

PLANNING COMMITTEE – 26 July 2022

REFERENCE NUMBER: 22/00508/FL Application Expiry 7th July 2022
Date:

Application Type: Full Planning Permission

Proposal Description: **Section 73 application to remove condition 12 (removal of permitted development) pursuant to 97/00521/FL.**
At: **The Barn Corner Farm Main Road Higham Alfreton DE55 6EH**

For: **Mr Paul Cropper**

Third Party Reps: 1 Parish: Shirland And Higham Parish
Ward Name: Shirland Ward

Author of Report: Case Officer Aspbury Planning Ltd Date of Report: 11.07.2022

MAIN RECOMMENDATION: REFUSE



1.0 Reason for Report

- 1.1 The application has been called in by Councillor Shipman to consider the reason for removal of permitted development rights.

2.0 Proposal and Background

- 2.1 The proposal has been submitted as a s73 application to remove condition 12 under planning reference 97/00521/FL
- 2.2 Condition 12 states: Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order), no development falling within Schedule 2 Part 1, Classes A,B,C, D and E of such order shall be erected unless expressly authorised in writing by the Local Planning Authority.
- 2.3 The subject dwelling was formerly a barn in use as a workshop and was converted to a dwelling in 2000 under the above planning approval which also comprised the erection of a double garage, and alteration to the vehicular access on land to the rear of Corner Farm.
- 2.4 The site lies within the Higham Settlement Development Limits and the Higham Conservation Area.

3.0 Relevant Planning History

- 3.1 **97/00521/FL** Conversion of existing workshop to dwelling, erection of double garage, and alteration to vehicular access on land to the rear (Conservation Area)
Status: Subject to Section 106 Agreement
- 3.2 **12/00145/FLH** Construction of a detached double garage with store above and addition of 2 no dormer windows to existing dwelling (Conservation Area)
Status: Application Returned
- 3.3 **17/00842/FLH** Proposed Oak framed double garage with glass link to dwelling (Conservation Area) Status: Conditionally Approved
- 3.4 **19/00353/FLH** Application for 2no dormer windows with alterations to existing window heights and re-roofing with Solar PV roofing slates (Conservation Area)
Status: Refused
- 3.5 **19/00424/FLH** Application for 2no Velux windows and re-roofing with Solar PV roofing slates (Conservation Area) Status: Refused
- 3.6 **20/00031/FLH** Application to install ergosun integrated solar roof tiles (Conservation Area) Status: Refused

4.0 Consultation Responses

4.1 Councillor Shipman has requested that the application be heard by Planning Committee for the following reasons:-

- The reason for imposing the condition is vague and generic and it is not clear how the removal of permitted development rights is justified in this particular case.
- The NPPF makes clear that the removal of permitted development rights is rarely justified.
- There is nothing sufficiently unique or unusual about this site that justifies the removal of permitted development rights enjoyed by almost all other houses in England.
- Permitted development rights are constrained by limitations set out in the Order to ensure that the resulting developments are minor and uncontroversial. There are additional measures in the GPDO restricting permitted development rights in conservation areas.
- No clear evidence has been provided that this dwelling taking advantage of permitted development rights would cause greater planning harm than would be caused by any other house in the area making use of their permitted development rights.

4.2 The Ward Councillors have not commented.

4.3 Shirland Parish Council have not commented.

5.0 Representations

5.1 Three nearby neighbours were consulted by letter and a site notice posted outside of the site on the 10th June 2022. No representations have been received.

6.0 Relevant Policy and Strategic Context

6.1 The Development Plan comprises of the North East Derbyshire Local Plan 2014-2034. There is no Neighbourhood Plan for Shirland and Higham.

6.2 North East Derbyshire District Local Plan

- SS1 - Sustainable Development
- SS2 - Spatial Strategy and the Distribution of Development
- SS7 - Development on Unallocated Land within Settlements with defined Settlement Development Limits
- LC5 - Residential Extensions
- SDC12 - High quality Design and Place-Making
- SDC5 - Development within Conservation Areas

6.3 National Planning Policy Framework

The revised National Planning Policy Framework was published on 20 July 2021 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in July 2012, 2018 and 2019. At the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development that give rise to the need for the planning system to perform a number of roles; which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives) which include support economic, social and environmental objectives.

6.4 To promote sustainable development, the NPPF advises that these are objectives that should be delivered through Development Plans and the Framework. They are not criteria's to adjudge planning applications against, that is the role of development plan policies which should play an active role in guiding development towards sustainable solutions taking into account local circumstances, to reflect the character, needs and opportunities of each area.

6.5 Paragraph 54 states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

6.6 Paragraph 55 of the NPPF states that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

6.7 Chapters of relevance are:
Chapter 4. Decision-making
Chapter 12. Achieving well-designed places
Chapter 16. Conserving and enhancing the historic environment

6.8 Other SPD's

- Successful Places Interim Design Guide
- Historic England. Adapting Traditional Farm Buildings. Best Practice Guidelines for Adaptive Reuse

7.0 **Planning Issues**

7.1 The principle of residential development has been accepted with the grant of planning permission under planning reference 97/00521/FL.

