

Appeal Decisions

Site visit made on 15 July 2024

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2024

Appeal A Ref: APP/A0665/W/24/3341446

Milton Green Farm, Whitchurch Road, Milton Green, Chester CH3 9DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant 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 Alex Wood (Lexwood Developments Ltd) against the decision of Cheshire West and Chester Council.
 - The application Ref is 23/00915/S73.
 - The application sought planning permission for '*Conversion of two agricultural buildings to form one office unit and three dwellings and the demolition of four agricultural buildings – Variation of condition 2 (plans) of planning permission 11/03079/FUL and listed building consent 11/03080/LBC*' without complying with a condition attached to planning permission Ref 18/01046/S73, dated 25 October 2018.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans:*
 - L02 Rev D Site layout showing buildings to be demolished*
 - G01 Rev H Proposed site layout*
 - G02 Rev B Proposed garage blocks*
 - PR L 01 D Proposed office, units 2 and 3 floor plans*
 - PR L 02 D Proposed office, units 2 and 3 elevations*
 - G04 Rev C Proposed unit 4*
 - The reasons given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Appeal B Ref: APP/A0665/Y/24/3341448

Milton Green Farm, Whitchurch Road, Milton Green, Chester CH3 9DS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to vary or discharge conditions of a listed building consent.
- The appeal is made by Mr Alex Wood against the decision of Cheshire West and Chester Council.
- The application Ref 23/01196/S19 sought to vary condition No 2 of a listed building consent Ref 18/01309/LBC granted on 25 October 2018.

- The works proposed are 'Conversion of two agricultural buildings to form one office unit and three dwellings and the demolition of four agricultural buildings - Variation of condition 2 (plans) of planning permission 11/03079/FUL and listed building consent 11/03080/LBC.'
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans:*
 - L02 Rev D Site layout showing buildings to be demolished*
 - G01 Rev H Proposed site layout*
 - G02 Rev B Proposed garage blocks*
 - PR L 01 D Proposed office, units 2 and 3 floor plans*
 - PR L 02 D Proposed office, units 2 and 3 elevations*
 - G04 Rev C Proposed unit 4*
 - The reason for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decisions

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

Preliminary Matters

3. As the proposal relates to a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).
4. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.
5. Milton Green Farmhouse is a Grade II listed building. It is common ground between the parties that the appeal barn is located within the curtilage of the listed building and was constructed before 1 July 1948. As such, by virtue of section 1(5) of the Act it should be treated as part of the listed building.
6. Planning permission and listed building consent were granted for the 'conversion of two agricultural buildings to form one office unit and three dwellings and the demolition of four agricultural buildings' under application Ref 11/03079/FUL and Ref 11/03080/LBC. A Section 73 variation of condition application was approved by the Council for the residential conversion and extension of the barn under application 18/01046/S73 and 18/01308/LBC. During my site visit I observed that the previously approved residential conversion and extension of the barn had not been undertaken on site. However, the Council has confirmed that work has taken place on the wider site, as indicated under the LDC application Ref 23/00497/LDC.
7. The proposal seeks consent for a variation of Condition 2 on approved applications 18/01046/S73 and 18/01308/LBC, which state that the extension of the barn should be carried out in accordance with the approved plans. The appeals seek to vary the plan G04 Rev C Proposed Unit 4 and L02 Rev D Site layout, by providing a larger extension to the barn building to the rear. The site layout plan has also been amended to take account of this extension.

8. However, in relation to Appeal B, the ability to attach a condition to seek adherence to approved plans applies to planning casework only through the Town and Country Planning Act 1990 and the ability to make a Section 73 application for material amendments. There is no equivalent in the Act, wherein consent is granted for specific works such that a fresh application should be sought for the variations to listed building consent. Nonetheless, as the Council has imposed the condition, then determined the application allowing for consideration of the scheme proposed, I shall do the same.
9. The Council did not undertake any publicity in relation to the variation of condition for the listed building consent. Therefore, in the interests of natural justice, the Council was asked to give interested parties notification of the appeals during the appeal stage.

Main Issue

10. In the context of the above, the main issue is whether the consequences of varying the conditions would preserve the Grade II listed building known as Milton Green Farmhouse, or any features of special architectural or historic interest which it possesses.

