



Appeal Decision

Site visit made on 18 August 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th September 2020

Appeal Ref: APP/C1570/W/20/3248967

Pond Park Farm, Cock Green, Cock Green Road, Felsted, CM6 3LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paul Hutley against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0097/FUL, dated 15 January 2020, was refused by notice dated 10 March 2020.
 - The application sought planning permission for raising of ridge and eaves height by 400mm, and installation of air-conditioning units in between buildings K and J (roofs to barns K and J to be clad in natural slate without complying with conditions attached to planning permission Ref UTT/19/1718, dated 9 September 2019).
 - The condition in dispute is No 1 which states that: Within 3 months of the date of this permission buildings J and K shall be clad with natural slate, as approved under reference UTT/16/3057/DOC.
 - The reason given for the condition is: In the interests of protecting the character and setting of the adjacent listed buildings, in accordance with Uttlesford Local Plan Policy ENV2 (adopted 2005) and the NPPF.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use to B1 offices and B8 car storage at Pond Park Farm, Cock Green, Cock Green Road, Felsted, CM6 3LY in accordance with the application Ref UTT/20/0097/FUL made on the 15 January 2020 without compliance with the conditions previously imposed on the planning permission Ref UTT/19/1718 granted on 9 September 2019 but subject to the conditions on the attached schedule.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, the effect of granting planning permission under UTT/19/1718 was to create a second permission for the original development and therefore the description of development must reflect that. Therefore, I have reverted to the original description of development given planning permission and used this in my formal decision. I have sought and obtained agreement from the parties to this change.

3. I have had regard to *Finney v Welsh Ministers & Others* [2019] EWCA where the Court of Appeal held that an application under s73 may not be used to obtain a permission that would require a variation to the terms of the operative part of the planning permission, i.e. the description of development which planning permission had originally be granted. However, in this instance the Council had incorrectly amended the original description of development to include only the amendments that were proposed.

Main Issue

4. The main issue is whether the condition is reasonable and necessary having regard to the setting of the adjacent listed buildings.

Background

5. The building subject of this appeal was created from an agricultural building following the grant of planning permission in 2014, UTT/13/2877/FUL for the change of use of agricultural buildings (units J and K) to offices (B1) and car storage (B8). Subsequent applications have been made to agree the details of conditions, including materials (UTT/16/3057/DOC) and to amend the scheme (UTT/19/1718/FUL). Condition 1 of UTT/19/1718/FUL requires buildings J and K to have a roof clad with natural slate and building K has already been clad in slate. The appellant now wants to retain the existing corrugated sheeting to Barn J and the appeal seeks the removal of condition 1 in order to permit that.

Reasons

6. The appeal site is part of the Pond Park Farm complex, which comprises a number of former agricultural buildings which have been converted to comprise the Felsted Business Centre. They have retained an agricultural character. The complex contains a group of buildings arranged around a courtyard, including a red brick Victorian stable block and a number of weatherboarded barns. Pond Park Farm Barn is Grade II listed and is a 16th Century timber framed and weatherboarded barn with brick plinth and grey slate roof. This is indicated as building C on drawing no. 64611.01 rev B, with buildings J and K being later additions.
7. The appeal site is within the setting of Pond Park Farm Barn, which is the principal building on the site and together with the group of other buildings they form a cohesive group. In my view, the significance of Pond Park Farm Barn is derived from its architectural quality and through forming part of the group of historic buildings which make up the original farmstead.
8. The Council's Historic Environment Team advise that the use of corrugated sheeting on building J would have a detrimental effect on the setting of the designated heritage asset, and that it is juxta-posed towards the existing use of slate for the listed building and building K. However, Building D which is closer to Pond Park Farm Barn and attached to it on its eastern side has a corrugated sheet roof. In addition, Building H attached to the listed barn on its western side, also has a corrugated sheet roof. Therefore, it is evident that a mix of materials are visible within the setting of the Listed Building.

9. Furthermore, views of building J are limited, given its siting tucked between other buildings and with only its side elevation facing the courtyard. Whilst the roof is visible from within the courtyard, it has less prominence than building K, which is sited at the entrance to the courtyard and Pond Park Farm Barn which faces into the courtyard with its distinctive glazed full height entrance.
10. I consider that the use of corrugated roof sheeting is an appropriate material having regard to the buildings former agricultural use. The material is already in use as part of the wider complex and given the established acceptance of these materials, its retention on building J would be in keeping with the character and appearance of the site.
11. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications. Paragraph 193 of the National Planning Policy Framework ('the Framework') states that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.
12. The corrugated sheeting is in keeping with the wider setting of the buildings which form the original farmstead and would be in keeping with its function. It does not lead to a diversion of attention from Pond Park Farm Barn and would not harm the setting of the designated heritage asset, and as a result there is no harm to significance.
13. I have also considered the Grade II listed farmhouse, Pond Park Farm, however, there is a sufficient level of separation between it and the appeal site such that it does not form part of the setting of Pond Park Farm.
14. In conclusion, I consider that the development will not result in any harm to the listed building of Pond Park Farm Barn or its setting and therefore the condition is not reasonable or necessary. The development would therefore accord with policies ENV2 of the Uttlesford Local Plan 2005 which states that development affecting a listed building should be in keeping with its scale, character and surroundings.

Conclusion and Conditions

15. For the reasons set out above I conclude that the appeal should be allowed. I will grant a new planning permission without the disputed condition but retaining those non-disputed conditions from the original permission (UTT/13/2877/FUL) that appear to still be relevant.
16. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
17. A condition relating to the commencement of development is not needed since the development has already been carried out. The conditions relating to external materials have been complied with and are no longer required, therefore do not need to be re-imposed.

18. I have re-imposed the condition requiring the obscure glazing to be retained, the restriction on the hours of operation and limiting the use of plant and machinery and restricting storage outside of the buildings, which are necessary in order to safeguard the amenity of adjacent residential properties.
19. I have also re-imposed the conditions relating to the parking of vehicles associated with Stansted Airport and external lighting which are non-disputed and appear to still be relevant.

G. Pannell

INSPECTOR

Conditions

1. The windows at first floor level in the western elevation of Building 'K' fitted with obscured glazing and hung off the left hand side in accordance with details shown on Drawing Number 64611.02 Rev B shall be permanently retained in that condition thereafter.
2. The B1 business use hereby permitted and the delivery or collection of cars shall not occur outside the following hours Monday - Friday 0800-1800; Saturday 0800-1300 or at any time on Sundays or on Bank or Public Holidays.
3. No processes shall be carried out and no power tools, equipment, machinery or plant of any kind shall be operated at any time anywhere on the site except within the buildings.
4. There shall be no outdoor storage of any materials, goods, equipment, plant or machinery of any description on any part of the site.
5. No vehicles associated with passengers using Stansted Airport shall be parked on this site for more than 24 hours in any period of 14 days.
6. No external lighting shall be installed on the site until such details have been submitted to and approved in writing by the local planning authority. Any such details shall include the installation of 'bat friendly' lighting. Subsequently the lighting shall be installed as approved and retained thereafter.

-END-