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# Appeal Decision

Site visit made on 22 May 2024

**by K Savage BA(Hons) MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3<sup>rd</sup> June 2024**

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**Appeal Ref: APP/W3005/W/23/3334652**

**Whiteborough Cottage, 261 Wild Hill, Teversal, Nottinghamshire NG17 3JF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) 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 Ashfield District Council.
  - The application reference is V/2023/0524.
  - The application sought planning permission for an agricultural storage building for agricultural purposes only without complying with a condition attached to planning permission Ref APP/W3005/W/22/3290188 (Council Ref V/2021/0756), dated 7 September 2022.
  - The condition in dispute is No 2 which states that: 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.
  - The reason given for the condition is: To provide clarity 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, 261 Wild Hill, Teversal, Nottinghamshire NG17 3JF, in accordance with the terms of the application Ref V/2023/0524, without compliance with Conditions Nos 1, 2 and 3 previously imposed on planning permission Ref APP/W3005/W/22/3290188 (Council Ref V/2021/0756), dated 7 September 2022 and subject to the conditions set out in the attached schedule.

## Application for costs

2. An application for a full award of costs has been made by Mr Paul Brewell against Ashfield District Council. This is the subject of a separate decision.

## Procedural Matter

3. The appeal is made against the failure of the Council to determine the application within the prescribed period. The Council confirms that had it been in a position to determine the application it would have granted planning permission. Accordingly, there are no matters at issue between the main parties. Nevertheless, I shall determine the appeal as if it were made to the Secretary of State in the first instance and have framed the main issue on the basis of matters set out by the Council in its Statement of Case.

## Background and Main Issue

4. The application made to the Council sought to vary a condition attached to a planning permission granted on appeal in 2022, which was itself granted as a variation to an original planning permission, also granted on appeal in August 2021<sup>1</sup> for an agricultural storage building for agricultural purposes only. The first variation secured a change to the originally approved external facing materials from concrete block and profiled metal cladding to natural stone and horizontal timber board (natural larch).
5. The proposal seeks to amend the approved roofing material from a profile grey metal or fibre cement roof sheets to a clay roof tile (Sandtoft 20/20 Flanders). I saw on site that the clay roof tile had already been installed on the building.
6. Paragraph 56 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance (PPG) provides further advice in this respect, confirming that these six tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.<sup>2</sup>
7. Therefore, the main issue is whether, to meet these tests, the disputed condition should be retained, having regard to the effect on the character and appearance of the area.

## Reasons

8. The appeal building is located within rural surroundings designated as countryside in the Ashfield Local Plan Review (2002) (the ALPR), and as part of the appellant's wider site which contains a variety of agricultural and domestic buildings to the north. The building stands behind a gas valve compound which separates it from Chesterfield Road.
9. I concur with the views of the previous Inspectors that agricultural buildings can be constructed in a variety of materials, and from my observations, the building on site still exhibits a clearly agricultural form even with the clay tiles added. I also agree that the use of more high specification materials assists in integrating the building into what is a mixed agricultural and domestic character across the wider site.
10. Moreover, the recessed position of the building and filtering by roadside hedgerows means it is not subject to clear views from the road. Open fields surround the site to the south, west and north, and I am not aware of any public vantage points within the immediate surroundings, such as from a footpath, where the building would be readily visible, much less the detailing of the roofing material. Consequently, although the building is large in size, the change in roofing material would not materially add to its visibility or render it an unduly conspicuous feature within the landscape. It would still be viewed as a constituent part of the established complex of rural buildings on the land.
11. For these reasons, I find that the change in materials sought does not have an adverse effect on the character and appearance of the area, and would accord

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<sup>1</sup> V/2021/0066

<sup>2</sup> Paragraph: 003 Reference ID: 21a-003-20190723

with relevant policies of the ALPR, including Policies ST1 (a) and (b) and EV2, which seek to ensure that developments are located and designed so as not to adversely affect the character of the countryside. These policies are consistent with the Framework aim of securing high quality design in new development and recognising the intrinsic character and beauty of the countryside.

## **Conclusion**

12. It follows from my findings above that it is not necessary to retain the existing Condition No 2 to ensure the development is acceptable in planning terms. The appeal should therefore be allowed, with the original Condition No 2 removed and replaced by a new condition setting out the amended plans, to ensure there remains certainty as to the development approved.
13. The guidance in the PPG makes it clear that 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, and with the exception of the time limit.
14. As the development has commenced, it is not necessary to retain or amend Condition No 1 of the existing permission. Similarly, in the interest of precision, I have substituted the word 'approved' for the word 'proposed' in the previous Condition No 3 (now No 2) to reflect that development has taken place.

The Council indicates that the condition requiring details of landscaping has not been discharge. Therefore, I shall re-impose this and the other conditions which remain relevant. In the event that some of the conditions have in fact been discharged, that is a matter which can be addressed by the parties.

*K. Savage*

INSPECTOR

### **Schedule of Conditions**

- 1) This permission shall be read in accordance with the following plans: Existing Site Plan (Unnumbered); 261WH.T/2021/PE1/R1 Revision R2 (Plan and Elevations). The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
  - 2) The materials and finishes to be used for the external elevations and roof of the proposal shall match those identified on the approved drawing.
  - 3) 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.
  - 4) The building shall be used for no other purpose other than for agriculture.
  - 5) 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.
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