Reasons

Special interest and significance

11. The appeal site is located at Milton Green Farm and relates to a disused early-19th Century brick barn. The appeal building forms part of a group of outbuildings at the farm, together with the main farmhouse building which is Grade II listed¹.
12. The two-storey Grade II listed farmhouse dates from the 19th Century and is mainly constructed from Flemish bond orange brick with yellow headers and a Welsh slate roof. It has a symmetrical design, with a 3-bay front and double pile plan, with stone plinth and moulded stone cornice features.
13. Pertinent to the appeals, the appeal barn is constructed mainly from brick with a tin sheet roof. It is of modest scale and proportions with a robust agrarian form. It has wide openings on the east elevation, indicating part of the ground floor was historically used as a cartshed. The evidence also suggests that it was partly used for stables with a hayloft or granary above. On the north side of the barn are dilapidated single-storey tin sheds. Attached to the rear of the barn is a large mid-20th Century agricultural shed, which does not form part of the listing as it was built post 1948.
14. The large steel shed to the rear of the barn appears as a lightweight and part open structure, with a typical agricultural form and design. Similarly, the derelict single-storey sheds on the north side of the barn also appear as lightweight agricultural structures. While these structures are in a neglected state, the historic agrarian form and function of the barn remain legible.
15. Given the above, I find that the special interest and significance of the listed farmhouse building largely stems from its inherent architectural and historic

¹ List Entry Number: 1230333, Milton Green Farmhouse

interests, in its illustration of an early 19th Century farmhouse in a polite Georgian style.

16. Pertinent to the appeals, the farmhouse's special interest and significance are also derived, in part from its associated outbuildings, including the appeal barn. The historic, functional, physical and visual associations of the farmhouse with these outbuildings and their intrinsic value as a group, add considerably to the asset's heritage merit.
17. Additionally, the historic farmyard environment and the wider pastoral surroundings allow the asset, as a group, to be experienced and its heritage merit appreciated. As such, the listed building's immediate and wider setting also contribute to its special interest and significance.

Proposal and effects

18. The proposal would include a single storey pitched roof rear extension, extending to a depth similar to that of the existing barn. The proposal would also extend across the full width of the barn's rear elevation with extensive full height glazing panels, which would result in the addition of a wide domestic structure to the rear elevation of the barn. By virtue of its considerable width and depth and domestic glazing, this enlargement would create a prominent feature on site, which would contrast with the traditional character and form of the historic barn and nearby outbuildings.
19. Additionally, the proposed glazed link design would appear contrived and at odds with the pitched roof profile of the existing barn and the proposed pitched roof extension. Even though the glazed link might reveal elements of the historic barn structure, the reflective nature of the glazing would unacceptably harm the special interest of the building.
20. I also find that the information regarding how the proposed glazed link would be attached to the barn is lacking in detail. Therefore, I cannot be certain that the proposal would not permanently damage the building's historic fabric.
21. Therefore, the proposal's scale and massing, along with its extensive glazing, would create a conspicuous development, visually competing with the historic barn and eroding its architectural integrity. Thus, in harmfully altering the barn, the proposal would undermine the positive contribution it makes to the value of the group and thus to the special interest and significance of the listed building as a whole.
22. Although it would be screened from public views from the road, views of the proposal would still be possible from within the site itself. Furthermore, considering that listed buildings are safeguarded for their inherent architectural and historic interest, irrespective of whether or not public views of the proposal would be available, the limiting of public views would not negate the identified harm.
23. I acknowledge that the appellant seeks to create a visual contrast between the traditional appearance of the historic barn and the contemporary design of the proposed extension. However, while a modern design approach may in some instances be appropriate, the proposed extension would appear as a noticeable and inharmonious addition to the historic fabric, particularly by

reason of the size of the structure and its extensive glazed connection to the barn.

24. Although the large steel shed to the rear of the barn has a greater footprint and height than the proposal, it holds a subservient relationship to the host barn by reason of its simpler agricultural form and detailing. In contrast, the proposal's conspicuous design and overtly domestic features would dilute the barn's historic character as a functional, agricultural building, to the detriment of its significance.
25. The previous planning permission and listed building consent (18/01046/S73 and 18/01309/LBC) would include a flat roof extension with extensive glazing. Nevertheless, the scale of this previous approval would be significantly smaller than the proposal before me.
26. While the materials used for the proposal, such as cladding, could be reasonably secured through the imposition of planning conditions, this would not justify the harm identified above.
27. For the reasons given, I find that the consequences of varying condition No 2 in the way sought would fail to preserve the listed building or any features of special architectural or historic interest which it possesses. In doing so, it would harm the significance of this designated heritage asset.

