



Appeal Decision

Site visit made on 12 February 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2024

Appeal Ref: APP/R0660/W/23/3324891

Cross Farm Barns, Welsh Row, Nether Alderley, Macclesfield SK10 4TY

- 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 Cross Farm Developments Ltd against the decision of Cheshire East Council.
- The application Ref 22/4583M, dated 17 November 2022, was refused by notice dated 19 April 2023.
- The application sought planning permission for conversion of 3 existing barns to 2 dwellings with garaging and associated works without complying with conditions attached to planning permission Ref 23/0069M, dated 8 March 2023.
- The conditions in dispute are Nos. 2, 3, 4, 7, 10 and 12 which state that:
 2. The development hereby approved shall be carried out in total accordance with the approved plans as detailed within the approved plans document, received by the Local Planning Authority on the 7th March 2023 unless otherwise altered by another condition of this permission.
 3. The materials to be used shall be in strict accordance with those specified on plan ref: 11,621 28M (Materiality as proposed), received by the LPA on the 6th June 2022 in association with 21/3945M unless different materials are first agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 4. Prior to first occupation of any of the dwellings hereby approved, the developer/applicant shall implement the Electric Vehicle Infrastructure detailed on plan 11,621 No1 N (Proposed Site Plan), received by the LPA on the 25th July 2022 and the specification as detailed within the documentation received by the LPA on the 6th June 2022 (ROLEC EV Charging), all received in association with 21/3945M. The infrastructure shall be maintained and operational in perpetuity.
 7. The proposed development shall be implemented in accordance with the drainage proposals produced by Bell Munro Consulting (drawing no J7488 /D01 REV B, dated 08.22), received in association with permission 21/3945M. Surface water flows will discharge to the ordinary watercourse at a rate not exceeding 3.22 L/S for all storm events, up to and including the 1 in 100 year + 40% Climate Change event.
 10. The approved landscaping and boundary treatment plan (ref: 254-LYR-XX-ZZ-DWG-L-1001 Rev O), received in association with 21/3945M shall be completed in accordance with the following:-
 - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the

development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.

b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).

c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)

d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

12. The residential curtilages of the hereby approved dwellings shall be restricted to that shown on plan ref: 11,621 N31N (Extent of curtilage), received by the LPA on the 25th July 2022 in association with permission 21/3945M.

- The reasons given for the conditions are:
 - 2. For the avoidance of doubt and to specify the plans to which the permission relates.
 - 3. To ensure that the external appearance of the building is acceptable.
 - 4. To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable.
 - 7. To ensure the appropriate drainage of the site.
 - 10. To ensure appropriate landscaping of the site.
 - 12. To ensure the impact upon the Green Belt and character and appearance of the area is limited.

Decision

1. The appeal is allowed and planning permission is granted for the proposed conversion of 3 existing barns to 2 dwellings with garaging and associated works at Cross Farm Barns, Welsh Row, Nether Alderley, Macclesfield SK10 4TY in accordance with the terms of the application, Ref 22/4583M, dated 17 November 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

3. There are two typographical errors in the conditions listed within the decision notice (Ref 23/0069M) which I have corrected in the above banner heading.
4. Planning permission¹ was originally granted in October 2022 for the conversion of 3 existing barns to 2 dwellings with garaging and associated works and this permission included a condition (No.2) which required the development to be undertaken in accordance with the approved plans. Additionally, a number of other conditions within this approval made specific reference to approved plans. The approved development has commenced on site.
5. A Section 73 (S73) application² was approved in March 2023 to vary the approved plans condition (No.2). This application relates to the provision of solar panels on Barn A.
6. A separate S73 application³ was then refused in April 2023 to vary a total of six conditions from the previously approved Section 73 application. This application sought consent for a new driveway to serve Barn B and therefore sought to vary the plans conditions, but also required five other conditions to be varied in order to reflect the updated plans that were submitted to show the proposed new driveway. This S73 application is the subject of this appeal.
7. Since the above mentioned S73 application was refused, an additional S73 application⁴ has been approved. This application sought to vary condition 7, relating to the drainage scheme. Whilst drainage is not a disputed matter, this condition would also need to be changed as part of this appeal proposal to reflect the most recently submitted, and approved, drainage scheme.
8. In view of the above, this appeal relates to the proposed new driveway to serve Barn B. Nevertheless, the description of the development in my formal decision is taken from the original planning permission (21/3945M) as required by the 'Finney' judgment⁵. This judgment clarifies that the description of development in the decision must be taken from the original planning permission and not from the subsequent application to vary any of the conditions.

Main Issues

9. The main issues are:
 - whether or not the proposal is inappropriate development in the Green Belt having regard to the Framework and with regard to any relevant development plan policies;
 - the effect on the character and appearance of the area; and
 - if found to be inappropriate development, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances to justify the development.

