

Application No: 12/1073N

Location: TOP END FARM, BARTHOMLEY ROAD, BARTHOMLEY, CHESHIRE,
CW2 5NT

Proposal: RETENTION OF EXTENSIONS TO AGRICULTURAL BUILDINGS

Applicant: MR MARK ABELL

Expiry Date: 11-May-2012

SUMMARY RECOMMENDATION

Approve with Conditions

MAIN ISSUES

- Principle of Development
- Impact on Character, Appearance and Openness of Green Belt
- Impact on Amenity of adjacent properties
- Impact on Highway Safety

1. REASON FOR REFERRAL

This application was deferred from Southern Planning Committee on 6th June 2012:

- (a) for a Committee site inspection to enable Members to assess the impact of the development
- (b) for an expert assessment of the agricultural business plan

2. DESCRIPTION OF SITE AND CONTEXT

The application site forms a farm complex located within the Green Belt as defined by the Local Plan Proposals Map. The site comprises a mixture of traditional brick and more modern portal framed buildings. The site is accessed via a track from Barthomley Road which is also the route of a Public Right of Way along its length (Crewe Green Footpath 3). To the north of the farm complex is a railway line.

Several operations are being carried out at the site including a beef cattle farm, agricultural fertiliser spreading operation, and a concrete panel making process. Not all processes and buildings on the site are authorised.

3. DETAILS OF PROPOSAL

This application seeks the retention of unauthorised extensions to the buildings at Top End Farm. This application seeks retention of:

- An extension of two attached buildings to their eastern elevation comprising 12m x 42.6m with a total footprint of 511.2m² and volume of 4058.52m³
- An extension to the western elevation of one of the buildings comprising 18.2m x 6.5m with a total footprint of 118.3m² and a volume of 650.65m³

The unauthorised extensions represent a 38.5% increase above the size of the authorised buildings to which they are attached.

4. RELEVANT HISTORY

ENFORCEMENT NOTICE APPEAL – An Enforcement Notice was served on the unauthorised operational development of the alteration and extension of two steel framed buildings (the subject of this application). This appeal was allowed on ground (f) only and the notice was varied. The appeal was dismissed and the enforcement notice upheld on the other grounds for appeal. The date of this decision was 18th September 2012.

The appeal on ground (f) was allowed and varied the notice to allow alternative requirements to:

1. Remove all plant, equipment, machinery, materials and fixtures which are not directly related to the agricultural use of Buildings A and B.
2. Cease using Buildings A and B for any other use other than the approved and lawful uses related to agriculture at Top End Farm.
3. Remove all waste materials from Buildings A and B and the surrounding land left as a result of the previous unauthorised concrete panel/component manufacturing process in Buildings A and B.

11/2209N – Certificate of Lawfulness Approved for Use of Farm for the Storage, Blending and Adaption of Fertilisers for Sale 13th January 2012.

10/4960N – Retrospective planning application withdrawn for a Change of Use from Agricultural Use (Beef Farming) to a Concrete Panel Business on 23rd December 2010.

P07/1104 – Planning permission approved for Agricultural Building for Storage and use as Workshop, open topped Crop Storage on 16th November 2007.

P06/0450 – Consent approved for Erection of Agricultural Silage Building Relocated from Limes Farm on 2nd June 2006.

P95/0052 – The Local Planning Authority did not object to the erection of an agricultural building subject to a landscaping scheme in 2005.

P94/0981 – The Local Planning Authority objected to the erection of an agricultural building in 2004.

5. POLICIES

National Planning Policy

National Planning Policy Framework (2012)

Local Plan Policy

NE.1 Development in the Green Belt
NE.14 Agricultural Buildings Requiring Planning Permission
BE.1 Amenity
BE.2 Design Standards
BE.3 Access and Parking
BE.4 Drainage, Utilities and Resources
BE.5 Infrastructure

6. CONSULTATIONS (External to Planning)

Environmental Health – No objection subject to building only being used for purpose outlined in report. In addition, Environmental Health have confirmed that they have been monitoring an alleged dust nuisance from the site/access. Should a statutory nuisance be identified then this could be enforced against under EPA legislation.

