

Application No: 16/5465N

Location: Old Dairy House Farm, BATHERTON LANE, BATHERTON, CW5 7QH

Proposal: Conversion of redundant agricultural buildings to three dwellings, erection of garages and associated works.

Applicant: Cheshire East Council, Cheshire Farms Service

Expiry Date: 06-Mar-2017

SUMMARY RECOMMENDATION:

The application seeks full planning permission for the conversion of existing barns to form three dwellings, together with the construction of garages and associated works.

The key site planning issues have been determined to be the impact on the character and setting of the listed building and the open countryside, residential amenity of adjoining property, drainage, flood risk, the impact on protected trees and highway safety. All of these issues are considered to be satisfactorily addressed.

It is concluded that the proposal is in general accordance with the relevant policies of the Development Plan. It is clearly demonstrated that the minor adverse impacts of the development do not outweigh the benefits. In accordance with guidance in the NPPF planning permission should be granted subject to the recommended conditions

RECOMMENDATION

APPROVE subject to the imposition of planning conditions

REASONS FOR REFERRAL

This application has been referred to Southern Planning Committee at the request of Cllr Martin for the following reasons;

1. *The application is technically inchoate, given the scope of additional information required the application should be either refused outright or called in.*
2. *The highway concerns are many:*
 - i. *Previous applications for additional residential development along Batherton lane have been refused and dismissed on appeal on highway grounds*

- ii. *The proposal is contrary to Policy BE3 of the Cree and Nantwich Local Plan, relating to the provision of safe access and egress arrangements*
 - iii. *The proposal is unacceptable in highway terms as it is contrary to the provisions of the NPPF particularly the substandard nature of the Audlem Road junction*
3. *Given the concerns in relation to the scale and design of the proposed development and highway safety concerns, it is deemed to fall foul of the tests laid out in the NPPF and therefore should be refused outright or called in.*

DETAILS OF PROPOSAL

The proposed development comprises the conversion of a redundant agricultural building to form 3 four-bedroom residential dwellings. In addition three double garages are proposed (in two blocks), and several utilitarian farm buildings are to be demolished.

DESCRIPTION OF SITE AND CONTEXT

The Old Dairy Farm farmhouse is situated at the end of Batherton Lane, a no-through road off Audlem Road (A529) 1km to the south of Nantwich. The late seventeenth century structure is a Grade II Listed Building and is also known as Batherton Dairy House.

The farmhouse faces adjacent sites in separate ownership, the New Dairy House Farm (also known as Batherton Farm) and the Barn (a residential conversion dating back to 1989). Together these form a small residential enclave, separated from the farm by a 1.8 metre-high close boarded fence.

The farmyard consists of two broad elements: modern cattle sheds positioned along a linear concrete yard, and a long two-storey brick range, a building of some substance and distinction. It is the latter building which is the subject of this planning application.

Planning History

17/0083N Listed building consent for conversion scheme – Application undetermined

16/1232N Proposed Change of Use of Redundant Agricultural Buildings to Six Residential Dwellings - Withdrawn March 2016

There have been refusals of planning permission on highway grounds for applications involving new development on Batherton Lane, notably P06/1219 for 1 dwelling at the northern end, appeal dismissed July 2006.

POLICIES

National Planning Policy Framework

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
56-68 Requiring good design
126-131 Conserving and Enhancing the Heritage Asset

Crewe and Nantwich Replacement Local Plan 2011

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside

NE. 2 Open Countryside
NE.5 Nature Conservation and Habitats
NE.9 Protected Species
NE.16 Re-use of a Rural Building for Residential Use
BE.1 Amenity
BE.2 Design
BE.3 Access and Parking
BE.4 Drainage, Utilities and Resources
BE.5 Infrastructure
BE.9 Listed Buildings- alterations
BE10 Listed buildings- changes of use
TRAN.9 Parking Standards

Cheshire East Local Plan- Proposed Changes Version

The following are considered relevant material considerations as indications of the emerging strategy

PG 5 - Open Countryside
SD 2 - Sustainable Development
SE 1 – Design
SE7 - Historic Environment
EG2 - Rural economy

Stapeley and Batherton Neighbourhood Plan (Consultation Draft – Regulation 14 Stage)

GS6 Extensions and alterations
GS8 Re-use of agricultural buildings
GS11 Biodiversity
T1 General Transport considerations
T4 Footpaths, Cyclepaths and Bridleways
C4 Use of Rural Buildings
H1.4 Conversion of buildings to residential

Material Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

CONSULTATIONS (External to Planning)

