

DELEGATED DECISION REPORT

SMD/2022/0329
Valid 27/06/2022

WAYFIELDS FARM
ROWNALL ROAD
WETLEY ROCKS

REMOVAL OF CONDITION 4
RELATING TO 13/00448/FUL
(FULL - MINOR)

MAIN ISSUES

- Whether or not a planning condition applied to a previous planning application met “the six tests” for planning conditions under the planning legislation
- Whether or not the proposal amounts to inappropriate development in the Green Belt
- The impact on the character and appearance of the area

DESCRIPTION OF SITE

The site is within the countryside to the south-west of Wetley Rocks and to the north of Cellarhead and comprises three modern portal framed agricultural warehouse buildings off a large yard accessed off Rownall Road, a country lane to the east. The buildings are redundant. The building to the north of the yard has a footprint of 50 x 20 metres. The building to the east of the yard, next to Rownall Road, has a footprint of 35 x 18m. The largest building, to the west of the yard has dimensions of approx. 75 x 15m. To the south of the site is two dwellings, converted stone barns, within the same property. There is open land and fields within the same property to the north and on the opposite side of the road to the east. The fields to the north are included in the red line application site. There is more open land to the west some of which is within the same ownership as the application site. The site is in the Green Belt but is outside of the Churnet Valley as shown in the Local Plan.

PROPOSAL

A full Variation or Removal of a Planning Condition planning application has been submitted to remove a condition attached to a 2013 planning permission for the longest building of the three, to the west of the yard. The condition reads as follows:

The agricultural building hereby approved, shall be removed from the site when it is no longer needed for agricultural purposes on the holding, and the land shall be reinstated for agricultural purposes.

Reason:-

The site falls within the Green Belt and the building has only been permitted to serve an agricultural need, and in the interests of the visual amenities.

No reason has been given for why the applicant wants to remove the condition although there was a recent full planning application earlier this year to change the use of all three buildings into industrial uses. However, the largest building, subject of this new application, was removed from the scheme and permission was eventually granted to change the use of the other two buildings.

A Planning Statement has been submitted with the application in support of the removal of the condition on the building.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffs Moorlands Local Plan (adopted September 2020)

SS10 – Other Rural Areas Strategy

DC1 – Design Considerations

NPPF (Revised July 2021)

Sections 12 (Design) and 13 (Green Belt).

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2021/0483: Change of use of building on north and east sides of the yard into industrial uses. Approved on 12th April 2022.

SMD/2015/0765: Change of use of buildings to west and east of the yard to B1 (Light Industrial) and B8 (Storage and Distribution) uses. Refused.

13/00448: Planning permission for the construction of building to west of yard.

08/00547: External changes to the buildings to the north and east of the yard. Approved.

03/01179: Planning permission for the construction of the building to the north of the yard.

CONSULTATIONS

Publicity

Site Notice expiry date: 11.8.22

Neighbour consultation period ends: 11.8.22

Press Advert: N/A

Public Comments

One letter of objection has been received from a local resident concerned that the proposal would lead to creeping urbanisation and commercialisation of farms in the area to the detriment of the Green Belt and the character of the Rownall area.

Town / Parish Comments (Cheddleton PC)

Objection raised as the condition was imposed to prevent the removal of agricultural uses.

OFFICER COMMENTS

The site is in the Green Belt and Policy SS10 requires strict control over inappropriate development in the Green Belt. The policies in use at the time of the planning application for the building, in 2013, were also restrictive in that, like the current Green Belt policies, new buildings are deemed to be inappropriate development in the Green Belt, harmful to its openness, unless they fall under a number of categories of which include agricultural uses. New buildings for agricultural purposes is a form of development which is currently listed in the Paras 149 and 150 of the current NPPF which lists the forms of development which are exceptionally not inappropriate in the Green Belt. The condition was imposed to ensure that the development remained appropriate in the Green Belt i.e. to restrict it to agricultural usage and where this ceases, require its demolition in the interests of the openness of the Green Belt. It was also added to protect the visual amenities of the area.

At the time of the 2013 application, it was demonstrated that there was an agricultural need for the building particularly as the site was linked to a vast farming property surrounding the site in the adjacent fields hence the reason why permission was granted. However, the building has not been used for agricultural purposes for several years. Therefore the retention of the building and not demolition could be deemed to be a breach of the condition. It appears the owners farming operations have been focussed elsewhere. A recent permission changed the use of the other two buildings into industrial uses. Those buildings were unaffected by any such agricultural restrictions unlike the building subject of this new application.

The applicants wants the condition requiring the buildings demolition to be removed so that the building can be retained. The applicants agents, in the Planning Statement, claim that the condition should not have been imposed as it is contrary to the planning guidance and legislation which requires conditions to meet “the six tests” before being imposed.

