



Appeal Decision

Site visit made on 25 February 2025

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2025

Appeal Ref: APP/B3410/W/24/3350348

Highfields Farm, Byre Barn, Abbots Bromley Road, Willslock, Staffordshire ST14 8NH

- 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 73A of the Town and Country Planning Act 1990 (as amended) for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Andy Harding against East Staffordshire Borough Council.
 - The application Ref is P/2024/00501.
 - The application sought planning permission for conversion of existing agricultural buildings to form 4 residential units without complying with conditions attached to planning permission Ref CU/11532/005, dated 25 October 2004.
 - The first condition in dispute is No 4 which states that: The joinery shall be of timber and shall have a painted or stained finish of colour to be first agreed in writing by the Local Planning Authority prior to the commencement of works, and shall remain as such unless otherwise agreed in writing by the Local Planning Authority. The paint or stain shall be applied prior to the building being brought back into use.
 - The reason given for condition No 4 condition is: To safeguard the character and appearance of the buildings and the surrounding countryside and to comply with the requirements of Policies H14, En16 and En17 of the adopted East Staffordshire Local Plan.
 - The second condition in dispute is No 9 which states that: Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, the dwellings hereby permitted shall not be enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings shall be erected with the curtilage of any dwelling without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.
 - The reason given for condition No 9 is: To safeguard the amenities of the area and to comply with the requirements of Policies H14, En16 and En17 of the adopted East Staffordshire Local Plan.
 - The third condition in dispute is No 10 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, no gates, walls, fences or other means of enclosure (other than those approved under this permission) shall be erected on the application site without the prior permission in writing of the Local Planning Authority.
 - The reason given for condition No 10 is: To safeguard the amenities of the area and to comply with the requirements of Policies H14, En16 and En17 of the adopted East Staffordshire Local Plan.
 - The fourth condition in dispute is No 11 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order, there shall be no external alterations, including the insertion of windows, to the buildings other than those expressly authorised by this permission.
 - The reason given for condition No 11 is: To safeguard the amenities of the area and to comply with the requirements of Policies H14, En16 and En17 of the adopted East Staffordshire Local Plan.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing agricultural buildings to form 4 residential units at Highfields Farm, Willslock, Uttoxeter in accordance with the application Ref P/2024/00501, without compliance with condition numbers 1, 4 and 9 previously imposed on planning permission Ref CU/11532/005 dated 25 October 2004, and subject to the conditions in the attached schedule.

Background

2. Planning permission was granted in 2004 for conversion of agricultural buildings at Highfields Farm to create four homes (the original permission). These homes are now occupied. This appeal relates to an application that was submitted under section 73 of the Town and Country Planning Act 1990 (as amended) for removal or variation of conditions following grant of planning permission. The application form referred to variation of condition 4 and removal of conditions 9, 10 and 11. The application was submitted by the occupant of one of the four homes (Byre Barn) and the site address was given as Highfields Farm, Byre Barn. However, the proposed amendment/removal of these conditions would apply to all four homes granted by the original permission.
3. Nonetheless, I note that the owners of the other three barns were notified of the application. Further, that consultation responses were submitted to the Council by interested parties, both of which referred to the fact that the proposed changes to the conditions would apply to the barns (plural) and not only Byre Barn. The appeal form also indicates that the owners of those three barns were notified of the appeal. Consequently, I am satisfied that no party has been unduly prejudiced by the reference to Byre Barn as the site address, rather than to the original application site as a whole. For consistency with the original permission, the site address used in the Decision above is taken from that original permission.
4. In light of the conditions to which this appeal relates, it has not been necessary to request the submission of additional drawings. In addition, whether or not the development was indicated as having started on the application form does not impact the validity of the appeal on the basis that the submitted information makes clear that works have been undertaken that are in breach of conditions on the original permission. As there has already been a breach of conditions, I consider that the appeal should be determined under section 73A of the Act and no parties would be prejudiced by so doing. Although the application sought to vary condition 4, it is also appropriate to consider whether its removal is justified. Matters of enforcement are outside the scope of this appeal.
5. The Planning Practice Guidance advises that where conditions are used to restrict future use of permitted development rights, the scope of such conditions needs to be precisely defined by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). This is to provide clarity on exactly which rights have been withdrawn. The National Planning Policy Framework advises that such restrictions require clear justification.
6. Although the appeal is allowed, condition 10 is not removed. Also, condition 11 is varied with the result that it is more precisely defined and restrictions on permitted development rights are less wide ranging.