Environment Agency – No objection (falls outside remit)

Strategic Highways Manager – extensions are unlikely to lead to any significant traffic increase if used for the agricultural storage purposes for which they are intended.

However, given sensitivities surrounding the site additional information relating to existing lawful and proposed employee and vehicular numbers.

Following receipt of the additional information further comments received stating that:

- The Applicant has answered that there will be no additional full-time workers. Forecasts for numbers of additionally contracted out workers are required - especially as they are likely to come in tractor/trailer units.
- Whether workers will be brought to site in shared transport.
- The existing lawful use is 12 vehicles. Response doesn't indicate how many movements that are per day but the inference seems to be that instead of having a Feb-Sept operation they will have an all year round operation at the same level of daily activity - but clearly over the whole year rather than seasonally.

7. VIEWS OF THE PARISH COUNCIL

None received at time of writing report

8. OTHER REPRESENTATIONS

Two Petitions submitted, each containing 15 names, objecting to proposed scheme. The salient points being:

- Extensions not needed for farming activity as they are currently used for concrete manufacturing process,

- Huge expansion of buildings over the years and unauthorised activity,
- The farm has more space than it is reasonably expected to need,
- Unsightly buildings,
- Greenbelt land,
- Barthomley Lane is narrow and is unsuitable for largescale activities at Top End Farm,
- Grass verges have been destroyed,
- Risk of landslide and crack in railway bridge,
- Households impacted by noise, vibration and dust.
- Unauthorised extensions represent a 50% increase in buildings
- Previous buildings were not needed or required for agriculture as used for concrete panel making operation
- Land at Alsager, Noel End Farm, and Arclid in different ownership
- No field numbers for Mow Cop site
- Herd of 500 cattle would use 150 tons of gypsum and 200 tons of straw per annum. Balance is more likely to be associated with the business use of RMA Cattle Bedding Services
- Land for potato is sub let to a large producer who rents land in many locations, concern that Top End Farm is to become a regional storage centre which would have big impact on traffic
- 2000 tons of potatoes would require more than 100 acres. The maximum capacity at Top End Farm is 750 tons
- 1000 head herd would require 820 acres of pasture (re NVZ legislation). Maximum capacity, assuming 750 ton production of potatoes is 168 head of cattle.
- Feed would be 168 tons and this can be in the open crop storage site
- Proposed operations can be easily accommodated in existing buildings.

Objection received from neighbour citing e-mails from Cheshire East Council Highways. The Highways e-mails state that:

“Slow moving vehicles existing from the main access, as there is poor forward visibility for approaching vehicles, Congestion in terms of size of vehicles in relation to road widths, Mud and debris on highway, Verge Damage, Kerb Damage, Dust, Pollution, Operational hours, Vehicle numbers. The road also has a weight restriction for access only, which means that any large vehicle gaining entry to Top End Farm (for a business without planning consent), will technically be breaking the weight restriction” and second e-mail reading,

“After reviewing the photographs on the CD you’ve provided, I agree that the intensification at Top End Farm in terms of vehicular movements in relation the fabrication business is causing major problems in and around this area and is detrimental in terms of highways safety.

For the highways authority to support an application for the fabrication of concrete panelling at this site, vehicle numbers in relation to the business would have to be set and the operational hours restricted. The access into the site would have to be constructed to an adoptable standard to reduce the amount of debris coming onto the adopted highway with passing bays provided along the lane.

Turning movements will need to be demonstrated at the junction of Barthomley Road and Butterton Lane as the pictures provided clearly show HGV's having to cross the verge and kerbed junction when exiting right"

9. APPLICANT'S SUPPORTING INFORMATION

Design & Access Statement

Additional Information (dated May 2012)

Further Information relating to proposed farming enterprise (dated 19th July 2012)

10. OFFICER APPRAISAL

Principle of development

The National Planning Policy Framework requires consistency between Local Plan and those policies within the framework. Where Local Plan Policies are consistent with the Framework greater weight can be given to that Policy within the Local Plan.