Paragraph 55 of the National Planning Policy Framework (NPPF) makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

- 1.necessary;
- 2.relevant to planning;
- 3.relevant to the development to be permitted;
- 4.enforceable;
- 5.precise; and
- 6.reasonable in all other respects.

Each of them need to be satisfied for each condition which an authority intends to apply.

Para 14 of the National Planning Policy Guidance (NPPG) states that conditions requiring the demolition after a stated period of a building that is clearly intended to be permanent are unlikely to pass the test of reasonableness i.e. test 6.

In response to this, I consider that it would appear the condition did not pass test 6. It is important to note that the building was in fact a replacement building for other

older concrete farm buildings still in use on the site and has a footprint which is only slightly larger than the group of building that have historically been part of the farm, which would not themselves have been subject to such a condition.

I also consider that the condition was “unnecessary” (see test 1) as the building was clearly intended to replace existing farm buildings in current agricultural use at the time and which had deteriorated, rather than the building being a completely new structure on open land. The NPPF as well as allowing new agricultural buildings also deems the replacement of buildings as not being inappropriate (providing they are not “materially larger” and would be in the same use as previous). Whilst a completely new building on open land would inevitably have an additional impact on the Green Belt and on openness, the replacement building would have had no greater impact on the openness of the landscape than the one which it replaced, which was not subject to such a condition. I can therefore understand the argument that it is unreasonable to require its removal once agricultural operations ceased, as there has always historically been buildings there (and is not uncommon for the use of farm buildings to cease and for the buildings to be reused).

Furthermore, Policy SS10 of the current Local Plan supports farm diversification in the interests of the local rural economy, recognising that agricultural uses of land change over long periods of time and that some farm businesses do cease. The policy also supports the conversion of rural buildings into other uses if appropriate. Therefore it could be deemed that the cessation of use of the farm building and eventual change of use, would in principle not be unacceptable, particularly given that in this case, other buildings on the site have received planning consent for change of use and as such the site is no longer a working farm. This conclusion would not normally be the case for a new farm building allowed less than ten years ago (such as this building), particularly where an agricultural justification for such a building needs to be demonstrated, but this building is in fact, as stated, a replacement of far more historical farm buildings on a historical long established farm.

The agent also states the condition fails to meet test 4 and 5 in that it is imprecise and therefore not enforceable. This is because it does not define what the extent of the farm “holding” is and also does not provide a timeframe for the removal of the building once agricultural uses cease. I concur with this opinion and agree that the condition does not meet tests 4 and 5 as well as tests 1 and 6.

It is normal practice of the Council to impose conditions on new agricultural buildings which require them to be removed where the agricultural use ceases. This is to protect the open character and appearance of the countryside and the rural landscape from excessive rural development and buildings as well as protecting the Green Belt from inappropriate development and is a condition which usually can meet the six tests of applying conditions.

Such conditions therefore should not normally be removed in order to long-term continue to protect the countryside. However, I consider there are exceptional circumstances with this particular case which would allow for the removal of the condition, that being the fact it was not built on open land but replaced existing buildings in a similar part of the site and of cumulative similar size which were not subject to such a restrictive condition. Therefore the new building would not have

impacted on the open character and appearance of the countryside, in contrast to most new agricultural buildings. The condition would therefore have been deemed to not serve much of purpose in protecting the open character and appearance of the countryside. I therefore consider that due to this exceptional circumstance and that it would now retrospectively not be deemed to pass the six tests of applying conditions, approval can be given for the removal of the condition.

CONCLUSION / PLANNING BALANCE

Sufficient justification has been provided to show that the condition to remove the building, imposed on a 2013 planning permission, did not meet the tests required in the planning legislation and guidance for imposing such conditions. As the building was approved to replace farm buildings of slightly smaller size (cumulatively) which were deemed to no longer be fit for purpose, it did also appear unreasonable to require the building to be demolished if agricultural uses ceased, as there had always historically been buildings on this part of the site and therefore the openness of the land and character and appearance of the area was not materially affected.

It is therefore considered the condition requiring the demolition of the building can, in this case, therefore be removed and therefore the application for the removal of the condition can be approved.

However, the fact this was a replacement building makes the removal of the condition acceptable only under exceptional circumstances. Each application to remove such conditions must be judged each in its own individual merits and that had the building been built on previous open land as a completely new addition to a farm, then the removal of the condition requiring its demolition when its agricultural use ceases, would be unlikely to be supported. I consider that this is an exceptional case.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Chris Johnston
Recommendation Date: 16.9.22

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council