



Appeal Decision

Site visit made on 1 July 2025

by **H Senior BA (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 October 2025

Appeal Ref: APP/R0660/W/25/3360433

Mill Run, Twemlow Lane, Cranage, Cheshire East CW4 8EX

- 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 James Specialist Veterinary Cardiology against the decision of Cheshire East Council.
 - The application Ref is 24/2725C.
 - The application sought planning permission for additional consulting rooms, reception and scanning rooms in association with existing specialist veterinary business without complying with a condition attached to planning permission Ref 22/1926C, dated 14 December 2022.
 - The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in total accordance with the approved plans: Drawing No. 1360/J210062/001.2 (Site Location Plan), Drawing No. 1360/J210062/002.9 (Proposed Site Layout Plan) received by the Local Planning Authority 23rd November 2022 and: Drawing No. 1360/J210062/003.3 (Proposed Plans and Elevations) received by the Local Planning Authority on 10th May 2022 except where varied by other conditions of this permission.
 - The reason given for the condition is: For the avoidance of doubt and to specify the plans to which the permission/consent relates.
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Decision

1. The appeal is allowed and planning permission is granted for additional consulting rooms, reception and scanning rooms in association with existing specialist veterinary business at Mill Run, Twemlow Lane, Cranage, Cheshire East CW4 8EX in accordance with the application Ref 24/2725C, without compliance with condition number 2 previously imposed on planning permission Ref 22/1926C, dated 14 December 2022 and subject to the conditions in the attached schedule.

Preliminary Matter

2. Development had already commenced at the time of my site visit, and a building was substantially complete. The appellant's statement of case is accompanied by revised plans which reflect the building operations that have been undertaken. The main amendments appear to be the addition of a plant room at the rear of the building and changes to the external staircases. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same as was considered by the local planning authority and by interested parties at the application stage. The Council has not commented on the amended plans and I consider that interested parties would be prejudiced should I accept them. Therefore, I have determined the appeal as a proposal based on the plans submitted to the Council and upon which the views of interested parties were sought.

Background and Main Issue

3. Planning permission has been granted for additional consulting rooms, reception and scanning rooms in association with the existing specialist veterinary business¹. The appeal seeks permission to carry out the development by varying condition 2 to substitute revised plans to increase the footprint, alter the rear roof slope, increase the ridge height and alter the external materials from metal roof with timber cladding / concrete block walls to a natural blue slate roof and reclaimed Cheshire brick walls.
4. The main issue is whether the amended proposal falls within the scope of section 73 of the Act and if so, the effect that varying the condition would have on the character and appearance of the area.

Reasons

Scope

5. The Council considers that the proposal cannot be determined under section 73 of the Town and Country Planning Act 1990 (the Act) as it would be substantially different to the approved planning application.
6. The Armstrong judgment² advises that the scope of section 73 is not limited to minor material amendments. Furthermore, the Planning Practice Guide (PPG) states that there is no statutory limit on the degree of change permissible to conditions under section 73, so long as the changes only relate to conditions and not to the operative part of the permission³.
7. The judgment in Finney⁴ established that an application under section 73 of the Act may not be used to obtain a permission that would require a variation to the terms of the 'operative' part of the planning permission, that is, the description of the development for which the original permission was granted. In this case the description of development remains the same.
8. Although the footprint, height, roof slope, materials and internal layout would change, the proposed development would accord with the description of development on the original application and therefore the Armstrong judgment is relevant to my consideration of the appeal. In addition, the use of the new building in association with the existing specialist veterinary business has not changed.
9. Policy RUR10 of the Site Allocations and Development Policies Document 2022 (SADPD) states that for employment development in the open countryside additional buildings should be restricted to the minimum level reasonably required for the existing or planned operation of the business, be well related to existing buildings and not form isolated or scattered development. In this case, the development would enable all the existing and future business operations to be accommodated in one building and remove operations from the adjoining dwelling house. The proposal is also well related to existing buildings. The scale of the proposed building and floorspace provided is in my view reasonable having regard to the business needs. There is no conflict with SADPD Policy RUR10.

¹ Ref 22/1926C

² Armstrong v Secretary of State for Levelling-Up, Housing and Communities [2023] EWHC 176.

³ Paragraph: 013 Reference ID: 17a-013-20230726.