In general terms within the NPPF there is a presumption in favour of sustainable development. The NPPF seeks to achieve sustainable forms of development in its Core Principles through, inter alia, proactively driving and supporting sustainable economic development, while seeking good design and a good standard of amenity, and also protecting Green Belts and recognising the intrinsic character and beauty of the countryside.

In addition paragraph 28 states that support should be given to economic growth in rural areas by adopting a positive approach for sustainable new development to promote a strong rural economy. In particular by promoting the development and diversification of agricultural and other land based rural businesses.

Section 9 of the NPPF identifies that the aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. The essential characteristics of the Green Belt is its openness and permanence. The NPPF identifies that inappropriate development is harmful and should not be approved except in very special circumstances. Very special circumstances only exist where the harm is outweighed by other considerations. New buildings in the Green Belt are inappropriate with the exception of, inter alia, buildings for agriculture and forestry.

Policy NE.1 also identifies that development in the Green Belt is inappropriate unless it is for agriculture and forestry, amongst others. This Policy is therefore in accordance with the NPPF in this respect. Policy NE.14 is supportive of the creation of agricultural buildings which are justified, designed appropriately, take into consideration the impact on the landscape and also do not adversely affect the amenity of surrounding uses. It is therefore considered that this Policy also conforms with the principle of sustainable development contained within the NPPF and should be afforded significant weight in the consideration of this application. An unjustified building which is not essential to the agricultural operation or the viability of the operation must be considered to be inappropriate development.

Justification for Development

The application seeks the retention of unauthorised extensions to buildings at the Top End Farm complex. The existing operations at the farm are said to be cattle farming and an ancillary agricultural fertiliser business. However, also included at the site is an unauthorised operation of concrete panel making. The original buildings, of which the extensions are the subject of this application, were constructed as agricultural buildings however in the main have not been used for those authorised purposes and have also been extended. Enforcement action has been taken against the unauthorised concrete panel making facility and extensions; it is understood that an agreement is in place for this operation to vacate the premises by the end of September 2012.

It appears that there was no agricultural demand for the use of the buildings for their lawful purpose following their construction, hence the introduction of an unauthorised industrial use. The unauthorised extensions that are the subject of this application represent a 38.5% increase in footprint to the existing buildings (not the 11% asserted by the applicant) and represent a significant increase over the existing building.

The additional information submitted outlines a business plan for the site following the removal of the unauthorised activities at the site.

The existing business operations at the farm comprise a mixed operation of rearing beef cattle, the growing of crops for animal feed and bedding, and the growing of potatoes. In more detail this comprises:

- A cattle herd on the farm ranges of 350 to 650 head, with space within the existing sheds for 140 head of cattle.
- Growing of grass for hay, barley, fodder beet, turnip and waste potatoes. Further feed is bought at harvest and stored in the buildings. Further dry feed is also brought in and stored at the site.
- Storage is also required for bedding of 300tonnes of straw and 1000 tonnes of gypsum
- Potatoes are grown on the farm but stored and marketed off site. 2000 tonnes are grown annually. Potatoes grown are Lady Rosetta grown on 30.66hectares for 2012
- One building on the site is also used for agricultural fertiliser, this, at its current level is ancillary to the primary agricultural operation.

It is the applicant's intention to increase the beef operations on the site. Calves will be bought and reared from an earlier age and fed in the farm buildings. Calves can then be put on the farm fields before finally being brought into the buildings for fattening in the last few months, as at present. The handling of additional younger stock will require additional building space. This will take place within one of the extended building which are the subject of this application for the rearing of up to 300 younger calves. It is stated that there is insufficient space within the existing buildings to do this and there are general health and welfare issues. In addition this would require additional space for feed and bedding.

