

Application No: 14/0775N

Location: Coole Acres, COOLE LANE, NEWHALL, CW5 8AY

Proposal: Variation of Condition 18 (retention of dwelling and business for further 3 years) on approval 09/0819N - Change of use from agriculture to fish rearing and angling centre and formation of ponds and lakes, erection of buildings (including temporary dwelling) and provision of access and parking

Applicant: The Reilly & Seipp Partnership

Expiry Date: 09-May-2014

SUMMARY

It is not considered that there is an essential need for the temporary dwelling or the business facility (which the applicant has already stated is no longer in use). Although requested from the applicant, no accounts have been provided for the rural enterprise on this site to prove that it is still in operation and is financially sound. The development would be contrary to Policies NE.2 and RES.5 and guidance contained within the NPPF.

RECOMMENDATION

Refuse

PROPOSAL

Planning application 09/0819N granted approval for the following:

- Change of use of the site from agriculture to a fish rearing and angling centre which includes the construction of ponds and lakes together with the erection of buildings.
- Four polytunnels
- A hatchery building
- A mobile home and business facility
- Six fish rearing pools
- A small toilet block, internal access road and car park.
- A new watercourse, reed beds and nature conservation ponds

This application seeks consent for the vary Condition 18 attached to planning permission 09/0819N to allow the retention of the temporary agricultural workers dwelling and business facility for a further three years. This condition states that:

The temporary agricultural workers dwelling and business facility hereby permitted is acceptable for a temporary period only. It shall be removed and the site returned to its former condition (grass) on or before 22nd February 2013 unless in the meantime a further application has been submitted to and approved by the Local Planning Authority. The land shall be restored in accordance with a scheme of work submitted to and approved by the Local Planning Authority.

Reason: To enable continued control and appraisal of the development proposed having regard to the particular circumstances and nature of the proposal and in accordance with Policies NE.2 (Open Countryside) and RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and PPS7 (Sustainable Development in Rural Areas).

SITE DESCRIPTION

The site comprises an existing fishery which includes a number of lakes and associated timber buildings within the open countryside as defined by Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011. A number of trees are scattered within the site and along its boundaries. The north eastern boundary of the site is adjoined by a small stream and is demarcated by a simple post and wire fence. To the south west of the site there is a two storey brick dwelling at Pinnacle Farm. The boundaries with this property also comprise post and rail fencing. To the east the site is adjoined by a dismantled railway line and is defined by a mature hedgerow boundary. Further to the east is the Shropshire Union canal which is partly within an embankment. Access from the site is taken via a field gate onto Coole Lane.

RELEVANT HISTORY

09/0819N - Change of Use From Agriculture to Fish Rearing and Angling Centre and Formation of Ponds and Lakes, Erection of Buildings (including temporary dwelling) and Provision of Access and Parking – Approved 11th March 2010

POLICIES

Development Plan policies

Local Plan policy

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which identifies that the site is within the open Countryside

The relevant Saved Policies are:

NE.2 – Open Countryside

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

RES.5 – Housing in the Open Countryside

National Policy

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs:

- 14. Presumption in favour of sustainable development
- 28. Supporting a prosperous rural economy
- 50. Wide choice of quality homes
- 55. Housing in rural areas

National Planning Policy Framework

Other Material Planning Considerations

Planning for Growth

CONSULTATIONS (External to Planning)

Environment Agency: No comments to make.

REPRESENTATIONS

Letters of objection have been received from 4 local households raising the following points:

- The application is a year late
- The conditions attached to the original permission have not been adhered to
- The spoil on the site has not been distributed across the site and this has created an unsightly mound of soil
- Question the viability of the business as there are rarely signs that the lakes are being fished
- The entrance to the site appears unkept and needs to be maintained
- Retail sales taking place on this site
- The site is a failing business
- 3 years should only be granted for 3 years following the lapse of condition
- There were original concerns over the viability of the business
- How many times can the temporary permission be extended?

An e-mail has been received from Cllr Rachel Bailey raising the following points:

- I completely endorse the comments submitted by Messrs Brassington and Sullivan. You will recall I expressed concern about this application in the first instance and sadly I believe I have been proved right. The site is untidy, there is no active marketing and I too question whether there is any production of fish at the site, nor likely to be in view of brine.
- This proposal benefitted from an RDPE start up grant and in any figures justifying a permanent dwelling we need to be sure that they are not manipulated.

PARISH/TOWN COUNCIL

Sound & District Parish Council: Have no representations to make.

