



Appeal Decision

Site visit made on 7 September 2021

by Siobhan Watson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2021

Appeal Ref: APP/R0660/W/21/3269597

Fieldhouse Farm, Swettenham Lane, Somerford Booths, CW12 2JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Wharton against the decision of Cheshire East Council.
 - The application Ref 20/4939C, dated 4 November 2020, was refused by notice dated 2 February 2021.
 - The application sought planning permission for the conversion of redundant farm buildings to create a single dwelling without complying with a condition attached to planning permission Ref 8/28708/3, dated 28 January 1997.
 - The condition in dispute is No 7 which states that: "Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, or as subsequently may be amended or re-enacted, no development normally permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 of that Order shall be carried out within the curtilage of the dwelling hereby permitted unless a further planning permission has first been granted following an application to the local planning authority in respect thereof."
 - The reason given for the condition is: "To protect the open character of this countryside area designated as an Area of Special County Value for Landscape".
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of redundant farm buildings to create a single dwelling at Fieldhouse Farm, Swettenham Lane, Somerford Booths, CW12 2JX in accordance with the application Ref 20/4939C, dated 4 November 2020 without compliance with condition number 7 previously imposed on planning permission Ref 8/28708/3, dated 28 January 1997.

Background and Main Issue

2. The conversion has taken place. A condition of the permission effectively removes permitted development rights for the enlargement, improvement or other alterations of the dwelling house; additions and alterations to the roof; porches; outbuildings and enclosures.
3. The main issue is whether the condition is reasonable and necessary to protect the character and appearance of the countryside.

Reasons

4. Paragraph 54 of The National Planning Policy Framework (The Framework) says that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In addition, the Planning Practice Guidance¹ (PPG) advises that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
5. The Council has not substantiated its point that the appeal house retains vestiges of its previous use, except to say that the house still has a simple form and appearance. Although I could see at my visit that the form of the house is not complex, the converted building contains numerous modern Upvc windows, a front porch, a rear conservatory, and an attached garage. No obvious special visual characteristics of a farm building remain and the house has an ordinary domestic appearance.
6. Policy PG 6 of the Cheshire East Local Plan Strategy 2010-2030 (2017) (CELP) allows for the re-use of existing rural buildings where the building is permanent, substantial and would not require extensive alteration, rebuilding or extension. However, this does not mean that permitted development rights should necessarily be removed.
7. I appreciate that the implementation of permitted development rights might enable a range of types of extension and/or outbuildings which would change the appearance of the property. However, I have found that the building has no special character and the Council has not convincingly justified why the existing form of the dwelling should be protected. Furthermore, the General Permitted Development Order² allows only limited extensions and therefore there would be no significant effect upon the open character of the Area of Special County Value for Landscape.
8. I therefore conclude that the condition is neither necessary nor reasonable and I find no direct conflict with CELP Policy PG 6 in removing the condition.

Conditions

9. Decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged. In this case, the other previously imposed conditions are a landscaping condition and pre-commencement conditions. The development has been implemented and I could see that the garden has been landscaped. Therefore, these conditions are no longer relevant.

Conclusion

10. I allow the appeal.

Siobhan Watson

Inspector

¹ Planning Practice Guidance Paragraph 017 Reference ID: 21a-017-20190723

² The Town and Country Planning (General Permitted Development)(England) Order 2015