



Appeal Decisions

Site visit made on 8 April 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th May 2025

Appeal A Ref: APP/G1630/W/25/3359791

Cider Barn (Cyder Barn), Cold Pool Lane, Badgeworth, Gloucestershire

GL51 4UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Mellor against the decision of Tewkesbury Borough Council.
 - The application reference is 23/00710/FUL.
 - The development proposed is the change of use of barn to include alterations and extension to create a new residential unit.
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Appeal B Ref: APP/G1630/Y/25/3359793

Cider Barn (Cyder Barn), Cold Pool Lane, Badgeworth, Gloucestershire

GL51 4UP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr C Mellor against the decision of Tewkesbury Borough Council.
 - The application reference is 23/00671/LBC.
 - The development proposed is the change of use of barn to include alterations and extension to create a new residential unit.
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Decision

1. Appeal A: the appeal is dismissed.
2. Appeal B: the appeal is dismissed.

Application for Costs

3. An application for costs was made by Mr C Mellor against Tewkesbury Borough Council. This application is the subject of a separate decision.

Preliminary Matters

4. The barn that is the subject of these appeals is referred to by different names. Within the original application it is known as the barn at Cold Pool Lane, whilst the Council refer to it as the barn behind Cyder Mill Cottage. It is also described as Cider or Cyder barn, and the listing for the building refers to it as being a barn southwest of Full of Elms. From the evidence provided, including what was apparent at the site inspection, it is the same building, and has been referred to as Cyder Barn for the appeals.
5. The barn is a grade II listed building. As required by Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), special

regard has been paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

6. As set out above, there are two appeals at the property, one of which seeks planning permission and the other listed building consent. Each case has been considered on its individual merits, although to avoid duplication they have been dealt with together, except where otherwise indicated.

Main Issues

7. The main issues for these cases are:
 - whether the proposal would be inappropriate development in the Gloucester and Cheltenham Green Belt, having regard to national and local policy;
 - whether the works would preserve a listed building and any features of special architectural or historic interest which it possesses;
 - the effect of the scheme upon protected species and their habitats;
 - the effect of the scheme upon nearby trees;
 - whether the scheme would result in an unacceptable flood risk; and
 - the effect of the use of the access upon the safety of users of Cold Pool Lane.

Reasons

Inappropriate Development

8. The appeals site comprises a barn positioned to the rear of the houses that front Cold Pool Lane and Badgeworth Lane and shares an access with Cyder Mill Cottage onto Cold Pool Lane. The barn is predominantly constructed of timber under a tiled roof and has lean-to extensions to each elevation. Several mature trees are growing within the site and close to the boundaries, and there is a public right of way to the north. There are residential gardens of nearby dwellings surrounding the site, including beyond the public right of way.
9. The site is within the Cheltenham and Gloucester Green Belt. Policy SD5 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017) (CS) and Policy GRB4 of the Tewkesbury Borough Plan (2022) (BP) reflect the requirements of the National Planning Policy Framework (the Framework), as they require, amongst other things, that the green belt will be protected from harmful development. In considering any planning application within a green belt, the Framework requires substantial weight is given to any harm to it, including harm to its openness. Inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Both national policy and the above referenced CS and BP policies refer to exceptions. These include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, and the re-use of buildings that are of permanent and substantial construction provided they preserve the openness of the green belt and do not conflict with the purposes of including land within it.
10. There is no dispute between the parties that the barn is of permanent and substantial construction. Instead of having a skirt of lean-to extensions of a variety

of sizes, heights and styles wrapped around the building, that proposed would form a linear concentration to one side. The appellant has provided a historic map that shows the existing extensions have been in existence since the 1920s. As these extensions were in existence prior to 1948 they can be considered as part of the original building. Having regard to this and that the amalgamated size of the existing extensions and that proposed would be very similar, the extension would not be a disproportionate addition to the building and would not be inappropriate development in the green belt.