Main Issue

7. The main issue is whether conditions 4, 9, 10 and 11 are reasonable and necessary in the interests of the character and appearance of the site and the surrounding area.

Reasons

8. The appeal site is situated in a relatively flat, rural landscape where collections of farm buildings are widely spaced and separated by a patchwork of fields. The appeal buildings appear closely associated with Highfields Farm and subservient to it given their more modest scale and position set to its rear, back from the road frontage. The layout of the appeal buildings gives the appearance of being around a courtyard which creates a sense of cohesion amongst them. There is also a pleasing consistency of form amongst the appeal buildings, having simple pitched roofs and side facing gables. This retains the appearance of being converted agricultural buildings and is a defining positive feature of the character and appearance of the site and its surroundings.
9. Given the position of the appeal site set back from the road, the extent to which the detail of joinery of timber is appreciated from the surrounding area is highly limited. Moreover from within the appeal site, existing differences in the materials and colour of window frames on the appeal buildings does not detract from the general consistency of built form. The suggested amendments to the wording of condition 4 would not be sufficiently precise. Nonetheless, for the reasons given condition 4 is not necessary in the interests of the character and appearance of the site and its surroundings.
10. Condition 9 refers to the removal of permitted development rights relating to enlargements/extensions. The permitted development right for enlargements to existing dwellings is established in Class A of Schedule 2, Part 1 of the GPDO. This sets out a range of conditions and limitations that are required to be adhered to for the permitted development right to apply. This includes limitations on the height relative to the existing dwelling, and on the extent of ground covered by buildings.
11. In light of these restrictions, and given the sense of space surrounding the appeal site, such extensions would not result in overly large dwellings to the extent that it would harm the character of the appeal site or surrounding area. Furthermore, development would not be permitted under Class A where it would result in the alterations to any part of the roof of the dwelling. Consequently, extensions under Class A would retain the consistency and simplicity of the existing roof forms.
12. Condition 9 also seeks to remove permitted development rights for the erection of buildings incidental to the enjoyment of a dwellinghouse. Permitted development rights for this are established under Class E of part 1 of Schedule 2 of the GPDO. This similarly sets out a range of restrictions on the building height and extent of ground covered. Also, given the agricultural appearance of the appeal site, it does not appear unusual to see ancillary buildings in the vicinity of the existing converted barns.
13. Consequently, the addition of such buildings within the grounds of the existing dwellings does not detract from the character of the site or its surroundings. Similarly, I am not persuaded that the addition of satellite dishes (afforded under Class H of part 1 of Schedule 2) would appear so out of place as to harm the

character of the buildings or the surrounding area. Accordingly, the restrictions imposed by condition 9 are not clearly justified.

