



Appeal Decision

Site visit made on 10 December 2024

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/W1525/W/24/3345252

Leighams Farm, Leighams Road, Bicknacre, Chelmsford, Essex CM3 4HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr R Barber of M Farnsworth Ltd against the decision of Chelmsford City Council.
 - The application Ref 23/01859/FUL was approved on 11 April 2024 and planning permission was granted subject to conditions.
 - The development permitted is Conversion of an agricultural building to b8 commercial storage with external alterations.
 - The condition in dispute is No 6 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no agricultural buildings shall be constructed (other than any expressly authorised by a grant of express planning permission) on any part of the holding outlined in blue on the plan titled "Leighams Farm Ownership Plan" dated 5 April 2024 without the prior written permission of the local planning authority.
 - The reason given for the condition is: To ensure that new agricultural buildings are not constructed within the holding while existing, suitable buildings are converted to alternative uses, which would be harmful to the intrinsic character and beauty of the Rural Area, contrary to the provisions of Chelmsford Local Plan Policies S1, S11 and DM8.
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Decision

1. The appeal is allowed and the planning permission Ref 23/01859/FUL, for change of use of building to B8 commercial storage with external alterations at Leighams Farm, Leighams Road, Bicknacre, Chelmsford, Essex CM3 4HF, granted on 11 April 2024 by Chelmsford City Council, is varied by deleting Condition 6.

Application for costs

2. An application for costs was made by Mr R Barber of M Farnsworth Ltd against Chelmsford City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The permission description reflects what was applied for in the application form. However, the appeal building and surrounding land is within an area of the holding that has an established equine use, and not agricultural. In the past approximately 48.5 hectares of the holding was permitted to change from an established equine use to an agricultural one¹. This appeal building, like the immediately surrounding land and buildings, was part of approximately 9

¹ Ref. 21/02418/FUL.

hectares retained in an equine use. The extent of the uses was clear at my visit and consistent with the plan indicating these areas².

4. Despite the description, in the application documents the appellant stated the existing equine facilities are part of a livery business and will remain ancillary to the agricultural activities across the holding. On that basis the Council's position was that the building is associated with both agricultural and equine uses³. However, in the appeal statement, the appellant subsequently states the building makes no contribution to the functioning of the agricultural use.
5. Valuation Office Agency business rates valuations provided from 2017 to 2024⁴ indicate the appeal building is within the valuation for an equine use. Though only a brief snapshot in time, at my visit the building was used to store a tractor, pallets, a hay bale and various paraphernalia of an equine nature. While it may be agricultural in construction and appearance, based upon the evidence before me, I am of the view the use of the building is an equine one. I have considered the appeal on this basis. While it does not change the development proposed, it is appropriate to amend the description to omit the reference to an existing agricultural use.
6. The condition subject of this appeal withdraws permitted development rights (PDR) for the erection of agricultural buildings under Part 6 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) across all 57.5 hectares of the appellant's holding. I have had regard to the grounds of appeal in the context of the tests for a planning condition⁵, in setting out the main issue below.

Main Issue

7. The main issue is whether or not condition 6 is relevant to the development permitted, reasonable and necessary, having regard to the intrinsic character and beauty of the rural area.

Reasons

8. When considering the imposition of the condition, the Council stated it did not wish for additional agricultural buildings being constructed under PDR, while other existing buildings are converted to non-agricultural uses, with associated impacts upon the intrinsic character and beauty of the rural area. However, the building is used for an equine use associated with an established business. Like the existing use, the proposed use would be for a non-agricultural business (B8) use.
9. Though used for storage of hay, straw and small-scale machinery, this is associated with the equine use. The appellant confirms the building has no bearing on the agricultural use. The application documents also explain the building is not suitable for modern agricultural requirements. The Council does not appear to dispute this or explain why it disagrees with this view.
10. The Council approved an agricultural building under PDR in the agricultural part of the holding. In-light of the appeal building's lack of suitability for modern agricultural requirements, and noting the new building is over double

² Plan Ref. 211119 – 455 – SITE PLAN.