¹ 21/3945M

² 23/0069M

³ 22/4583M

⁴ 23/3333M

⁵ *Finney v Welsh Ministers & Carmarthenshire County Council, Energieknotor (UK) Ltd* [2019] EWCA 1868; [2020] JPL 524

Reasons

Whether inappropriate development

10. The appeal relates to three former barns located within the Green Belt, currently being converted into two residential dwellings. As approved, the dwellings would share a single access from Congleton Road which includes a vehicular access gate. The appeal proposal seeks to create a new vehicle access track to serve Barn B. This new access track would branch off from the existing track and would allow for the previously approved access that utilises the existing hard standing to the rear of the barns to be closed off and used as garden area for the approved dwellings.
11. The proposed access track would run through an existing grass paddock located to the front (south) of the proposed dwellings and the residential curtilage plan shows that this paddock does not form part of the residential curtilage of either of the proposed dwellings. A new set of vehicular access gates would be installed to serve the new access track. Furthermore, the submitted plans also show this paddock would be subdivided through the erection of a post and rail fence.
12. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being their openness and permanence. The Framework goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
13. As per paragraph 155 of the Framework, certain forms of development, including engineering operations, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The proposed new access track, located outside of the proposed residential curtilages, is an engineering operation.
14. Openness can be perceived both spatially and visually. The proposed access track would run through a paddock which is currently free of any development. The track however would be constructed from a permeable stone base and include a central grass strip. This design is common to rural locations such as this and would indeed match the appearance of the existing track within the appeal site.
15. Serving only one dwelling, vehicle movements across this track would be fairly infrequent and, due to the length of the track, for a limited period of time each journey. Furthermore, being a single lane track it is highly unlikely that vehicles would be parked or left on this track for a significant period of time.
16. In view of all the above, I am satisfied that the proposed track, as a result of its low-key design at ground surface level only, and use in association with a single residential dwelling, would not result in significant vehicle movements, or result in vehicles visually dominating the site, and thus preserves both the visual and spatial openness of the Green Belt.
17. The appeal proposal also includes the erection of new post and two rail timber fencing in the paddock, and an additional set of five-bar vehicle access gates on the proposed track. Paragraph 154 of the Framework establishes that the construction of new buildings in the Green Belt is inappropriate subject to a

number of exceptions, and none of these exceptions apply to the proposed fence and gate. The term 'building' is defined by s336 of the Town and Country Planning Act 1990 (as amended) as including any structure or erection, and therefore includes the fence and gate.

18. These man-made structures would inevitably result in some harm to both the spatial and visual openness of the Green Belt as they introduce features above ground level in areas of the paddock that are currently absent of any built form, albeit these features are relatively modest in terms of both their size and quantum of development.
19. I observed on my site visit that this style of fencing and gate are common within both the appeal site itself and wider area in general, and given their open design which would continue to allow views through, the harmful impact upon both the spatial and visual openness of the Green Belt would be very limited. Furthermore, the very limited harm arising from the provision of a new gate on the proposed access track is also somewhat offset by the removal of the need for the previously approved gate to the rear of Barn B.
20. I acknowledge the Council's concerns in respect of the cumulative impacts of the proposed development within this paddock and the potential spread of domestic activities encroaching into this area. However, the submitted residential curtilage plan shows that this land to the front of the proposed dwellings would not form part of the residential curtilages. This plan, and the extent of the residential curtilage for each dwelling would be controlled by condition, thus ensuring that there would be no domestic encroachment into this area.
21. In view of the above, the appeal proposal would result in very limited harm to the openness of the Green Belt and is therefore inappropriate development in the Green Belt as defined by the Framework, and Policy PG3 of the Cheshire East Local Plan – Local Plan Strategy 2010–2030 (2017) (Local Plan) and Policy RUR 14 of the Cheshire East Local Plan – Site Allocations and Development Policies Document (2022) (SADPD), which reflect the Framework with regard to development within the Green Belt.

Character and appearance

22. The appeal site is located within a rural setting, but its northern and eastern boundaries are shared with existing residential dwellings which, along with existing mature vegetation, predominantly screen the appeal site from public vantage points on both Congleton Road and Welsh Row. To the south of the site are verdant fields enclosed by a mixture of vegetation and traditional rural fencing, and directly to the west is a menage for horse riding.
23. The proposed access track would run through the existing undeveloped paddock situated directly to the south of the barns currently being converted into residential use. However, the track would be sited close to the side boundary shared with a neighbouring dwelling's garden which is currently defined by vegetation and would therefore provide some screening of this proposed track, and any vehicles using it, especially when viewed from Congleton Road.
24. Whilst acknowledging that there is no guarantee this vegetation would be retained in perpetuity, given that it serves to provide privacy within this

neighbouring property's outdoor amenity space, it is highly likely that some form of screening would be retained along this boundary.

