



Appeal Decision

Site visit made on 3 April 2025

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th May 2025

Appeal Ref: APP/A0665/W/24/3354534

Fishpool Farm, Fishpool Road, Delamere, Northwich CW8 2HP

- 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 William Connors against the decision of Cheshire West and Chester Council.
 - The application Ref is 24/01021/S73.
 - The application sought planning permission for construction of a hay barn for agricultural purposes without complying with a condition attached to planning permission Ref 09/01255/FUL, dated 18 September 2009.
 - The condition in dispute is No 5 which states that: "Within three months of the hereby approved agricultural building ceasing to be required for agricultural purposes in conjunction with Fishpool Farm, Fishpool Road, Delamere, Cheshire then it shall be demolished and all associated materials permanently removed from the site".
 - The reason given for the condition is: "In the interests of protecting the character and appearance of the open countryside in accordance with policy GS5 of the Adopted Vale Royal Borough Local Plan First Review".
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Decision

1. The appeal is allowed and planning permission is granted for construction of a hay barn for agricultural purposes at Fishpool Farm, Fishpool Road, Delamere, Northwich CW8 2HP in accordance with the terms of the application, Ref 24/01021/S73, without compliance with condition No 5 previously imposed on planning permission Ref 09/01255/FUL, dated 18 September 2009, subject to the conditions set out in the attached schedule to this decision.

Preliminary Matter

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 and updated on 7 February 2025. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Background

3. Planning permission was originally granted in 2009¹ (the original permission) for the construction of a hay barn for agricultural purposes, which has subsequently been constructed.

¹ Council Reference: 09/01255/FUL

4. The proposal seeks the removal of condition 5 of the original permission in order to remove the requirement to demolish the building and remove all associated materials permanently from the site within three months of the date it ceases to be required for agricultural purposes.
5. Since the original permission, the Cheshire West and Chester Local Plan (Part One) Strategic Policies (2015) (LPP1) and the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies Plan (July 2019) (LPP2) has been adopted by the Council. The policies in the LPP1 and the LPP2 replace those of the Adopted Vale Royal Borough Local Plan First Review referred to in the reasons for condition 5 of the original permission.

Main Issue

6. Taking into account the above background, the main issue is whether the condition is reasonable or necessary in the interests of protecting the countryside, including the effect of the building on the character and appearance of the area.

Reasons

7. The appeal site comprises a steel portal frame agricultural building (the appeal building), located within the open countryside. The site includes a variety of buildings and structures, in varying uses, which have an appearance that are largely reflective of the rural setting. A caravan park and its associated buildings are also adjacent to the appeal site. Overall, the surrounding area has a prevailing rural character, with open fields bounded by tall hedgerows, agricultural and equine buildings, sporadic residential dwellings and areas of woodland.
8. Policy STRAT9 of the LPP1, amongst other things, permits development that has an operational need for a countryside location such as for agricultural or forestry operations. Development must be of an appropriate scale and design to not harm the character of the countryside. Policy DM6 of the LPP2 supports new agricultural buildings where they accord with Policy STRAT9 of the LPP1 and, amongst other things, it is demonstrated that there is an operational need for the development in connection with the agricultural or forestry enterprise and it is appropriate in scale, design, materials and landscaping so not to harm the character of the countryside. The policies are consistent with the design objectives of the Framework and its intention that the intrinsic character and beauty of the countryside is recognised.
9. The appeal building is located at the end of a track, accessed from the caravan park. The appeal building was constructed for agricultural purposes, specifically a hay barn. Therefore, although the size of the agricultural holding is not immediately clear, without any evidence to the contrary it must have been demonstrated that there was an operational, agricultural need for the building when the original permission was granted.
10. Section 72(1)(b) of the Town and Country Planning Act 1990 as amended enables the imposition of conditions containing provisions similar to the disputed condition related to demolition. It is also a condition on certain agricultural permitted development rights that buildings must be removed, and the land restored to its previous condition, if no alternative use is permitted within 3 years of the cessation of agricultural use. Nonetheless, I am mindful that the Planning Practice Guidance²

² Paragraph: 014 Reference ID: 21a-014-20140306

is clear that ‘a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness’.

11. Taking into account the materials used in the construction of the appeal building it is clearly intended to be permanent. It has a utilitarian design, reflective of many other modern agricultural buildings, particularly in a rural setting. As such, the design and location of the building assimilates into the rural landscape. It also benefits from the backdrop of trees and there are minimal views of the building from the wider area. For these reasons the appeal building does not harm the character and appearance of the countryside.
12. Accordingly, the building is permanent and is constructed for its intended agricultural purpose, and it does not harm the character and appearance of the countryside. Therefore, without robust justification for the demolition of the building when the agricultural use ceases, it is not necessary for the building to be demolished.
13. Reference has been made to the planning history of the site, including an application for prior approval³ to change the use of the appeal building to a dwelling (the prior approval application) which has been refused. While the prior approval application shows a clear intention to seek an alternative use for the building, planning permission or prior notification would be required for a different use. Indeed, the submission of the prior approval application and subsequent refusal demonstrates that there are adequate safeguards to ensure that the implications of a use for non-agricultural purposes can be suitably controlled in the future.
14. The PPG makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission. In this instance condition 4 of the original permission, which restricts the use of the appeal building to agricultural purposes incidental to the use of land associated with Fishpool Farm and not for the use of any other trade or business, would still be reasonable and necessary. The condition would continue to help protect the countryside also.
15. Consequently, for the above reasons the removal of the condition would not lead to a development in conflict with Policy STRAT9 of the LPP1 and Policy DM6 of the LPP2. There is no policy requirement and no other factor to justify the demolition of the building in the event that its use ceases. Therefore, on the evidence before me, I conclude that the disputed condition is not reasonable or necessary with regard to protecting the countryside, including the effect of the building on the character and appearance of the area.

Conditions

16. The building has been constructed and the standard commencement condition is no longer necessary. However, as I have no information before me about the status of the other conditions imposed on the original planning permission, I shall 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.

³ Reference: 23/03422/PDQ

Conclusion

17. For the above reasons, and having regard to all other matters raised, I conclude that the appeal is allowed, and a new planning permission is granted, excluding the previous requirement to demolish the building and remove all associated materials permanently from the site within three months of the date it ceases to be required for agricultural purposes.

N Bromley

INSPECTOR

Schedule of Conditions

- 1) Before the building hereby approved is first commenced, details of the colour and/or staining of timber and steel cladding shall be submitted to and approved by the Local Planning Authority. The building shall be retained in the colour so approved.
- 2) The development shall be carried out in accordance with the details submitted as part of this application and indicated in the following drawings:-
 - Drawing No. 325-03 B;
 - Drawing No. 325-04 C;
 - Location Plan at a scale of 1:2500 received by the Local Planning Authority on the 10 July 2009.
- 3) The agricultural building hereby permitted shall be used solely for agricultural purposes incidental to the use of land associated with Fishpool Farm, Fishpool Road, Delamere, Cheshire, CW8 2HP and not for the use of any other trade or business.
- 4) The existing buildings to be demolished as indicated on drawing reference 325-03 B, shall be demolished and all associated materials removed from the site prior to the hereby approved development first coming into use.