Newhall Parish Council: Have no representations to make.

APPRAISAL

Principle of Development

The principle of the fishery development has already been accepted following the approval of application 09/0819N. This application relates for the retention of the existing temporary dwelling and business facility for a further 3 years.

The site lies within the open countryside as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Paragraph 55 of the NPPF details that isolated new homes in the countryside should not be permitted unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

Policy NE.2 of the Local Plan details that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Policy RES.5 details that within the open countryside, new dwellings will be limited to those required for a rural worker and provides the criteria against which such application should be assessed. These policies are considered to be consistent with the framework and therefore appropriate weight should be attached to them.

It is considered that the key issues with regards to the determination of this application relate to the essential need for the dwelling and the impact of the development upon the open countryside.

Although now cancelled the advice contained within PPS7, specifically Annex 1, states that agricultural workers will be expected to live in nearby defined settlements unless there is an **essential** need to have a worker readily available on site to secure the viability of the enterprise. Whether it is essential to have a worker available on site is based on the needs of the enterprise and not the preference of the individual. Permanent agricultural dwellings would need to satisfy the functional and financial tests in order to prove that the dwelling is essential. It is therefore considered that it is necessary in this case to consider the functional and financial tests.

Essential functional need for a dwelling on this site

The functional test for a dwelling on this site was considered as part of the original approval as part of application 09/0819N. As part of this application it was stated that the mobile home was required to allow for biosecurity, 24 hour management of the facilities and also to prevent vandalism and theft. There were no other buildings on the site that could provide alternative accommodation to that proposed and the applicant referred to the prohibitive costs of existing dwellings in the locality. It was also stated that the fish species reared at the site would be valuable and that as a result it was reasonable to require substantial security for the site. A rapid response is required to monitor the equipment and deal with common problems such as predators and to monitor oxygen and water levels in the ponds. The operation of the angling uses may have required an on-site presence due to the hours of use which will include night time fishing. It was considered that the proposed development would be very labour intensive and that a key worker should be readily available on the site at all times and the functional test was met.

The supporting information within this application implies that the temporary dwelling would still meet the same essential functional need of the business and as such it is considered that this test has been met.

However at the time of the case officers site visit the applicant stated that the business facility building was no longer in use and there is no justification for the retention of the business facility on this site as part of this application. As such it is considered that there is no longer a functional need for the business facility building on this site.

Essential financial justification for a dwelling on this site

The test of financial soundness is central to the policy for the essential need for rural workers dwellings.

There is no definition of financial soundness or viability in planning guidance. However, normal economic assessments of any business would expect a financial performance which provided a reasonable return on the resources deployed in it, notably land, labour and capital and a stable relationship between its current assets and liabilities.

As part of this application the case officer has requested details of the accounts for this rural enterprise on a number of occasions both via e-mail and verbally. On two occasions in April 2014 and March 2015 the agent for the applicant responded to say that copies of the accounts for the enterprise would be provided.

However no such information has been provided and as such there is no evidence to demonstrate that the business is financially sound and that there is an essential need for the temporary dwelling or business facility to serve this rural enterprise. This issue will form a reason for refusal.

Impact upon the open countryside

In the absence of a proven essential need for the dwelling, the retention of the dwelling in the open countryside would be unacceptable in principle and erode the appearance of the area by retaining the mobile home in this rural area. Without justification, the proposal is considered to be contrary to Policy NE.2 of the Local Plan.

Amenity

The nearest residential property is a considerable distance from the business facility and temporary dwellings. Given the separation distance it is not considered that there would be a detrimental impact upon residential amenity.

Highways

It is not considered that the retention of the dwelling or business facility would raise any highways implications over and above the approved scheme.

CONCLUSIONS

Despite a number of requests by the case officer no accounts have been provided for the rural enterprise on this site to prove that it is still in operation and is financially sound. As such it is not considered that there is an essential need for the temporary dwelling or the business facility (which the applicant has already stated is no longer in use). To allow the development would be contrary to Policies NE.2 and RES.5 and guidance contained within the NPPF.

RECOMMENDATIONS

REFUSE:

1. No audited accounts have been submitted in support of this application to demonstrate that the temporary dwelling and business facility are essential to serve this rural enterprise and to serve an essential need for a rural worker to live permanently at their place of work. As such the proposal would be harmful to the open countryside and contrary to the guidance contained within Policies NE.2 (Open Countryside) and RES.5 (Housing in the Open Countryside) and guidance contained within the NPPF.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

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