Environmental Health: Recommend conditions and informatives regarding construction works and contamination

Head of Strategic Infrastructure: No objections subject to conditions

CEC Archaeology: Recommend a condition

Stapeley & District Parish Council: No comments received

REPRESENTATIONS

Objections have been received from the occupiers of three properties, the full representations are available to view on the application file. The objections can be summarised as follows:

- No assessment made of alternative uses under policy NE16
- The site cannot be accessed safely on foot or by car due to substandard layout on Batherton lane and the junction with Audlem Road.
- Adverse impact on highway safety
- Adverse impact on heritage assets and the setting of the listed building contrary to policy BE9.
- Adverse impact on nature conservation and protected species contrary to NE5.
- Adverse impact on residential, amenity through overlooking, noise and amenity impacts.
- Design does not reflect the character and form of the surroundings
- Scheme does not include drainage information and proposal would be contrary to policy BE5.
- Further information required to assess contamination of site.
- Over-development of site.
- Inadequate details of vehicle parking
- Proposal should be refused for highways, heritage, residential amenity, design and over-development grounds.

OFFICER APPRAISAL

Principle of Development

As the site falls within the Open Countryside, and is subject to Policy NE.2 of the Local Plan. Policy NE.2 advises 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.

As the residential conversion of a rural building is not referred to directly within this policy, it needs to be established whether the development would fall into 'other uses appropriate to a rural area'.

Residential conversion of rural buildings

Policy NE.16 of the Local Plan advises that planning permission will not be granted to re-use and adapt a rural building for residential purposes unless it meets a number of criteria.

Paragraph 215 of the NPPF advises that ‘...due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework...’

As the policy requirements of Policy NE.16 regarding the residential re-use of rural buildings are not referred to in the NPPF, Policy NE.16 of the Local Plan is no longer directly relevant for the purposes of this assessment. The residential re-use of this building is therefore considered to be acceptable in principle subject to its impact upon the intrinsic character and beauty of the countryside, its design, impact upon local amenity, highway safety and impact upon protected species.

In this case it should be noted that the NPPF supports the conversion of rural buildings the core principles’ state that planning should *‘encourage the reuse of existing resources including the conversion of existing buildings’*.

The proposal is not in conflict with the draft Stapeley and Batherton Neighbourhood Plan, and it should be noted that the policies are in draft form only at this stage. In this case Policy H1.4 of the draft NP allows for the re-use, conversion and adaptation of permanent, structurally sound rural buildings of substantial construction, subject to the use being appropriate to the location, the conversion respecting the character of the buildings, and suitable access and car parking.

Open Countryside

Although the specific policy aspects of barn conversions are no longer referred to in the NPPF, the ‘intrinsic character and beauty of the countryside’ is. As such, the local plan Open Countryside policy is still considered to still be relevant with regards to visual amenity in this regard.

The proposed development would involve conversion of the existing rural building and the proposed residential curtilage would utilise existing yard area / natural boundary of the existing site, as such, these aspects of the proposal would not create any additional impact upon the character and appearance of the open countryside..

The proposal will not create any significant landscape issues. It will provide for the retention of the listed buildings in a viable use, and is therefore supported by policy BE.10 of the Crewe and Nantwich Local Plan.

Subject to details of boundary treatments and tree protection with appropriate new tree and hedge planting to be secured as part of a landscape scheme the appearance of the site would be considered acceptable.

As such, it is not considered that the proposed development would have a detrimental impact upon the character or openness of the countryside and would therefore adhere to Policy NE.2 of the Local Plan and the NPPF.

Design

The NPPF states that whilst LPAs should not impose particular architectural styles on developers, it is good practice to reinforce local distinctiveness. The proposed conversions as submitted did include a large number of rooflights and some changes in fenestration which were unnecessary. Following discussions with the agent, the scheme has been amended to retain as much original building fabric as possible especially the roofs which are generally in good condition. The buildings as a result of the proposals will still be able to be read as previously being traditional agricultural barns forming part of a wider traditional farmstead. Therefore the proposals accord with policy set out in the NPPF and guidance set out in the Historic England document: The Conversion of Traditional Farm Buildings: A guide to good practice.

The proposed landscaping scheme is sympathetic to the sensitive historic setting, and boundary treatments are suitable and will not have a detrimental impact on the character of the area.

Listed Building and heritage

Batherton Dairy House former farmhouse is a Grade II listed building and these traditional pre 1948 buildings lie within its curtilage.

