



Appeal Decision

Site visit made on 18 February 2025 by T Morris BA (Hons) MSc

Decision by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2025

Appeal Ref: APP/R0660/W/24/3354774

The Elm House, Royals Green Lane, Burleydam SY13 4AZ

- 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.
 - The appeal is made by Mr Alan Banks against Cheshire East Council.
 - The application Ref is 24/0991N.
 - The development proposed is conversion of part of former agricultural building to dwelling with outdoor amenity space and parking.
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Decision

1. The appeal is allowed, and planning permission is granted for conversion of part of former agricultural building to dwelling with outdoor amenity space and parking, at The Elm House, Royals Green Lane, Burleydam SY13 4AZ, in accordance with the terms of the application, Ref 24/0991N, the plans of references: Y/05/PL/1 (Location Plans), Y/05/PL/2 (Original and Proposed Block Plans), Y/05/PL/4 (Proposed Plans and Elevations) and Y/05/PL/5 (Proposed Plans and Elevations) and subject to the conditions within the attached schedule.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. I observed during my site visit that the proposed development has already commenced. The conversion of the former agricultural building to a dwelling has already taken place, albeit the creation of the outdoor amenity space has not. Accordingly, I have made my recommendation on the basis that planning permission is sought on a partly retrospective basis.
4. The Council refer to various works having taken place across the former agricultural building as a whole, as well as at an adjoining building. However, for the avoidance of any doubt, my recommendation is based on the proposed development as identified by the red line boundary of the appeal site within the submitted plans. Whether or not planning permission is required for the works across the whole barn is a matter between the Council and the Appellant.
5. The appeal is submitted on the grounds that the Council failed to give notice of its decision within the appropriate period. However, the Council have confirmed that if they were still in a position to determine the application, it would have refused it for

the reasons set out in their officer report. I have therefore defined the main issues in light of the reasons set out within the officer report.

Main Issues

6. The main issues are:

- i) The effect of the proposed development on the open countryside, having particular regard to the effect on the character and appearance of the host building and its suitability for conversion; and
- ii) Whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to bedroom sizes, garden size, outlook and privacy.

Reasons for the Recommendation

Character and appearance

7. The appeal site comprises a former farm which is situated off Royals Green Lane and is within the open countryside. The appeal relates to the end part of one of the former agricultural buildings on the farm as well as some land adjacent to it. Policy PG6 of the Cheshire East Local Plan Strategy (2017) (CELPS) states that only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area, will be permitted in the open countryside.
8. The policy sets out some exceptions to this, including for the re-use of existing rural buildings where the building is permanent, substantial and would not require extensive alterations, rebuilding or extension. This is reiterated in Policy RUR14 of the Site Allocations and Development Policies Document (2022) (SADPD), which supports residential re-use of existing rural buildings under similar circumstances that would not require extensive alteration or rebuilding.
9. The physical works which have been carried out to the host building are modest and it still retains the characteristic rustic appearance and horizontal emphasis of a traditional barn typical of a rural area. The bricks used in the works are of a similar colour to the original bricks and the decorative eaves appears as a subtle addition to the building. The replaced roof has not been raised significantly, and the dark grey roof slates are sympathetic to the rustic appearance of the building, ensuring that the proposal can be regarded as a conversion rather than a rebuild.
10. Even if the openings of the host building have been altered, they are still of modest proportions and do not detract from the barn's rural appearance. Consequently, taken together, the alterations do not fundamentally alter the architectural character of the former agricultural building. Accordingly, the works are appropriate for a conversion and do not amount to extensive alterations which would overly domesticate the appearance of the building. The proposal would therefore have an acceptable effect on the character and appearance of the host building and the surrounding rural area.
11. The Council have raised concerns regarding a lack of information concerning the structural stability of the host building and whether or not it is capable of conversion. However, SADPD policy RUR14 and CELPS policy PG6 do not require

the submission of a structural survey and in my judgement, one should only be sought when the stability of a structure is a clear matter of dispute. From my own observations on my site visit, both internally and externally, the building is self-evidently habitable and there was no clear or obvious indication that it is not structurally sound. Therefore, in the absence of any detailed evidence to suggest otherwise, I am satisfied that the host building is of a permanent and substantial construction and is capable of a residential conversion.

12. Accordingly, the proposed development would have an acceptable effect on the countryside, with particular regard to the effect on the character and appearance of the host building and its suitability for conversion. The proposal would comply with Policies MP1, SD1, SD2, SE1 and PG6 of the CELPS, as well as Policies GEN1 and RUR14 of the SADPD. These policies, among other matters, require that proposals retain and creatively re-use existing buildings as part of new development, use appropriate design which is sympathetic to the building's architectural quality and rural surroundings, as well as preserving the countryside.