11. The barn is currently being used for domestic storage and uses. Although the land around it is now overgrown, it has previously been mown and there is evidence of ancillary residential uses having taken place, including tall boundary fences that separate the barn from the public footpath and surrounding gardens. The barn also has an existing access onto the public highway. The change of use of the barn to a dwelling would intensify the domestic paraphernalia and activity occurring around the barn, and this would include the erection of a detached car port.
12. However, the car port would be a normal domestic adjunct to the dwelling and would have an ancillary relationship to it in terms of size and function. The use of the land around the barn would intensify, but given the existing situation, the intensification would not be significant. The openness of the green belt would be maintained and there would not be conflict with the purposes of land being within the green belt, including encroachment into the countryside.
13. Whilst the above referenced CS and BP Policies contain no figures to ascertain what is or is not an acceptable increase, the car port would be smaller in size and height than the original building. In terms of the green belt, the sum total of the scale and extent of the extension and the car port when combined would not result in a disproportionate addition over and above the size of the original building.
14. For these reasons, the scheme would not be inappropriate development within the green belt and would accord with the above referenced CS and BP policies and objectives of the Framework. On that basis it is not necessary to consider the effect of the scheme upon the openness of the green belt and very special circumstances are not required to justify the development.

Listed Building

15. The barn dates from the early seventeenth century, and is weatherboard and timber framed upon a squared and dressed limestone sill wall, with a simple, three-bay rectangular plan form with lean-to extensions on all sides. There are large double plank cart doors in the centre of one side, with smaller doors opposite. The age of the barn, its historic fabric, the way it is constructed, including the use of local vernacular materials, and its form, which legibly denotes its agricultural purpose prior to mechanised farming practices, are all part of the special architectural and historic interest of this listed building.
16. There is no disagreement between the parties as regards the principle of the change of use of the barn to residential, nor to the erection of the detached car port within its setting. Previous appeal decisions (refs APP/G1630/A/08/2083569, APP/G1630/E/08/2083570, APP/G1630/A/08/2083567 & APP/G1630/E/08/2083568) found the building to be in a sound, repairable

condition. The Council maintains this view and has raised no objection to the removal of the extensions.

17. A number of the existing extensions are in a poor state of repair, and water ingress onto and into the historic fabric is now evident. The lean-tos are subservient to the host building as they retain the focal dominance of the cart entrance and have a functional, agricultural appearance that reflects the former role of the barn. Furthermore, the map evidence of the appellant has shown that the extensions date from pre-1920, and whilst the Council consider them to be modern, they are part of the historic legacy of this building, indicative of its former agricultural use and how it has evolved over time. The scheme would involve the removal of all the lean-to extensions, and although the historic core would remain, the historic layering of the barn over time would be lost.
18. The sum total of the size of the lean-tos would be amalgamated into a single storey extension that would be positioned to one side of the barn, partly wrapping around two of its corners. The positioning and nature of the extension would substantially alter the form and appearance of the listed barn. Instead of having a functional rectangular plan form, the extension would give the resultant building a defined T-shape. The works would expose and retain much of the historic fabric and core of the building, as well as being single storey with a roof ridge below the eaves of the barn. However, rather than reflect the robustly compact functional form and appearance of the barn, the extension would have a strong horizontal emphasis with a contemporary residential style, and would thereby form a conflicting and distracting addition to the building that would detract from its special interest. Despite the presence of trees and boundary treatments, the impact of the scheme would be apparent from the public realm, including from the road and from the public footpath, and hard and soft landscaping cannot be relied upon to screen a development for its lifetime.
19. The strident contrast of the extension to the barn would be exaggerated by numerous full-height windows. The size, breaths and positioning of these windows would have little historical reference to agricultural practices and the former use of the barn. The materials would provide a contrast with the historic core, although such measures would do little to ameliorate the legibly residential appearance of the extension and the contrast it would make with the barn's utilitarian simplicity.
20. The Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In this case there would be less than substantial harm given the size of the extension compared to that of the listed building as a whole. This harm has to be weighed against the public benefits of the proposal, including securing an optimum viable use.
21. The barn is currently being used for ancillary domestic purposes, and it is evident that some deterioration is occurring. The Framework makes it clear that neglect of a heritage asset should not be taken into account in any decision. A residential use for the barn would provide an ongoing viable use. This would be an important benefit, and the provision of an additional dwelling at a time when the Council do not have a five-year housing land supply would also be a modest benefit. However, the nature of the extension would result in considerable harm to the barn and its special interest, and this harm would outweigh these benefits.