Policy BE.9 sets out detailed requirements for alterations to listed buildings. Schemes must respect the scale, design and features of the listed building, and must not detract from its special character.

Policy BE10 allows for changes of use of listed buildings providing the special architectural or historic interest is retained.

Batherton Dairy House former farmhouse is a Grade II listed building and this traditional pre 1948 buildings lies within its curtilage.

There was an earlier application for the conversion of this building into six units together with works to construct 10 garages and insert a glazed link between the existing pig sty's and convert them to a further residential unit.

This scheme involves works to convert two storey brick barn to 3 residential units with 3 detached garages.

Whilst the proposed works to convert the two storey brick barn will retain the existing openings and much of the internal layout, the original proposal to replace the existing multi paned glazing bar pattern of its windows with a simple vertical paned style is not acceptable and a condition is proposed to cover this point, by agreement with the agent.

Revisions have been made to address issues regarding windows, rooflights, rainwater goods, roof trusses and ventilation.

It is appreciated that there are now far fewer garages than in the previous application, and whilst open fronted garages would minimize their massing/presence, they are considered to be acceptable.

The revised proposals are considered to be acceptable and justified in terms of policies BE 9 and BE10 of the Crewe and Nantwich Local Plan and policy SE7 of the emerging Cheshire East Local Plan. They also comply with paragraph 131 of the NPPF as they will secure the viable use of a designated heritage asset consistent with its conservation.

Archaeology

The main barn is thought to date from the early 19th century. Although the buildings have already seen some alteration, the proposed conversion will still have an impact on the historic character and appearance of the buildings, and also result in the loss of historic fabric. The Cheshire Archaeology Planning Advisory Service would therefore recommend that should planning permission be granted for this, or any similar scheme, that the buildings be the subject of an archaeological record and that such works be secured by means of a condition.

Ecology

Bats

Evidence of bat activity in the form of a minor roost of four bat species has been recorded within the barns at this site. Three of the species present are common and widespread whilst the fourth is less common. The usage of the building by bats is likely to be limited to small-medium numbers of animals using the buildings for relatively short periods of time during the year and there is no evidence to suggest a significant maternity roost is present. The loss of the buildings on this site in the absence of mitigation is likely to have a medium impact upon on bats at the local level, due to the number of species present, and a low impact upon the conservation status of the individual species.

The submitted report recommends the installation of bat boxes on the nearby trees and a retained 'bat loft' as a means of compensating for the loss of the roost and also recommends the timing and supervision of the works to reduce the risk posed to any bats that may be present when the works are completed.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- **the development is of overriding public interest,**
- **there are no suitable alternatives and**
- **the favourable conservation status of the species will be maintained.**

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must consider the three tests in respect of the Habitats Directive. They are that:

- (i) there is no satisfactory alternative
- (ii) the development is of overriding public interest.
- (iii) the favourable conservation status of the species will be maintained.

Evidence of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, if there is:

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range
- a specified reason such as imperative, overriding public interest.

The UK implemented the EC Directive in The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection:

- a licensing system administered by Natural England which repeats the above tests
- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements.

Circular 6/2005 (dated 16 August 2005) advises LPAs that:

“It is essential that the presence of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”

Overriding Public Interest

The proposal would enable the retention of a listed range of buildings in a beneficial use which make a significant contribution to the heritage of the locality. The scheme would retain roosts for bats by mitigation measures. As such it is considered to be in the overriding public interest to facilitate its retention.

Alternatives

There is an alternative scenario that needs to be assessed. This is the retention of the buildings in their current state. The building could be altered as an agricultural building and become less and less suitable to support bats. Ultimately, this could result in the abandonment of the roost entirely.

Favourable Conservation Status

Appropriate mitigation should be secured if planning permission is granted. A comprehensive mitigation scheme has been proposed, in the form of a retaining the existing dwelling as a garage and store room, thereby avoiding unnecessary disturbance of the maternity roost. The Council’s Nature Conservation Officer is strongly supportive of this option.

If planning consent is granted a condition should be imposed requiring development to be carried out in accordance with the recommended bat mitigation proposals.

Barn owls

Evidence of past usage of the barns by barn owls has been recorded at this site. In the absence of mitigation the proposed development would result in the loss of an occasionally used roost. Occasionally used roosts can be important for this species. The applicant has proposed to install a barn owl box on site to compensate for the loss of the existing roost.

Conditions are required to ensure barn owls are appropriately safeguarded during the works and to ensure that an adequate level of compensatory roosting opportunities are provided.

Nesting Birds

If planning permission is granted a condition should be attached to safeguard nesting birds.