The applicants state that extended buildings would also be used for the storage of potatoes which are also grown on the farm. Further to the additional feed and bedding demands of the

operation the farm also requires workshop space and storage space for equipment and machinery. It was for these reasons that the extended buildings were permitted initially.

The submitted information identifies that the farm comprises some 250 acres. Further to this, there is an additional 114 acres of land which is owned or rented and helps support the farming enterprise at the site. All of this land is subject to a claim for the single farm payment.

As requested by members an independent assessment of the submitted information has been carried out by Reading Agricultural.

Independent Appraisal

The applicant has stated that the expected potato yield in the current harvest to be 1,800tonnes, which is equivalent to 59tonnes per hectare. The average for the UK is 45 tonnes per hectare, and 53 tonnes per hectare is considered to be high.

The variety grown is Lady Rosetta which is a crisping potato and sold to food producers. No contract or evidence of the high yield has been produced, or the availability of irrigation necessary to achieve such a yield. Evidence of a payment to the British Potato Council levy would support the acreage.

Potatoes are grown on a 4/5 year rotation. In order to produce at the proposed level the applicant would need access to between 136ha and 170ha of land, or between 178ha and 222ha at average yield to produce 2000 tonnes a year.

In this current year 28% of the total farmed area (30.66ha) is used for growing potatoes. Unlikely that the applicant will be able to sustain a rotation that continues to use such a high proportion of land at Top End Farm, which will mean that he will need to compete in the rental market for high quality potato land.

No evidence has been produced to demonstrate that the applicant has a sustainable potato business operating at the scale necessary to justify the retention of buildings as a potato store.

Proposal is to also to expand cattle to a total number to 1,000head, assuming that cattle are finished at around 19 months indicates a production of 55 cattle per month. Given that calves are turned out at 3 months this suggests housing for 165 calves. This would require an area of approximately 250m² for accommodation. In addition, 700 animals would need to be kept at grass at any one time. 140ha of grazing would be required by the operation. This assumes some additional feeding would be required and does not take into account stocking rates set under the Action Programme for the reduction of nitrates loss from agriculture.

The cropping record for the current year indicates that the Applicant controls 43.73ha of grazing land plus 21.32ha of stubble turnips for winter grazing. The applicant has identified 108.68ha of land under their control within 8km of the site. The area of land available is inadequate to support a beef enterprise on the scale used to justify the retention of the extensions.

The north western (lean to) extension appears to be designed for personal rather than agricultural use. The design and location does not appear to be suitable to house livestock or store potatoes.

The south-eastern extensions are identified for; SW bay – feed storage, workshop, vehicle storage and bedding (gypsum) storage; and NE bay – rearing of additional 300 young calves and potato storage. The SW bay is suitable for the suggested uses, there may be some access problems, but unlikely to be unworkable alongside each other.

The proposed use of the NE bay/building for potato storage and rearing of calves is incompatible. Potato storage will require a climate controlled space in order to keep in bulk or boxed storage. The entire potato crop would require an area of 660m² (stored in 1.2m high boxes, four high). This building, including extensions, is 684m². In any event the building has lights in its roof and is not fitted with insulation or climate control equipment. It is not sealed against uncontrolled insulation as would be expected in a modern store.

250m² would be required for calf accommodation which, in addition with the potato storage, is unlikely to be available given the calculations.

The requirements of the building and the proposed uses are not shared. Potato storage requires a dark, well-insulated, sealed and climate controlled environment. While calf accommodation needs to be light, airy and well ventilated. The building as extended is for general purpose use rather than the specialist uses identified. Neither of the proposed uses is well-suited to the building without significant alteration.