22. For these reasons the scheme would fail to preserve the listed barn and its features of special interest, and the suggested conditions would not overcome these fundamental harms. This harm would result in conflict with the Act and with CS Policies SD4 and SD8, and BP Policies RES5 and RES7 as they seek, amongst other things, development that conserves and enhances heritage assets, that which responds positively to and respects the character of the site and has appropriate regard to the historic environment, and that works to convert traditional buildings should be sympathetic to its character and appearance.

Protected Species

23. The Ecological Appraisal (2023) (EA) has found the site supports nesting breeding birds and that the barn is a roost for a number of bat species, with some of the trees that would be removed containing potential bat roost features. Further potential exists within the site to support badgers, reptiles and hedgehogs, with the latter being observed on site. The EA recommends the site is enhanced for birds and bats through the installation of boxes, with the car port including a bat loft and minimal external lighting.
24. The recommendations of the EA have been based on bat surveys that were undertaken in 2019 and 2022, with a subsequent assessment being made in 2023 that it was not necessary to update these surveys. The requirements of the Framework are that the planning system should contribute to and enhance the natural environment and minimise impacts upon biodiversity. Such objectives should be integral to informing a proposal. Those surveys that have been undertaken are now several years old and it cannot be assumed that they reflect the current situation, particularly given the diversity of bat species that have been recorded using the barn. Furthermore, the EA also raises the issue that satellite maternity roosts may be present, and again this would need to be ascertained.
25. The presence of protected species is a matter that should inform the nature of any scheme, with Circular 06/2005 – Biodiversity and Geological Conservation (the Circular) making it clear that the presence of a protected species is a material consideration when development is being considered. The Circular states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Conditioning mitigation measures has been suggested that would include landscaping and replacement planting, external lighting, the bat loft, and bird and bat boxes. However, in the absence of up-to-date surveys that have been undertaken at the appropriate time of year, conditions would not provide sufficient certainty that the bats or any other species would be protected.
26. For these reasons, the scheme has failed to demonstrate that protected species and their habitats would not be harmed by the development, and the suggested conditions would not overcome these fundamental uncertainties. The proposal would fail to accord with CS Policies SD9 and INF3, and BP Policy RES7, as these require amongst other things, that protected species are safeguarded, the protection of green infrastructure, and that a scheme can mitigate the impact upon any protected species.

Trees

27. There are a variety of trees within and close to the site, and their height and size is such that they form leafy skylines and backdrops to the nearby houses, and a verdant linkage with the countryside. There is a mix of species present, including rows of Norway Spruce along parts of the site boundaries, and natives such as ash, crack willow, and horse chestnut. The trees provide both a landscape and a habitat value, including affording roosts for a variety of species of bats.
28. The appellant's Tree Constraints, Tree Impacts, and Tree Protection Method Statement (2022) (the Statement) advises the removal of numerous trees, including the Norway Spruce and the trees that are growing close to the eastern side of the barn. Given the proximity of the latter group to the barn along with their form and species, the removal of these trees would be necessary. However, other trees would also be felled to accommodate the proposed access and parking. The verdant impact of the site within the area would be noticeably eroded, and particularly so as the Statement does not consider replacement planting to be necessary. Although the appellant has subsequently suggested that new planting could be conditioned, it would take many years, if ever to make a similar impact within the area.
29. Furthermore, those trees to be retained pose constraints to the development. Works would be occurring within root protection areas, with minimal dig construction for the drive and parking areas being proposed, along with the hand severing of roots and temporary ground protection. Notwithstanding such measures, the extent of the works and its proximity to nearby trees, is such that whether the trees to be retained would survive and remain healthy remains uncertain. Some canopies are now very close to the barn, and in addition to works occurring in root protection areas, the impact of any crown works would also need to be established, as would the impact of installing services and the attenuation tank.
30. The trees make a positive contribution to the area and also have a biodiversity importance. The felling of so many trees along with the ambiguity that remains about the survival of others and that additional planting has not been proposed as an integral part of the development, would all combine to have a harmful impact upon the area and upon biodiversity. The scheme would thereby conflict with CS Policy INF3 and BP Policies NAT1 and NAT3 as these require, amongst other things, that development should contribute positively towards green infrastructure, and contribute to, conserve, protect and enhance it.