Public Benefits and Balance

28. With reference to paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the extent and fairly localised nature of the proposal, I find that the harm to the significance of the designated heritage asset assessed above would be 'less than substantial' but nevertheless of considerable importance and weight. Paragraph 208 of the Framework requires this harm to be weighed against the public benefits of the proposal, including where appropriate, securing the asset's optimum viable use.
29. In this case, economic benefits would be delivered through the construction phase and general investment into the property, and support to local services. Social benefits would be generated by an addition to the local housing stock and increased Council tax. The proposal would also secure the future of a redundant and derelict rural building, re-using and restoring the building for a sustainable use. These outcomes would be moderated by the extent of the scheme, but still weigh in favour of the appeals. Nevertheless, the proposed extension to the rear of the building to allow for additional accommodation for family use and to make the property more saleable in the current market, would primarily be a private benefit to the developer and then occupants of the property.
30. I acknowledge that the current condition of the barn detracts from the significance of the Grade II listed farmhouse. The demolition of the dilapidated sheds and large steel structure would also improve the appearance of the site. However, any benefit arising from this would be lost by its replacement with the proposed extension.

31. Furthermore, it has not been demonstrated that the plot is unlikely to be commercially viable without this extension. Additionally, given the fallback schemes, it has been demonstrated that the same benefits could be secured by an alternative, more modest scheme. In these respects, the identified harm to the significance of the listed building has not been clearly and convincingly justified.
32. On balance, in giving considerable importance and weight to the harm to the significance of the listed building, I find that this would not be outweighed by the limited public benefits arising from the proposal.
33. I conclude that the consequences of varying condition No 2 to allow the development and works would fail to preserve the listed building, or any features of special architectural or historic interest which it possesses. It would therefore fail to satisfy the requirements of the Act and the provisions within the Framework which seek to conserve and enhance the historic environment. It would also conflict with Policies ENV5 and ENV6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (adopted 2015), and Policies DM3 and DM47 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (adopted 2019). Collectively, these policies amongst other things, seek to ensure development is sympathetic to and responds positively to designated heritage assets and their settings, avoiding loss or harm to their significance. It should also respect local character and be appropriate in scale, design and materials.

Other Matters

34. The extant planning permission and listed building consent (18/01046/S73 and 18/01309/LBC) and the recently granted resubmission application (refs 24/01258/S73 and 24/01457/S19) represent fall-back options for the appellant that would extend the barn for residential purposes at a modest scale. In contrast, the proposal before me would result in a greater quantum of development, which would result in harm for the reasons given. As such, these fallback positions would have different implications for the historic and built environment. Thus, they would not be as harmful as the current appeals proposal and do not alter my findings.
35. The appellant refers to a potential fallback option in the shape of development permitted by the Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and states that Part Q can apply to the large, shed building as this had been erected post 1948. As such, the steel framed building could potentially be converted for residential use under the GPDO. However, there is insufficient evidence regarding the detail of such development; whether it would be likely and indeed whether it would be more or less harmful than the appeals' scheme. Were I minded to dismiss the appeals, there is no substantive evidence to suggest that the appellant would proceed with this fallback option. Therefore, I am not satisfied that there is a real prospect of the fallback position being implemented. This fallback position therefore attracts little weight as a consideration in favour of the proposal.

36. My attention has been drawn to a previous permission at Lane Ends Farm. However, based on the limited information before me, this other scheme appears to replace existing small-scale structures on site with an extension that is similar in depth to the replaced structures. It therefore differs to the current proposal. Furthermore, I have not been presented with the full details of this other case, including details such as the officer's report and consultation responses. Therefore, the full details of the circumstances which led to this development being accepted are not before me.
37. My attention has also been drawn to planning permissions for modern barn extensions in other local authority areas. However, these other extensions appear to relate more effectively to their respective host buildings in their general design, including their scale and roofscapes, than the appeals before me. They are also situated in different locations to this appeal site, with different site contexts and different policy constraints. As such, these other developments are not directly comparable to these appeals. Each case must be decided on its own merits, and I am not fully aware of all the circumstances relating to each of these other extensions. I have determined these appeals on their own merits based on the evidence before me and my observations on site.
38. The appellant also makes reference to 'Supplementary Planning Document: House Extensions and Domestic Outbuildings' in paragraph's 6.21 to 6.25 of their statement. However, as the barn has not yet been converted into a dwelling, I do not find the SPD to be relevant to these appeals.
39. The proposal would have no discernible impact on the living conditions of neighbouring occupiers. Nonetheless, this is a neutral consideration and therefore does not weigh in favour of the proposal.

Conclusion

40. For the reasons given, and having regard to all other matters raised, I conclude that both appeals are dismissed.

H Smith

INSPECTOR