³ Explained on Page 2 of the Council's delegated report.

⁴ Appendix 3 of the Appellant's appeal statement.

⁵ Paragraph 57 of the National Planning Policy Framework.

the floorspace and significantly higher, the appeal building would not have met agricultural requirements. Moreover, even if I were to take an alternative view, whether or not the operations constitute a substantial re-building, it is not explained why the operational development alone provide a greater impediment to its potential future agricultural use.

11. The Council is trying to achieve a laudable land use planning objective in a location where new buildings are generally resisted by planning policies, to limit effects upon intrinsic character and beauty of the rural area. However, whether or not such an approach is reasonable, is dependent upon the specific circumstances of a case, and requires clear justification. It is only justifiable if an agricultural building is being lost. This development is not resulting in the loss of an agricultural building, or one suitable for modern agricultural requirements. In the circumstances of this case, the condition is not relevant to the development permitted, so not reasonable.
12. As I saw from my visit of the holding surrounds, agricultural buildings are visible at various points, so form part of the character and appearance of this part of the rural area and are not necessarily harmful. As a matter of judgement, it is not inherent that allowing this appeal would result in buildings that are harmful to the intrinsic character and beauty of the rural area. The Council concluded the effects of the proposed works to the building were not of themselves harmful, and I see no reason to disagree. These above matters lead me to the view the condition is not necessary.
13. Paragraph 57 of the National Planning Policy Framework (2024) (the Framework) states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance (the PPG) states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity⁶.
14. In combination Policies S1, S11 and DM8 of the Chelmsford Local Plan (2020) (the CLP), seek to balance the need for development in the countryside, to support thriving rural communities whilst ensuring that development does not have an adverse impact on the intrinsic character and beauty of the countryside unless it can be demonstrated that there is a justified need.
15. By virtue of Part 6, the GPDO assumes that agricultural development is within agricultural holdings is acceptable in principle, subject to certain tests, thresholds, and conditions. Given there are specific areas of land included under Article 2(3), this suggests the omission of land within a local rural area designation from the list was intentional. As a result, land within the rural area is regarded as no different in terms of the application of PDR as other land designations not on the Article 2(3) list.
16. Under the provisions of the GPDO, there are requirements to ensure a new building is reasonably necessary for the purposes of agriculture within the unit, and there are prior approval matters in respect of the siting, design and external appearance. These are not inconsistent with the objectives of the policies cited in the condition. The legislation suggests that visual and landscape impacts should be balanced against the functional requirements of

⁶ Paragraph: 017 Reference ID: 21a-017-20190723.

agricultural operations, implying that agricultural development is generally compatible with rural landscapes.

17. Condition 6 implies the Council is imposing a more onerous restriction over the remainder of the holding than applied by the GPDO. I have considered the Council's justification including the very limited substantiation in respect of the effect of future buildings upon the intrinsic character and beauty of the rural area. However, in-light of the specific circumstances and evidence before me, for the reasons set out above, I am not satisfied that it has been adequately demonstrated there is a clear justification to remove PDR, as required by paragraph 57 of the Framework.
18. Allowing this appeal and granting permission with the removal of condition 6 would not result in an appeal building that would be harmful to the character and appearance of the area or the intrinsic character and beauty of the rural area. I see no reason why other future buildings would be harmful having regard to the holding and its surrounds. Therefore, I conclude a conflict would not arise having regard to Policies S1, S11 and DM8 of the CLP, the relevant provisions of which I have summarised above.
19. For the reasons set out above, there is not clear justification for the imposition of condition 6, and I find it is not relevant to the development permitted, not necessary to make the development acceptable, and not reasonable, having regard to the intrinsic character and beauty of the rural area. Therefore, the appeal should be allowed.

Conclusion

20. In-light of the above, and mindful that I am not creating a new approval but rather that my decision is to be read together with the decision notice dated 11 April 2024, I conclude that the appeal should be allowed, and planning permission Ref 23/01859/FUL varied by the deletion of Condition 6.

Mr D Szymanski

INSPECTOR