7.2 The proposal lies within the Settlement Development Limits (SDL) for Higham which is defined within the Local Plan settlement Hierarchy as a Level 3 village with limited sustainability.

- 7.3** Local Plan policies SS1 and SDC5 seek to ensure that proposals protect and enhance the character, quality and settings of towns and villages and heritage assets. In regard to design Local Plan policies SS7 and SDC12 seek to ensure that proposals are appropriate in scale, design and location to the character and function of the settlement and are in keeping with the surrounding area.
- 7.4** The dwelling is a former barn that was used as a workshop, once forming part of the farmstead known as Corner Farm. The site is located close to the junction of Main Road with Chesterfield Road, in the northern part of the village and Conservation Area. There are several listed buildings to the north and south of the site along Main Road, none of which are directly affected by the proposal. The site is also covered by DCC Tree Preservation Order no. 31.
- 7.5** The main consideration is the impact on the site, it's surroundings, and the Conservation Area of any future development under the specified classes of the Permitted Development Order, should the restriction on such development be removed, and whether there is clear justification for the restriction of national permitted development rights.



Fig 1 – south and west elevations



Fig 2 East elevation

Impact upon the site and character of the area.

- 7.6** The reason for the condition as stated on the decision notice is: To preserve the character and appearance of the building. This accords with the aims of policies SS1, SS7, SDC5 and SDC12 of the North East Derbyshire Local Plan 2014 – 2034.
- 7.7** The site is located within the designated conservation area for Higham, and is therefore considered as a heritage asset.
- 7.8** The building is part of a former traditional farmstead, which forms part of the historic environment, and as such is considered to be of greater significance than many of the dwellings within the same Conservation Area.
- 7.9** The Historic England Guidance on adapting traditional farm buildings seeks to explain how the significance of historic farm buildings can be retained and enhanced through well-informed maintenance and sympathetic development.
- 7.10** Paragraph 4.2 of the Historic England guidance states that: The acceptability of adaptation proposals is determined according to the principles set out in the National Planning Policy Framework (NPPF) and the local planning authority's Local Plan, which should take into account the historical significance, character, layout and location of buildings and their contribution to the landscape.

- 7.11** It goes on to state that: Planning permission and listed building consent are the responsibility of the local planning authority. The planning authority may attach conditions to the planning consent. The planning authority may also seek to control post-adaptation works by the withdrawal of permitted development rights and the use of Article 4 directions to control any curtilage development and to protect the setting in sensitive locations.
- 7.12** Protection of the historic character of the farm building and its setting is an important ongoing factor following conversion of the building to a dwelling. Domestic extensions such as porches and dormer windows, and some outbuildings can be alien in character, and may not work successfully within the context of historic farm buildings. However, a carefully designed extension or new structure might be considered alongside a farm building if this will safeguard the significance of the main structure.
- 7.13** The restriction on certain Permitted Development Rights allows the Local Planning authority to retain control over future additions and alterations on the site, by ensuring that consideration can be given to development proposals. This approach also offer consistency across the Conservation Area and the District. A balanced judgement can then be made, having regard to the scale of any harm in relation to the significance of the heritage asset, in accordance with Chapter 16 of the NPPF, and policies SS1, SS7, SDC5 and SDC12 of the North East Derbyshire Local Plan 2014 – 2034.
- 7.14** The agent in their planning statement have provided an example of an appeal that was allowed within the District and where the Inspector judged that the removal of PD in that instance was not justified. Officers don't consider that the appeal is comparable as it relates to 5 new build houses within an SDL; whereas this is a converted barn within a designated Conservation Area. It is considered in this case that there is clear justification why permitted development should be removed.

8.0 Summary and Conclusion

- 8.1** The proposal seeks to remove a condition allowing the LPA to consider certain developments which may impact a designated heritage asset, by applying a balanced assessment according to the level of harm and the significance of the heritage asset. This accords with the aims of policies SS1, SS7, SDC5 and SDC12 of the Adopted North East Derbyshire Local Plan.
- 8.2** For the reasons outlined in this report, it is considered that the condition is reasonable and justified in accordance with the guidance relating to planning conditions and obligations contained within Chapter 4 of the NPPF.

9.0 Recommendation

- 9.1** That the application to remove condition 12 be refused for the following reason.

Reason for Refusal

The removal of the permitted development rights described under condition 12 of planning permission NED/97/00521/FL relates to a former barn and workshop which has been converted to a residential dwelling. The building lies within the Higham Conservation Area and is part of a former traditional farmstead, which forms part of the historic environment, and is considered to be of significance within the Higham Conservation Area.

The removal of the permitted development rights remain justified in order for the Local Planning Authority to retain control of any additions to the building ensuring the continuing protection of the historic character of this former farm building and its setting within the Conservation Area. To grant permission for the removal of this condition would be contrary to policies LC5, SDC5 and SDC12 of the North East Derbyshire Local Plan.