25. Nevertheless, as a result of their design and siting, the proposed access track, new fencing and new gates would all be low-key developments that are in keeping with other features in the immediate surroundings, and wider rural area. Their exclusion from the residential curtilages would also ensure that the developments do not result in any significantly greater domestication or urbanisation of the appeal site.
26. Furthermore, their positioning on land in-between an existing similarly designed track and the barns currently being converted ensures that the development would be restricted to within the limits of surrounding existing similar developments and would therefore not visually encroach into the more open green spaces located beyond the southern boundary of the appeal site.
27. Consequently, the appeal proposal would not materially harm the character and appearance of the surrounding rural landscape. I therefore find no conflict with Policy RUR 14 of the SADPD which seeks to ensure, amongst other things, that proposals for the re-use of rural buildings for residential use must be sympathetic to the character of its rural surroundings with particular attention given to the impact of vehicle accesses, domestic curtilages, alterations to fields and engineering operations on the domestication and urbanisation of rural areas.

Other Matters

28. To the east of the appeal site is Cross Farmhouse, a Grade II Listed Building⁶. As such, in determining this appeal I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
29. According to the listing description this former farmhouse was partly constructed in the 17th Century with an addition added to the side in 1735. The property is constructed in red brick with a stone-slate roof and mullioned windows with lattice leaded glazing, with a gabled half dormer in its front elevation. These are features of architectural interest within the front elevation that add to the significance of the listed building, especially when viewed from the public highways of Welsh Row and Congleton Road to the front. To the rear this listed building has been extended by way of a single storey rear extension and a modern conservatory.
30. As well as the historic significance resulting from its age, as mentioned above the main architectural interest of this listed building is considered to derive from the features within its front elevation. The appeal site, being located to the rear of the listed building, therefore makes a modest contribution to the setting and significance of this heritage asset. The approved ongoing re-development of the three former barns into two residential dwellings has changed the relationship between the appeal site and this listed building, albeit not significantly as the former barns were not considered to be visually attractive features that made a positive contribution to its setting.

⁶ List entry number 1139600

31. The proposed new fence, gates and access track, along with the resulting alterations to the rear of the proposed dwellings, which involve the removal of existing areas of hard surfacing to be replaced with grass for garden areas, would all represent low-level and modest developments, close to ground level, and thus would be visually screened from this listed building by intervening features such as existing buildings and boundary treatments. The appeal scheme would therefore not have any greater impact on the setting of this nearby listed building than the approved development at the appeal site. As such the appeal proposal would preserve the setting of this listed building and its features of special architectural and historic interest.

Green Belt Balance

32. For the reasons detailed above the appeal proposal constitutes inappropriate development in the Green Belt. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework confirms that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
33. In this regard, the proposal would cause very limited harm to openness. However, as set out at paragraph 153 of the Framework, albeit very limited in extent, this harm attracts substantial weight. I have found no other harm arising from the appeal scheme. The effect on the special architectural and historic interest of the listed building would be neutral.
34. It is claimed that the proposed new access would be shorter in length than the access required under the approved scheme and would result in a circa 37% reduction in hardstanding and access areas around the proposed dwellings. From the details shown on the submitted plans I have no reason to doubt these assertions and the Council has not disputed these figures. The overall reduction in hard surfacing within the appeal site, resulting from appeal scheme, is therefore a benefit I attribute between moderate and significant weight.
35. The revised access arrangement would improve the living conditions of the occupiers of each of the proposed converted barns, as each property would have their own access. This removes the need for occupiers to cross over neighbouring land to access their own property, and also reduce situations where multiple vehicles would need to pass on a single width track. I therefore attribute limited positive weight to this matter.
36. I therefore find that the other considerations in this case clearly outweigh the very limited harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. The appeal scheme therefore accords with the Framework, and Policy PG3 of the Local Plan and Policy RUR 14 of the SADPD.

Conditions

37. As a consequence of allowing this appeal I have varied conditions 2 (plans), 3 (materials), 4 (electric vehicle infrastructure), 7 (drainage) 10 (boundary treatment) and 12 (extent of curtilage), as numbered on approved application 23/0069M, to list the revised drawing numbers from the hereby approved

development. Furthermore, as the development has commenced on site it is not necessary to re-impose the standard time limit condition.