Amenity

The building adjoins an existing converted building with a predominantly blank elevation facing south-west. There would be no significant amenity issues arising from the development.

Noise

Noise from construction works can be addressed by means of planning conditions and informatives, as recommended by the Environmental Health officers.

Contamination

The application area has a history of agricultural use and therefore the land may be contaminated.

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site.

A site visit was undertaken with the agent during the previous application for the site (16/1232N), and it was noted that buildings and areas of hardstanding are present in areas of proposed residential gardens, and there is evidence of surface spillages of hydrocarbons in and adjacent to a shed on the south west of the site (possibly from vehicle/equipment storage and a possible former fuel tank). There was evidence of possible asbestos waste on the site, on the northern area, and there is also waste scattered in various places on the site. There may also have been a foot and mouth burial site in the vicinity.

Suitable conditions are required to safeguard public health in this regard.

Highways

Batherton Lane is a highway which can be used by all forms of traffic up to footpath 1 just east of the application site.

An application for 6 residential units was initially applied for via application 16/1232N but was objected to from Highways and subsequently withdrawn.

The concern with 16/1232N was the intensification of use of the vehicle access onto Audlem Road from Batherton Lane. This is a sub-standard access and the highway authority recommended to half the number of units. This application has followed on that recommendation. During its busiest hour the proposal for 3 units would generate just 2 or 3 two-way vehicle trips.

The proposal would not result in additional vehicle numbers using the Batherton Lane/Audlem Rd junction, and in addition would remove the large slowing moving agricultural vehicle movements from this junction.

It should be noted that minor safety improvements to the Batherton Lane/Audlem Road junction involving carriageway and junction markings are to be carried out as part of the development at 144 Audlem Road which is now under construction (13/1223N).

During this and the previous application, there have been comments on previous applications on Batherton Lane that have been refused due to inadequate access. These previous proposals on Batherton Lane have been for additional units which would result in additional vehicle trips. This proposal differs as it is for a change of use which will not have an impact as described above.

Vehicle passing areas have also been proposed, providing an additional benefit for existing and future users of Batherton Lane. However the submitted scheme is not considered to be sufficiently detailed, and does not address the issue of pedestrian safety. Therefore a condition requiring a more detailed scheme of improvements is required.

Overall it is considered that the proposal complies with policy BE3 of the Crewe and Nantwich Local Plan.

Drainage

The site is outside any known flood risk area and land is available for the provision of a private treatment scheme and soakaways. The applicant confirms that a suitable drainage scheme can be the subject of a planning condition.

CONCLUSIONS AND REASON(S) FOR THE DECISION

In conclusion it is considered that the scheme represents a viable alternative use for the redundant buildings and will retain their character as listed buildings. The proposal will not give rise to additional traffic movements over and above the previous agricultural use and would reduce heavy vehicle usage. The applicant has offered to provide passing bays along the lane within highway land, and a suitable scheme can be conditioned.

It is concluded that the proposal is in general accordance with the relevant policies of the Development Plan. It is clearly demonstrated that the minor adverse impacts of the development do not outweigh the benefits. In accordance with guidance in the NPPF planning permission should be granted subject to the recommended conditions

RECOMMENDATION

APPROVE subject to the following conditions:

- 1. Time (3 years)**
- 2. Plans**
- 3. Restoration and repair only**
- 4. Materials – Prior submission of facing, roofing and fenestration details**
- 5. New windows and doors to be timber with vertical boarding and with external metal braces**
- 6. Barn windows to be multi paned square glazing bar pattern with double/secondary glazing close behind**
- 6. Development to comply with Preliminary Ecological Appraisal dated 1st October 2015 prepared by Kingdom Ecology**
- 7. Nesting birds mitigation to be submitted and approved**
- 8. Breeding birds – timing of works**
- 9. Barn owl compensation strategy**
- 10 Further barn owl survey**
- 10. Landscaping (details) to be submitted and approved**
- 11. Landscaping (implementation)**
- 12. Boundary treatment to be submitted and approved**
- 13. Removal of PD**
- 14. Contaminated Land 1 Preliminary Risk Assessment**
- 15. Contaminated Land 2 Soil verification**
- 16. Contaminated Land 3 Unidentified contamination**
- 17. Scheme for provision of vehicular and pedestrian passing bays along Batherton lane. Passing bays to be provided prior to first occupation**
- 18. Dust emissions scheme**
- 19. Scheme of foul and surface water drainage**
- 20. Archaeological record**

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in her absence the Vice Chair) of the Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