Enforcement Decision

The development which is the subject of this application was the subject of an Enforcement Appeal which has recently been determined. While the appeal was dismissed on grounds (a) and (g). The requirements of the notice to demolish the unauthorised extensions was considered to be excessive and lesser requirements would remedy this breach. As such, the appeal was allowed on ground (f) and the wording of the Enforcement Notice has been varied. The wording of the Notice now includes other alternative measures which the appellant must comply with. These requirements are for the appellant to:

1. Remove all plant, equipment, machinery, materials and fixtures which are not directly related to the agricultural use of Buildings A and B.
2. Cease using Buildings A and B for any other use other than the approved and lawful uses related to agriculture at Top End Farm.
3. Remove all waste materials from Buildings A and B and the surrounding land left as a result of the previous unauthorised concrete panel/component manufacturing process in Buildings A and B.

Therefore the extensions that are the subject of this application can be retained providing that they are used for the lawful use of Top End Farm (agriculture). It is clear that these extensions can therefore be retained as long as they are used for agriculture whether they are required as essential or not.

Summary of Principle

By virtue of the Appeal Decision the retention of the extensions for agricultural purposes is allowed. To refuse the application would contradict the appeal decision, and would therefore be considered unreasonable.

Impact on Character, Appearance and Openness of Green Belt

Agricultural operations within the Green Belt are appropriate. It is considered that the retention of these extensions for agricultural purposes is appropriate development in the Green Belt and are acceptable. The Inspector considered that:

“Although the extensions will still have a noticeable visible impact on the openness of the Green Belt, the agricultural use would be appropriate in Green Belt term. The larger extensions relate more closely to the other farm buildings and in my view the impact on openness would, in any case, be outweighed by the advantages of the agricultural use”

Impact on the Amenity of adjacent properties

The nearest non-farm residential property is sited 230m to the west of the farming complex opposite the access drive to the farm. This property is of sufficient distance away from the application proposals not to be affected by loss of daylight or overbearing. While there may be an increase of farm traffic to and from the site this is the established/authorised use of the complex which is appropriate to its rural location and it would be unreasonable to refuse the application on noise and disturbance grounds.

Concern has been raised with regards to dust generated from the site. It is not clear whether this is created from the authorised farm traffic or traffic relating to the unauthorised activities at the site. No objections have been received from Environmental Health with regard to the application proposals.

Impact on Highway Safety

There would be no alterations to the site access which is considered to be satisfactory for the existing authorised use.

It should also be noted that there could be a significant change in the nature of the agricultural operation which falls under the definition of agriculture which could change the frequency and type of vehicles visiting the site. In such circumstances the LPA would have no control over vehicular movements.

Those comments made by Cheshire East Councils Highways Authority by way of e-mail and which have been used as objection to this agricultural operation are not relevant. Those comments relate to a business use and not authorised agricultural use of the site. While there may potentially be an increase in farming traffic to and from the site this would be related to the established use.

The recent Inspectors decision states that:

“Whilst noting the concerns and the questions raised by nearby residents, I do not consider that the use of the extensions for agricultural purpose, (unlike the concrete manufacturing use) will have any unacceptable impact on their living conditions or highway safety matters”.

Given the lawful use of the site it is considered that there are no reasons to sustain a refusal of this application on highways grounds.

11. CONCLUSIONS

The application proposals are for the retention of unauthorised extensions to an agricultural building on a farming complex which is located within the Green Belt. A recent Enforcement Appeal relating to these extensions has allowed the retention of these extensions provided that they are to be used for the agricultural operations of Top End Farm. In the light of this the proposed extensions are acceptable. The proposed development would therefore be in compliance with Policies, NE.1 (Development in the Green Belt), NE.2 (Open Countryside), NE.14 (Agricultural Buildings Requiring Planning Permission), BE.1 (Amenity), BE.2 (Design Standards) and BE.3 (Parking and Access) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the NPPF.

12. RECOMMENDATIONS

Approve subject to conditions

- 1) Agricultural operation to begin within 6 months of the date of this permission (in line with Enforcement Notice).**
- 2) Approved Plans**
- 3) To be used for agricultural purposes of Top End Farm only and not to be used for any other commercial operation**

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