38. Additionally, as one of the barns is occupied, I have amended the triggers for compliance in respect of the conditions relating to garden soil sampling (4) and ecology (10) as listed in the schedule below.
39. The guidance in Planning Practice Guidance makes clear that decision notices for the grant of planning permission under S73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the previous planning permission, I have re-imposed them all as I consider them to be relevant, reasonable and necessary. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

40. For the reasons given above, and having regard to all matters raised, the proposed development would accord with the development plan when taken as a whole and there are no material considerations that indicate it should be determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

R Major

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall be carried out in total accordance with the following approved plans:
 - Location Plan - License number 1000022432
 - 11,621 01 Rev O - Site Plan as Proposed
 - 11,621 02 Rev O – Proposed Plan, Ground Floor, Barns A & C, Sections 'FF' & 'EE'
 - 11,621 03 Rev N - Proposed Plan, First Floor Barn A, Barn C
 - 11,621 04 Rev O - Proposed Roof Plan Barn A & C
 - 11,621 05 Rev M - Proposed Plan, First Floor, Existing Structure Overlayed Barn A
 - 11,621 06A Rev N - Proposed Section AA, Double Height, Barn A
 - 11,621 07A Rev N - Proposed Section BB, Barn A
 - 11,621 08A Rev N - Proposed Section CC, Barn A
 - 11,621 08 Rev L - Proposed Roof Plan, Barn B
 - 11,621 09 Rev Q - South Elevation as proposed Barn Levels
 - 11,621 10 Rev Q - West Elevation as Proposed Barn C & A Levels
 - 11,621 11B Rev O - West Elevation Barn B Levels
 - 11,621 12 Rev Q - North Elevation as Proposed Barn Levels
 - 11,621 13B Rev O - East Elevation as Proposed Barn B Levels
 - 11,621 14 Rev Q – East Elevation as Proposed Barn A & C Levels
 - 11,621 30 Rev L – Proposed Plan Ground Floor Barn B (South Access)
 - 11,621 32 Rev P – Section DD' as Proposed Barn B
 - 11,621 33 Rev O – Propose Section GG' Barn C
 - 11,621 40A Rev N - EDM as existing overlay with proposed buildings
 - 11,621 41 Rev N - Existing building detailed survey overlay with proposed buildings
 - 11,621 42C Rev N - Existing buildings overlay with as proposed buildings demolition
 - 254-LYR-XX-ZZ-DWG-L-1001 Rev O - General Arrangement
 - 11,621 31 Rev O - Extent of Curtilage
 - c14495/80 P3 – Below Ground Surface Water Drainage Layout
 - c14495/82 P1 – Typical Drainage Details Sheet 1 of 2

- c14495/83 P1 – Typical Drainage Details Sheet 2 of 2
- 2) The materials to be used shall be in strict accordance with those specified on plan ref: 11,621 28M (Materiality as proposed), received by the Local Planning Authority on the 6 June 2022 in association with 21/3945M unless different materials are first agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 3) Prior to first occupation of any of the dwellings hereby approved, the developer/applicant shall implement the Electric Vehicle Infrastructure detailed on plan 11,621 01 Rev O (Proposed Site Plan), received by the Local Planning Authority on the 21st November 2022 and the specification as detailed within the documentation received by the Local Planning Authority on the 6th June 2022 (ROLEC EV Charging), received in association with 21/3945M. The infrastructure shall be maintained and operational in perpetuity.
 - 4) a) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.

(b) Prior to the works commencing on the new access to Barn B, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority.
 - 5) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority.
 - 6) The proposed development shall be implemented in accordance with the revised drainage proposals detailed on the following plans; c14495/80 Rev P3 (Below Ground Surface Water Drainage Layout), c14495/82 Rev P1 (Typical Drainage Details Sheet 1 of 2) and c14495/83 Rev P1 (Typical Drainage Details Sheet 2 of 2), all received by the Local Planning Authority on the 21 December 2023.
 - 7) No outdoor pools or ponds of water should occur/be created without the prior approval of the Local Planning Authority.
 - 8) Should any exterior lighting be approved, all such lighting should be capped at the horizon.
 - 9) The approved landscaping and boundary treatment plan (ref: 254-LYR-XX-ZZ-DWG-L-1001 Rev O) shall be completed in accordance with the following:-

a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.

b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).

c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)

d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

10) The hereby approved development shall proceed in full accordance with the Biodiversity Enhancement Scheme (Rachel Hacking Ecology, 26/05/2022), received by the Local Planning Authority on the 6 June 2022 in association with 21/3945M. The implementation of the approved details shall be carried out prior to the occupation of Barn B.

11) The residential curtilages of the hereby approved dwellings shall be restricted to that shown on plan ref: 11,621 31 Rev O (Extent of curtilage), received by the Local Planning Authority on the 21 November 2022.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as subsequently may be amended or re-enacted), no extensions, alterations or buildings normally permitted by Classes A to E of Part 1 Schedule 2 and no boundary treatments normally permitted by Class A of Part 2, Schedule 2 to the Order, and no solar equipment normally permitted by Classes A & B of Part 14, Schedule 2 of the order shall be constructed within the site curtilages of the development hereby approved unless a further planning permission in respect of such development has first been granted on application to the Local Planning Authority.

===== END OF SCHEDULE =====