



Appeal Decision

Site visit made on 9 August 2022

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2022

Appeal Ref: APP/W3005/W/22/3290188

Whiteborough Cottage, 261 Wild Hill, Teversal NG17 3JF

- 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 Paul Brewell against the decision of Ashfield District Council.
 - The application Ref V/2021/0756, dated 8 October 2021, was refused by notice dated 9 December 2021.
 - The application sought planning permission for an 'agricultural storage building for agricultural purposes only' without complying with a condition attached to planning permission Ref V/2021/0066, dated 19 August 2021.
 - The condition in dispute is No. 2 which states that: *This permission shall be read in accordance with the following plans: Site Location Plan. Proposed Block Plan. Proposed Elevations and Floor Plans, Drawing No.261WH.T/2021/PE1. All received 01/02/2021. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.*
 - The reason given for the condition is: *in the interests of proper planning and certainty.*
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural storage building for agricultural purposes only at Whiteborough Cottage, 216 Wild Hill, Teversal NG17 3JF in accordance with the terms of the application, Ref V/2021/0756, dated 8 October 2021, without compliance with condition 2 previously imposed on planning permission Ref V/2021/0066 dated 19 August 2021 and subject to the following conditions:
 - 1) The development hereby approved shall begin no later than 19 August 2024.
 - 2) This permission shall be read in accordance with the following plans: Existing Site Plan. Plan and Elevations, Drawing No. 261WH.T/2021/PE1/R1 Revision R1 (October 2021). Both received by the Council on 14/10/2021. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
 - 3) The materials and finishes to be used for the external elevations and roof of the proposal shall match those identified on the proposed drawing.
 - 4) No development shall take place beyond slab level until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting season and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or

plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

- 5) The building shall be used for no other purpose other than for agriculture.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development relating to Class Q, Part 3 of Schedule 2 shall be undertaken without the written approval of the Local Planning Authority.

Background and Main Issue

2. Planning permission V/2021/0066 was granted on appeal for the erection of an agricultural storage building for agricultural purposes. This permission included a condition requiring the development to be undertaken in accordance with the approved plans. The approved plans detailed that the proposed building would be approximately 13.5 metres (m) x 13.5m to a height of 7m and would be a steel portal frame structure, constructed with concrete blockwork for the first 2m then profiled metal cladding.
3. The appellant wishes to vary condition 2 of that permission to enable the substitution of a drawing to allow the proposed building to be constructed in natural stone and horizontal timber board cladding in place of the concrete blockwork and profiled metal cladding. The Council's objection is on the grounds that the materials would be domestic in nature and would result in a building which would appear incongruous within its countryside location.
4. The main issue is therefore whether the variation of condition 2 would be acceptable, having regard to the character and appearance of the area.

Reasons

5. The appeal site is located outside of the district's main urban areas and named settlements, in an area designated as countryside in the Ashfield Local Plan Review (2002) (LP). The site is in a rural location and the proposed building would be surrounded on three sides by open fields. The tops of brick buildings on a Severn Trent Water facility located a short distance to the south-west of the appeal site are visible above the brow of the adjacent fields.
6. The site has a gated access from the highway and forms part of a wider site which includes an array of buildings of differing types and designs. These include a timber clad garage, timber outbuildings, a holiday let constructed in brick with tiled roof, stables constructed in breeze block with a tiled roof, and a prefabricated concrete outbuilding. Although the proposed building would be located adjacent to open fields it would not occupy an isolated position, with the building being situated next to the existing access road through the site and near to the existing built form. The site is therefore partly agricultural and partly domestic in its character and appearance.

7. The Inspector concluded in the previous appeal¹ that the proposed external finish of concrete blockwork and profiled metal cladding would have an agricultural character and appearance, which would be consistent with its intended purpose as an agricultural storage building. Although I find no reason to disagree with this view, agricultural buildings can also be, and commonly are, constructed of various materials including for example in brick, stone, or timber, and it seems to me that these materials are not necessarily inherently more domestic in nature than blockwork and metal cladding.
8. Accordingly, I do not consider that the proposed change in materials to natural stone and horizontal timber board cladding alone would result in the development being inherently domestic in nature and appearance. In my view, given its design, which includes a large roller shutter door and steel stanchions, the building would retain its agricultural character and appearance and would not appear as an incongruous feature within its rural location. As such, I find that the external appearance of the building would respect the site's countryside location.
9. The proposed building would be set well back into the site and screened from the highway due to the trees and hedging which exist between the site and Chesterfield Road. Therefore, due to its location, screening, and the topography of the surrounding land, the building would be largely screened from public view. Any views of the building would be fleeting and generally restricted to upper sections of the building which would consist of the timber board cladding. The sight of a stone and timber clad building of agricultural design in this location would also not be unexpected and would respect the character and appearance of the area.
10. As detailed above, the proposed building would be situated in close proximity to the existing built form on the wider site. Whilst retaining an agricultural appearance, I find that the proposed external finish of natural stone and horizontal timber cladding would also sufficiently relate to the existing buildings on the site and assist in the building blending into what is a partly agricultural and partly domestic site.
11. As a result, I conclude that the proposed variation of condition 2 would not have an adverse effect on the character and appearance of the area. It would therefore comply with Policies ST1 (a and b) and EV2 of the LP which seek, amongst other matters, to ensure that developments are located and designed so as not to adversely affect the character of the countryside. The proposal would also be consistent with the provisions in the National Planning Policy Framework in relation to achieving well-designed places.

Other Matters

12. The Council has stated that the appellant has not made it clear within their statement of case that the proposed building is for agricultural purposes only, and not simply a general storage building. I can only deal with the matters in front of me, however the use of the building will be controlled by a planning condition. Should this condition be breached then the Council would be able to deal with any such matters appropriately.

¹ APP/W3005/W/21/3273386

13. It is stated in the appellant's appeal statement that the proposed materials are already stored on the site. I concur with the Council's view that the obtaining of these materials prior to receiving the necessary permission was entirely at the appellant's own risk. Whilst the fact that the materials are already on site did not weigh in favour of the appeal, for the reasons given above I have found that their use would not result in harm being caused to the character and appearance of the area.

Conditions

14. The Planning Practice Guidance² makes it clear that decision notices for the grant of planning permission under section 73 should set out all the conditions imposed on the new permission, and restate the conditions imposed on earlier permissions that continue to have effect.
15. However, section 73 cannot extend the time of an application and therefore condition 1 is revised so that development must commence within 3 years of the date of the original permission. I have imposed condition 2 which specifies the relevant drawings, including the substitute plan Drawing No. 261WH.T/2021/PE1/R1, although I have amended the Council's suggested wording in order to provide clarity and certainty. Condition 3 provides further certainty in respect of the external materials and finishes matching those shown on the approved drawings.
16. I have also re-imposed conditions 4, 5 and 6 of the original permission. Condition 4 is included to ensure that the development properly integrates into its rural surroundings, whilst condition 5 ensures that the agricultural use of the proposed building is retained to protect the character of the rural area. Finally condition 6 allows the Council to retain control over the future development and use of the building.
17. The Council also suggested imposing an additional condition requiring that, should the use of the building for the purposes of agriculture within the unit cease within 10 years from the date on which the development was substantially completed, then the building must be removed from the land and the land returned to its condition before the development took place. However, given that I have found that the building's appearance would not result in harm being caused to the character and appearance of the area and such a condition was not included on the previous permission, the imposition of such a condition would be unnecessary, unreasonable, and unduly onerous. I have therefore declined to impose it.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed and condition 2 should be varied.

David Jones

INSPECTOR

² Paragraph:040 Reference ID: 21a-040-20190723