14. Condition 11 seeks to remove the permitted development right for insertion of windows. Such a restriction also relates to the removal of permitted development rights referenced above for condition 9, under Class A of part 1 of Schedule 2 of the GPDO. I observed that the placement of windows on site does not follow a clear pattern, with some being symmetrical within the façade, and the placement of others appearing ad hoc. Consequently, the insertion of further windows would not harm the character and appearance of the appeal site. Furthermore, the extent to which window placement is apparent from the surrounding area is highly limited. As such a restriction on the insertion of windows is not clearly justified.
15. Condition 11 also seeks to prevent external alterations. Class C of part 1 of Schedule 2 of the GPDO sets out permitted development rights for other alterations to the roof. This includes that the alterations may not protrude more than 0.15 metres from the plane of the slope of the original roof. Accordingly, in the context of this appeal site, the effect of such alterations on the character and appearance of the site and its surroundings would be relatively limited. Therefore such a restriction is not clearly justified here.
16. Whereas, permitted development rights under Class B of part 1 of Schedule 2 of the GPDO allow for more substantial alterations to the roof that could detract from the simple roof form of the existing buildings. Due to the flat topography of the area such alterations would be appreciable from the surrounding area. Without control via a planning application, this could readily result in the buildings having an overly domesticated appearance, at odds with the agricultural appearance of the appeal site. Given the importance of the simple building form to retaining the rural character of the site, there is clear justification for removing permitted development rights with respect to Class B additions to the roof.
17. Condition 10 removes permitted development rights relating to the erection of gates, walls, fences or other means of enclosure. Such permitted development rights are established under Class A of Schedule 2, Part 2 of the GPDO. The majority of the gardens are enclosed by a combination of hedges and stock proof fencing, with further separation between plots provided by brick walls. Hedges and stock proof fencing around the site's periphery are appropriate in this context, softening the appearance of the development and helping integrate it with its rural surroundings. Similarly, within the appeal site, brick walls help to separate individual plots whilst blending with the brick exterior of the barns, in keeping with the rural appearance of the buildings.
18. Given the rural character of the appeal site and the proximity of buildings to one another, the design, scale and placement of enclosures within and around the site are integral to the character of the site. Given the topography of the area, the external boundaries of the site are visible from the surrounding area. As such, there is clear justification for retention of condition 10 in this instance.
19. To conclude, conditions 4 and 9 are not reasonable and necessary in the interests of the character and appearance of the site and the surrounding area. These should be removed. Whereas, subject to rewording for precision, condition 10 is reasonable and necessary in the interests of the character and appearance of the site and the surrounding area. This condition should be retained. Condition 11 is

reasonable and necessary only insofar as it relates to restrictions under Class B, of Schedule 2, Part 1 of the GPDO. This condition should be varied.

20. This accords with strategic policies 1 and 24, and Policy DP1 of the East Staffordshire Local Plan (October 2015) which together seek to ensure proposals respect the character of their surroundings. I note that the Council's Re-use of Rural Buildings Supplementary Planning Document (September 2010) generally seeks to limit the extent of changes made to existing rural buildings, including through the removal of permitted development rights. Nonetheless, in the absence of harm such an approach is not justified here.

Conditions

21. The Council has submitted comments as to which of the other conditions on the original permission it considers should be removed, being no longer relevant. The Planning Practice Guidance makes 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. As I have limited information before me about the status of the other conditions imposed on the original planning permission, I impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
22. The standard time limit condition is not required as the works have already commenced. Condition 12 is retained, incorporating the Council's suggested wording to include the drawing reference.

Conclusion

23. I therefore conclude that the appeal should be allowed and grant a new planning permission, subject to the attached conditions.

Rachel Hall

INSPECTOR

Schedule of conditions

- 1) Prior to the commencement of work on site in connection with this development samples or details of all materials to be used externally shall be submitted to and approved in writing by the local planning authority and the development shall only be carried out using the agreed materials.
- 2) Prior to the commencement of work on site details of all external joinery, including sections to a minimum scale of 1:10 shall be submitted to and approved in writing by the local planning authority and the work shall only be carried out in accordance with those details.
- 3) Prior to the commencement of development, precise details of all boundary treatment including height and materials, shall be submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

- 4) The new rooflights shall be designed to fit flush with the plane of the roof and shall have a black frame with a vertical bar through the middle of the rooflight.
- 5) No development shall take place until there has been submitted to, and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows which are to be retained together with measures for their protection in the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.
- 7) The parking and turning areas shown on Drawing No. SP1 April 2004 Rev A (dated as being received on 18.8.2004) shall at all times be maintained and retained for their designated purposes for the life of the development.
- 8) The sheep paddock to building D shown on drawing number SP1 Rev A shall only be used for these purposes and shall not be used for domestic garden at any time.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class B of Part 1 of Schedule 2 to the Order shall be undertaken.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class A of Part 2 of Schedule 2 to the Order shall be undertaken.