



Appeal Decision

Site visit made on 5 November 2024

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2024

Appeal Ref: APP/R0660/W/24/3346964

Swineyard Lane Farm, Swineyard Lane, High Legh WA16 0SB

- 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 Cemco 21 Ltd against the decision of Cheshire East Council.
 - The application Ref is 23/4196M.
 - The application sought planning permission for the variation of Condition 2 on 19/2907M - Conversion and extension of the existing barn to create 3 no. residential units without complying with conditions attached to planning permission Ref 22/2043M, dated 8 November 2022.
 - The condition in dispute is No 2 which states that:
 - 2. The development hereby approved shall be carried out in total accordance with the approved plans as follows, received by the Local Planning Authority on the dates as indicated below:
 - 1484 LO1 Rev C (Location Plan) - Received 5 Oct 2022
 - 1484 - 200 Rev E (Proposed Site Plan) - Received 6 Oct 2022
 - 1484-201 Rev E (Proposed Ground Floor Plan)
 - 1484-202 Rev E (Proposed First Floor Plan)
 - 1484-204 Rev F (Proposed Elevations - S &W)
 - 1484-203 Rev F (Proposed Elevations -N &E) - Received 4 Nov 22
 - 1135 117 (Visibility Splay) Received 12 Aug 2019(unless where otherwise varied by a condition to this application)
 - The reasons given for the condition are:
 - 2. For the avoidance of doubt and to specify the plans to which the permission/consent relates.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of the existing barn to create 3 no. residential units at Swineyard Lane Farm, Swineyard Lane, High Legh WA16 0SB in accordance with the application Ref 23/4196M, without compliance with condition numbers 2, 5 and 7 previously imposed on planning permission Ref 22/2043M dated 8 November 2022 and subject to the conditions in the attached schedule.

Background and Main Issue

2. This appeal follows the failure of the Council to determine the planning application within the prescribed period. Had it been able to determine the application, the Council has indicated that the application would have been refused.

3. I note the conclusions set out within the Written Statement of the Local Planning Authority. While this is not the application decision, as jurisdiction over that was taken away when the appeal was lodged, I have treated it as the decision the Council would have made, had it been empowered to do so.
4. Therefore, the main issue is the effect of varying Condition 2 on the character and appearance of the host building and its surroundings.

Reasons

5. The appeal site is situated within the open countryside where development is primarily limited to sporadic dwellings and agricultural buildings between fields. The site itself contains a former barn which extends perpendicular to the road. At the time of my site visit works were being carried out to convert the building. These included the provision of three porches and a deep extension on the front elevation. To the rear of the building, and against the road, is a two-storey projection that appears to be original to the building. Although I note the building may have previously been linear in form, it currently presents a shape more akin to an unbent Z.
6. The Council have identified the building as being a non-designated heritage assets as it is a traditional farm building of some age that appears on historic mapping. I noted, during my site visit, some historic features that maintain the legibility of the historic building, including an external staircase to the rear, and air vent slits across the frontage. The general form and roofscape of the building further adds to the legibility of the building's historic form. However, as the building has been extended with porches and domestic scale openings have been provided, the significance of this building has been somewhat eroded. Nevertheless, I find the building to be of modest significance given its age and the presence of original features.
7. The portion of the building serving Plot 3, as annotated on the submitted plans, has already been extended to the front, and within the resulting crook between the extension and host building a larger porch has been provided. The proposal before me would provide an additional smaller porch within this crook which taken together with the existing larger porch, would form an L-shape following the larger extension.
8. The proposed addition would be comparable to the existing porches serving Plots 1 and 2 in both its scale and form. The addition would not, therefore, be a significant feature on its own and would only be a modest addition to the already approved extensions serving Plot 3. Moreover, the extension would be viewed within the silhouette of the host building, and as it would be set back from the road, would be a retiring feature that would not be prominent or intrusive in views. This is particularly so with regard to the wider rural area which would be unaffected by the proposal.
9. I also find that given the existing presence of domestic features on the host building, the proposal would not further erode the agricultural appearance of the former barn, or the legibility of its former use. As such, the proposal would not harm its modest significance as a non-designated heritage asset.

10. The proposal would not unacceptably affect the character and appearance of the host building to the detriment of its significance as a non-designated heritage asset or its rural setting. The variation of Condition 2 would therefore comply with Policies SE 1, SE 7 and SD 2 of the Cheshire East Local Plan: Local Plan Strategy 2010-2030 (the CELP) and Policies GEN 1, HER 7, RUR 11 and RUR 14 of the Cheshire East Local Plan: Site Allocations and Development Policies Document (the SADPD). These policies collectively, and amongst other matters, require the conversion and re-use of rural buildings and non-designated heritage assets to protect their sense of place, and conserve the historic interest or significance of the building and its surroundings.

Conditions

11. As I have concluded that the proposed variation of Condition 2 would not result in any harm to character and appearance, I have varied the condition by replacing the plans as set out in the schedule of conditions below.
12. The Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I understand that conditions 5 and 7 attached to permission 22/2043M have been discharged. The Council have provided an updated list of conditions where these two have been replaced for conditions requiring the discharged details to be followed. I have therefore also varied conditions 5 and 7.