Flood Risk

31. The appellant's Surface Water Drainage Strategy (2022) (DS) has established the site is within an area of low risk of flooding from rivers. The proposed surface water drainage strategy incorporates rainwater harvesting, permeable paving, and an attenuation tank or soakaway system to regulate flow into the foul network.
32. The particular circumstances of this case are that a number of uncertainties remain, and it is unclear whether these issues could be satisfactorily addressed through conditions. Despite the proposed drainage strategy, capacity and receptor assessments need to be undertaken, and infiltration capacity has not been established. As there are no watercourses or surface water sewers within the vicinity of the site, if infiltration is not possible, then discharge to the foul sewer is proposed. However, this has not been agreed with the water company for the

area, nor has it been established that the existing network and any downstream receptors could accommodate the additional flow.

33. Given these unresolved issues, it cannot be assumed that the proposed approach would be adequate to deal with surface water run-off and not cause flooding within the site or to elsewhere. It follows that conditions would not provide sufficient certainty that the matter could be satisfactorily addressed. There would be conflict with the Framework and its requirements to ensure that flood risk is not increased elsewhere, and also with CS Policy INF2, as this policy requires amongst other things, that development incorporates sustainable drainage systems to manage surface water drainage, avoiding discharge into the public sewer system, and ensuring that flood risk is not increased on site or elsewhere.

Highways

34. An existing access serves both the barn and Cyder Mill Cottage, and it has a wide breadth to provide for the generous multi-spaced parking area. To one side of the access there is a low picket fence and to the other there is the gated access to the public footpath, beyond which is an access to another dwelling. Future occupiers of the barn would share use of the existing access, with a dedicated track following the northern site boundary leading into a separate area of parking and turning in front of the proposed car port. The increased use of the existing access would not be much greater than could already occur, particularly given that the track would reduce the generous amount of existing parking provision for the cottage.
35. The fences of the cottage and those of the public footpath gate and neighbouring house would restrict visibility in both directions. However, the existing access also has the same compromised visibility, and the parking area provides space for multiple vehicles. There is no footway to the lane, and it would be the case that pedestrians would have to walk in the carriageway. The lane is speed restricted to 30mph, and its straight nature towards the south would provide emerging drivers with visibility of approaching vehicles, pedestrians and cyclists. Removing or lowering the existing fence to the northern side of the access would also improve visibility in this direction.
36. The access is one of numerous private accesses onto the lane and some have restricted visibility for drivers. As the scheme would benefit from the provision of a turning space to allow drivers to go into and out of the property in forward gear, the use of the existing access would not compromise the safety of other users of the highway.
37. Having regard to these findings, the scheme would not significantly impact upon the safety of other users of the highway, and would accord with CS Policy INF1, which requires amongst other things, the provision of safe and efficient access to the highway network.

Other Matters

38. Some local residents have raised concerns regarding a loss of privacy. However, following the findings on the main issues there is no need to consider this matter further.

39. The appellant's concerns regarding the Council's handling of the application relate to procedural matters and have little bearing on the consideration of the planning merits of the case.

Planning Balance

40. The Council acknowledges a five-year supply of deliverable housing sites cannot be demonstrated, having what is described as a significant shortfall in supply at 3.14 years. In such circumstances, Paragraph 11(d) of the Framework is engaged.
41. There would be benefits arising from the scheme, but whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. In this case, policies in the Framework that protect assets of particular importance, that is the listed building, provide clear reasons for refusing the scheme. As such the presumption in favour of sustainable development does not apply.

Conclusion

42. The scheme would conflict with requirements of the Framework and of the development plan and there are no considerations that outweigh these conflicts. Thus, for the reasons given above and having considered all other matters raised, the appeals are dismissed.

J J Evans

INSPECTOR