⁴ John Leslie Finney vs Welsh Ministers, Carmarthenshire County Council, Energiekontor (UK) Limited [2019] EWCA Civ 1868

10. Based on the above, I am satisfied that there is nothing in law to prevent the development being varied under section 73 of the Act.

Character and appearance

11. The building lies in a rural area characterised by sporadic development along Twemlow Lane. Whilst this sporadic development contains buildings of differing designs, they are predominantly of brick construction and set back from the highway behind substantial vegetation.
12. The revised plans show the building to have an asymmetrical gable roof with the longer roof slope to the rear, to allow the upper floor to be used as office space and staff facilities.
13. Whilst the building would be two storey, as opposed to the single storey building originally envisaged, the height of the building has not increased substantially, due to the utilisation of the roof void to create the additional storey of accommodation.
14. The Landscape and Visual Assessment concludes that the building has no overriding landscape and visual impacts that would detrimentally impact on the open countryside and character of the rural locale. The new building is set back from the road behind established trees and vegetation which serve to filter public views from the lane and an adjacent public footpath. From where it is visible, including from public rights of ways to the south, the development would be seen in association with existing buildings on the site, notably the existing dwelling, and in this context the additional height and bulk would be neither noticeable nor harmful from a wider landscape perspective. The natural blue slate roof and reclaimed Cheshire brick walls are characteristic of the buildings in the local area. Its design would broadly reflect the appearance of other buildings in the area. As such I concur with the findings of the assessment, which has not been challenged by the Council, and I do not consider that the proposal would have an urbanising impact on the countryside.
15. To conclude, the proposal would not harm the character and appearance of the area. It would comply with Policies PG6, SD2 and SE1 of the Cheshire East Local Plan Strategy (2017) and Policies GEN1 and RUR10 of the SADPD which together and amongst other matters seek to ensure that development contributes positively to an area's character and identity and is appropriate to its intended function.

Other Matters

16. I understand from the Planning Statement that there would be no increase in the number of staff employed at the site. The level of parking was considered acceptable by the Council when determining the previous application and in addition there is no objection to the proposal from the highways department. Given this, and the lack of any evidence to demonstrate that the development would lead to a material increase in vehicle movements, I am content that there is no basis on which to dismiss the appeal on highway grounds. I have ensured that the previous condition relating to car parking has been reimposed on this decision to ensure that an adequate level of parking is provided and retained for the development.
17. The removal of trees from the site and impact on the public footpath would not have any demonstrable adverse impacts over and above the permitted scheme.

Conditions

18. By allowing this appeal a new planning permission is created. The PPG makes it clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event these have since been discharged, that will be a matter which can be addressed by the parties.
19. I have amended condition 2 by referring to the amended plans which is necessary in the interests of certainty.

Conclusion

20. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting a new plans condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

H Senior

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 14 December 2025.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos - Drawing No. 1360/J210062/001.2 (Site Location Plan), Drawing No. 1360/J210062/002.9 (Proposed Site Layout Plan), Drawing No. 2311.01D – Ground & First Floor Setting Out Plan and Drawing No 2311.04B - Proposed Elevations.
- 3) The materials to be used shall be in strict accordance with those specified in the application unless different materials are first agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The approved development shall not be occupied until space has been laid out within the site for the parking of 19 cars in accordance with Drawing No.1360/J210062/002.9. Parking so provided, including the approved number for disabled persons (if applicable), shall be retained at all times thereafter, unless otherwise approved by the Local Planning Authority.
- 5) No removal of any vegetation or the demolition or conversion of buildings shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone take place.
- 6) Prior to the use of any building materials in the new development the applicant shall submit a strategy for the incorporation of features to enhance the biodiversity value of

the proposed development. The submitted strategy should include proposals for the provision of features for nesting birds house sparrow and roosting bats (any external lighting should avoid direct light spill upon bat roost features). The proposals shall be permanently installed in accordance with the approved details.

7) (a) Prior to the commencement of development or other operations being undertaken on site a scheme for the protection of the retained trees produced in accordance with BS5837 :2012 Trees in Relation to Design, and Construction (Recommendations), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall be undertaken on site in connection with the development hereby approved (including demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

8) No Development shall take place until details of an Engineer designed no dig hard surface construction specification for any area of hard surfacing within the root protection area of retained trees has been submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

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