Conclusion

13. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall be carried out in total accordance with the approved plans:
1484 LO1 Rev C (Location Plan) (Received 5 Oct 2022)
1484 – 200 Rev F (Proposed Site Plan)
1484-201 Rev F (Proposed Ground Floor Plan)
1484-202 Rev F (Proposed First Floor Plan)
1484-203 Rev G (Proposed Elevations –N &E)
1484-204 Rev F (Proposed Elevations – S &W)
- 2) Materials to be as 22/4334D, using reclaimed from the site where appropriate and any additional brick and slate to match the existing former barn. Development shall be carried out in accordance with the approved details unless any variation is agreed with the Local Planning Authority.
- 3) The following windows (a-c) to the proposed development shown on the approved drawings 1484-201 Rev E (Proposed Ground Floor Plan) 1484-202 Rev E (Proposed First Floor Plan), 1484-204 Rev F (Proposed Elevations) shall be

- i) obscure-glazed (minimum Level 3 obscurity level) and
- ii) of a design not capable of being opened below a height of 1.7m above finished floor level and shall remain so glazed and non-openable OR with stays permanently fixed allowing windows to open a maximum of 100mm, (Unless where otherwise varied by a condition to this application).

Note: the application of translucent film to clear glass is not sufficient for the purposes of this condition.

- a) south facing first floor bathroom window to plot 1 (W30)
- b) west facing first floor windows– W25, W26, W28, W29.
- c) west facing ground floor glazing – W9, W10, W11, W12, W13
- d) west facing rooflights

Doors D18 and D19 on the west elevation to plot 2 shall be solid timber doors. Glazed panel to D8 to be obscured glazing , no glazing to D19.

- 4) New windows and doors shall in accordance with details submitted under application ref 23/0937D. Windows and doors to the additional porch extension to Unit 3 shall match those previously approved in material and appearance.
- 5) The roof lights in the development hereby approved shall be set flush with the angle of the surrounding roof slope. If this cannot be achieved, the degree of projection from the plane of the roof pitch shall be first agreed in writing by the Local Planning Authority.
- 6) Ventilation slits/ vertical recesses in the brick external walls shall be retained in accordance with details approved under ref 22/3290D.
- 7) The external stone steps to the west elevation are to be retained in situ for the lifetime of the development. Any works to alter the steps are to be submitted to the Local Planning Authority for approval prior to commencement.
- 8) The mitigation recommended in the acoustic report PDA, Ref. J001917/3440/WSC/1 14th December 2018 (NIA) shall be implemented in full prior to the occupation of each plot. The agreed mitigation scheme shall be maintained for the purpose originally intended throughout the use of the development.
- 9) Prior to occupation a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before occupation of the dwellings. The boundary treatment shall be carried out in accordance with the approved details and permanently retained unless otherwise first approved in writing by the Local Planning Authority.
- 10) Prior to first occupation of the development, bird boxes are to be installed in accordance with the details submitted under 22/2215D unless otherwise agreed in writing by the Local Planning Authority.
- 11) The proposed development to proceed in accordance with the recommendation made in section 4.1.4 of the submitted Ecology Report dated 8th August 2017 prepared by Kingdom Ecology unless varied by a European Protected Species license subsequently issued by Natural England. Agreed features for roosting bats shall be permanently installed in accordance with the approved details.
- 12) Prior to first occupation of the property, an Electric Vehicle Infrastructure plan shall be submitted to and agreed in writing by the LPA. The Infrastructure plan shall aim to meet the following specification:
 - A single Mode 3 compliant Electric Vehicle Charging Point per property with off road parking. The charging point shall be independently wired

to a 30A spur to enable minimum 7kW fast charging or the best available given the electrical infrastructure.

- Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to this office prior to discharge.
- Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted.

The infrastructure shall be implemented and maintained throughout the use of the development.

- 13) A copy of a 'site specific DMP' shall be retained at the development site; and made available for inspection upon request by Cheshire East Borough Council Officers. The site specific DMP shall identify the fugitive dust sources at the development site and describe in detail the dust mitigation measures to be employed.

The DMP shall include details:

- of all dust suppression measures
- the methods to monitor emissions of dust arising for the duration of the project.

The demolition / construction phase of the development, shall be completed in full compliance with the site specific DMP.

The dust suppression measures shall be maintained and fully operational for the duration of the demolition / construction phase of the development. The Dust Management Plan shall contain the records of inspections and visual assessments. Records shall be:

- Kept on site and
- Made available for examination upon request by a Cheshire East Borough Council Officer.

Where visible airborne emissions are brought to the attention of the contractor by:

- pro-active dust monitoring of the site or
- upon receipt of a dust complaint from a member of the public
- The contractor shall:
 - identify the cause and extent of the dust emission
 - detail the remedial dust corrective course of action
 - inform Cheshire East Borough Council, Environmental Protection Department of the corrective action and proposed monitoring to assess compliance and prevent a recurrence. For this purpose contact: 0300 123 5015 / environmentalprotection@cheshireeast.gov.uk. Any corrective action shall be recorded in the site log/ DMP retained on site.

- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Classes A-E of Part 1 Schedule 2 of the Order shall be carried out.

- 15)(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 occupation, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the LPA.

(c) 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. Prior to first occupation/use of the development, confirmation should be provided to the LPA that no such contamination was found, and if so what remedial measures were agreed and implemented.