The Planning Inspectorate

Appeal Decision

Site visit made on 6 July 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Appeal Ref: APP/B3438/W/21/3269856
Fould House, Meerbrook Road, Leek ST13 8SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr & Mrs Platt against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2020/0607, dated 30 October 2020, was approved on 31 December 2020 and planning permission was granted subject to conditions.
- The development permitted is demolition of existing outbuildings and erection of replacement agricultural building; and installation of proposed air source heat pump and effluent plant.
- The condition in dispute is No.10 which states that: The replacement agricultural building hereby approved shall be used only for the purposes of agriculture. It shall not be used at any time for domestic purposes, or for any other purpose incidental or ancillary to the existing or replacement dwelling at Fould House. The building shall be removed from the site within 6 months of the date on which it ceases to be required for agricultural purposes.
- The reason given for the condition is : For the avoidance of doubt and to protect the character and appearance of the Open Countryside.

Decision

1. The appeal is allowed and the planning permission Ref SMD/2020/0607 for demolition of existing outbuildings and erection of replacement agricultural building; and installation of proposed air source heat pump and effluent plant at Fould House, Meerbrook Road, Leek ST13 8SQ is varied by modifying Condition No10 and is now subject to conditions as set out in the attached schedule.

Background and Main Issue

2. The proposal seeks to vary Condition 10 in order to remove the requirement to remove the building from site within six months of the date it ceases to be used for agricultural purposes. Therefore, the main issue in this appeal is that in the event of when it is no longer required for its original purpose, whether the removal of the building from site is necessary to make the development acceptable in planning terms.

Reasons

3. Paragraph 55 of the National Planning Policy Framework (the Framework) states that 'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.' The Planning Practice Guidance (PPG) states that the 6 tests must all

be satisfied each time a decision to grant planning permission subject to conditions is made.

4. In accordance with the PPG a key question in respect of whether a condition is necessary, is that it must not be imposed unless there is a definite planning reason for it, i.e. it is needed to make the development acceptable in planning terms.

5. I find that in approving the application for the new building, the Council have considered the appropriateness of the building in its open countryside context and found it to be acceptable for an agricultural use. This includes the removal of existing buildings, as indicated in the original consent.

6. Having viewed the proposed location of the building from a wider context, I find that the building would not stand out excessively in the landscape. The building is in an elevated part of the landscape but does not look out of place in a rural location.

7. There is no doubt, based on the evidence in front of me, that the building is intended to be a permanent structure, and permanent consent was sought. The Council found the building to be acceptable, so therefore I consider that it is not necessary for the building to be demolished if it is no longer required for its original use.

8. If the building is no longer required for agricultural use, it is highly likely that some form of planning consent would have to be sought for any alternative uses, so if the Council's concern is control of future usage, they retain that in any event through the planning process, and enforcement action could be taken if that use was changed unlawfully.

9. The remainder of the condition is not queried by the appellants, and I consider the remaining part of the condition to be fair and reasonable.

10. As I find that remainder of the condition is necessary, and in this instance the condition can be resolved by redrafting, I will vary the original permission by varying the original condition, and imposing a correctly worded replacement, which will be included in the schedule at the conclusion of this decision.

Conditions

11. The Planning Practice Guidance 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, unless they have already been discharged. 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.

12. Conditions 1 through 4 are imposed in the interests of proper planning. Conditions 5 through 7 are imposed in the interests of protection of the environment through contamination. Condition 8 and 9 are to protect the amenities of local residents and Condition 10 protects the character and appearance of the Open Countryside.

Conclusion

13. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. Only the development described above is permitted and it shall only be carried out in accordance with the following drawings identified and numbered as 'LOCATION PLAN' AR-E100-ST-003; 'PROPOSED SITE BLOCK PLAN-EXISTING SITE' AR-P-100-ST-004; 'PROPOSED BARN GA' AR-P-100-00-003; and 'PROPOSED BARN ELEVATIONS' AR-P200-XX-003 that were submitted with the application.

3. The development shall be constructed using the external facing and roofing materials that are specified on the drawing identified and numbered as 'PROPOSED BARN ELEVATIONS' AR-P-200-XX-003 that was submitted with the application.

4. All of the buildings shown on the submitted drawings with red dashed lines as 'existing buildings to be demolished' shall, as the first works of the development, be demolished and removed from the site before construction work commences to erect the replacement building.

5. In the event that contamination is found at any time when carrying out the development hereby approved it must be reported in writing immediately to the Local Planning Authority. Development shall not continue further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed in writing by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not continue until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment has been submitted to and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme and prior to bringing the development into first use, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

6. No topsoil or fill material is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development and a suitable methodology for testing this material shall first have been submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment)

and source material information. The analysis shall then be carried out and validating evidence confirming suitability shall be submitted to and approved in writing by the Local Planning Authority.

7. Any waste material associated with the demolition or construction hereby approved shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment.

8. At any time during and following the completion of the development all exterior lighting installations shall be erected only in accordance with the protocols contained in the Institute of Lighting Engineers document "Guidance for the Reduction of Obtrusive Lighting" (2005) and the Bat Conservation Trust's "Artificial Lighting and Wildlife Interim Guidance: Recommendations to Help Minimise the Impact of Artificial Lighting" (2014).

9. The Ground Source Heat Pump and the Effluent Plant, the installation of which form part of the development permitted by this planning permission, shall only serve, and be used by the occupiers of either the existing dwelling at Fould House or the new dwelling to be built as a replacement under planning permission SMD/2019/0672.

10. The replacement agricultural building hereby approved shall be used only for the purposes of agriculture. It shall not be used at any time for domestic purposes, or for any other purpose incidental or ancillary to the existing or replacement dwelling at Fould House.

END OF SCHEDULE