Living conditions of future occupiers

13. The proposed dwelling provides a lounge, kitchen and dining areas, a bedroom and a shower room at the ground floor. It also provides two further bedrooms at the first floor. Once the proposed development is completed, it would also provide a private garden to the side of the dwelling, and this would be accessed from the lounge and kitchen area.
14. The Council's concerns relate in part to the roof heights of the bedrooms on the first floor, including conflict with the nationally described space standards. However, there is nothing before me which confirms that the nationally described space standards are adopted by the council within their development plan. Furthermore, I observed on my site visit that the bedrooms on the first floor are clearly functional and usable rooms with adequate head space. The bedrooms would therefore provide suitable living conditions for future occupiers of the dwelling.
15. Whilst the Council accept that the private garden would be a sufficient size, they raise concerns regarding the triangular shape of the garden. There is nothing in the Council's policies which dictates what shape a garden should be. Furthermore, the garden would naturally lead out from the main living space of the dwelling, and it would have views towards the surrounding countryside. Despite its slightly unconventional shape, the garden would provide a functional and adequate outdoor space for future occupiers to use for daily activities such as sitting out, clothes drying and storage. The garden would therefore provide suitable living conditions for future occupiers of the dwelling.
16. I have had regard of the close relationship between the proposed dwelling and the adjacent two-storey building. Policy HOU13 of the SADPD states that proposals for housing development should generally meet the standards for space between buildings as set out in table 8.2, which are intended to provide an appropriate degree of light, outlook and privacy. This is unless, in failing this requirement, the design and layout of the scheme and its relationship to the site and its characteristics nonetheless provides an adequate degree of light and privacy between buildings.
17. Although the patio doors are opposite the side elevation of the two-storey building, there is still an appreciable distance between the buildings. The patio doors also

provide an outlook towards the fields to the rear of the buildings. The adjacent two-storey building does not have any windows at first floor level which would overlook the garden of the proposed dwelling. It has two windows at ground floor level which face the proposed dwelling. However, the main windows from that room would overlook the fields to the rear.

18. It is therefore unlikely that any occupiers of the adjacent building would spend a noticeable amount of time overlooking the garden of the proposed dwelling. Also, the proposal includes the provision of a post and wire fence and hedge planting which would increase privacy within the garden of the proposed dwelling and vice versa, if the adjacent building is used as a dwelling in the future. The design and layout of the proposal and its relationship to the adjacent two-storey building is therefore acceptable and would provide an adequate degree of light, outlook and privacy between the buildings.
19. The information before me indicates that the farm is no longer operational. I also observed no indication of any agricultural activities taking place on my site visit. There is nothing before me to suggest that the adjacent buildings would be brought back into agricultural use, albeit that this appears to be its current lawful use. Consequently, the potential future effect of an agricultural use on the living conditions of future occupiers does not raise a material consideration of substantial weight against the proposal.
20. In summary, the proposed development would provide acceptable living conditions for occupiers, with particular regard to bedroom sizes, garden size, outlook and privacy. The proposal would comply with Policies SE1 of the CELPS and RUR14, HOU12 and HOU13 of the SADPD. These policies require that developments provide an appropriate quantity and quality of outdoor private amenity space, do not cause unacceptable harm to the amenities of neighbouring and future occupiers and encourage the re use of existing rural buildings where they are of a size to accommodate a satisfactory living environment.

Conditions

21. I have had regard of the Council's list of suggested conditions. Conditions requiring the submission and implementation of a landscaping scheme are required in the interests of enhancing the character and appearance of the area. Conditions in relation to contaminated land and drainage are required to ensure that the site is suitable for residential development. A condition in relation to biodiversity is necessary to ensure that the proposal contributes towards enhancing biodiversity value at the site. A condition which removes permitted development rights for developments under Class A, B and E of Part 1, Schedule 2 of the General Permitted Development Order is required to preserve the character and appearance of the building.
22. A condition ensuring that an electric vehicle charging point is provided is not needed as this is required through Building regulation approval and would not therefore be necessary.

Conclusion and Recommendation

23. The development complies with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy

Framework which would outweigh this finding. I therefore recommend that the appeal should be allowed.

T Morris

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) Unless within three months of the date of this decision a scheme to address the risks posed by land contamination is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within six months of the local planning authority's approval, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The scheme shall be carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced). If any contamination is found:

- i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority;
- ii) the site shall be remediated in accordance with the approved measures and timescale; and
- iii) a verification report shall be submitted to and approved in writing by the local planning authority.

If no scheme in accordance with this condition is approved within twelve months of the date of this decision, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme to address the risks posed by land contamination specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) In the event that any subsoil or topsoil is imported onto the land, unless within three months of the date of this decision a Desk Study to assess the suitability of any subsoil and/or topsoil material to be imported onto the land is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within six months of the local planning authority's approval, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

The Desk Study shall set out details of the sampling regime and analysis carried out to ensure that the proposed material shall not pose a risk to human health as defined under Part IIA of the Environmental Protection Act 1990. No subsoil and/or topsoil material shall be imported unless it has been so approved by the local planning authority. The developer shall subsequently test samples of any imported subsoil and/or topsoil material on

the land and submit results to the local planning authority as required to verify that the imported soil is free from contamination in accordance with the approved scheme.

In the event that any subsoil and/or topsoil is imported onto the land, if no scheme in accordance with this condition is approved within twelve months of the date of this decision, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme to address the suitability of any subsoil and/or topsoil specified in this condition, that assessment shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within three months of the date of this decision a landscaping scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within six months of the local planning authority's approval, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within twelve months of the date of this decision, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Unless within three months of the date of this decision a biodiversity scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within six months of the local planning authority's approval, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within twelve months of the date of this decision, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved biodiversity scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) Unless within three months of the date of this decision a foul and surface water drainage scheme is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within six months of the local planning authority's approval, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within twelve months of the date of this decision, the use of the site as a dwelling shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved foul and surface water drainage scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 6) 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 Classes A, B and E of Part 1 of Schedule 2 to the Order shall be undertaken.

End of conditions