty.

20. A condition restricting the business floorspace of the live/work unit to uses within Use Class B1(a)³ is necessary to prevent uses which may be incompatible with the residential use from being undertaken. Given the purpose of the live/work unit is to provide flexible workspace for the occupants, a condition restricting the hours of use of the business floorspace would undermine its effectiveness. Moreover, I am not persuaded that the nature of the permitted office use would lead to unacceptable harm to neighbouring occupants. Therefore, I find this condition is not necessary.
21. The Council has sought a condition restricting several Part 1 permitted development rights⁴, so as to retain control over future development to retain the rural character of the area and prevent urbanisation. However, these rights pertain to development within the curtilage of a dwellinghouse, and would not apply to the mixed use development to which this appeal relates. Moreover, the Framework makes it clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.⁵ Accordingly, such a condition is not necessary.
22. Finally, a condition requiring the installation and retention of a scheme of integral bat tubes is necessary to enhance biodiversity in line with Policy ENV4 of LP1. Condition No 3 is imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the bat tubes before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

23. For the reasons set out, I conclude that the proposal accords with the development plan taken as a whole, and there are no material considerations which indicate that a decision should be taken other than in accordance with the development plan. The appeal is therefore allowed.

K Savage

INSPECTOR

³ As defined by the Town and Country Planning (Use Classes) Order 1987 (as amended)

⁴ Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

⁵ Paragraph 53

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted relates to the following approved plans: 330CHE-401 Proposed Plans; 330CHE-402 Proposed Elevations; 330CHE-404 Proposed Site Plan.
- 2) The business floorspace of the live/work unit as indicated by the dotted red line on plan 330CHE-401 shall not be used for any purpose other than purposes within Class B1(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) Unless within one month of the date of this decision a scheme for the installation of integral bat tubes is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within six months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.