
Appeal Decisions

Site visit made on 15 August 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30th August 2017

Appeal A Ref: APP/J1535/W/17/3173778

The Coach House, Willingale Road, Fyfield, Ongar, CM5 0PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Robert Smith against Epping Forest District Council.
 - The application Ref EPF/3411/16 is dated 23 December 2016.
 - The development proposed is conversion of barn to residential dwelling.
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Appeal B Ref: APP/J1535/Y/17/3173776

The Coach House, Willingale Road, Fyfield, Ongar, CM5 0PY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr Robert Smith against Epping Forest District Council.
 - The application Ref EPF/0002/17 is dated 23 December 2016.
 - The works proposed are conversion of barn to residential dwelling.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the conversion of barn to residential dwelling at The Coach House, Willingale Road, Fyfield, Ongar, CM5 0PY in accordance with the terms of the application, Ref EPF/3411/16, dated 23 December 2016, subject to the conditions set out in Appendix A.

Appeal B

2. The appeal is allowed and listed building consent is granted for the conversion of barn to residential dwelling at The Coach House, Willingale Road, Fyfield, Ongar, CM5 0PY in accordance with the terms of the application Ref EPF/0002/17 dated 23 December 2016 subject to the conditions set out in Appendix B.

Procedural Matter

3. This decision letter considers two appeals consisting of the same scheme for the same site. Appeal A relates to planning permission and Appeal B to listed building consent. The local planning authority failed to give notice within the prescribed period. However, the Council has indicated in its Written Statement dated 24 July 2017 that were it in a position to do so, it would have refused planning permission for the following reason:

- *The site is located within land designated as Metropolitan Green Belt where there is presumption against inappropriate development. The proposed extensions to an existing barn and reuse as a residential dwelling does not fall within the forms of development listed in either paragraphs 89 or 90 of the NPPF which are exceptions to inappropriate development. The proposal is therefore by definition inappropriate development. No very special circumstances or other considerations have been advanced that would outweigh the harm caused by the inappropriateness and the other harm identified, and the development would therefore conflict with Chapter 9 of the National Planning Policy Framework and Policy GB2A of the Combined Policies of Epping Forest District Local Plan and alterations 2008.*
4. With regard to listed building consent the Council concluded that:
- *The proposal will preserve the special architectural and historical interest of the Grade II dwelling house. It is therefore subject to conditions considered to accord with national and local policy. Had an appeal against the non-determination of the application not been lodged the Local Planning Authority would have granted listed building Consent subject to Conditions.*
5. I have taken these putative reasons into account in forming the main issues as I see them.

Main Issues

6. The main parties agree that the appeal site is located within the Green Belt. As such, the main issues are:
- Whether the proposed development is inappropriate development in the Green Belt for the purposes of the *National Planning Policy Framework* and the adopted Development Plan, and;
 - Whether the proposed works would preserve the listed building, or its setting, or any features of special architectural or historic interest it possesses.

Reasons

Whether inappropriate development

7. The *National Planning Policy Framework* (the Framework) sets out national policy on Green Belts, and is an important material consideration. The Government attaches great importance to Green Belts. Paragraph 87 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. In local policy terms, the Green Belt policies of the Framework are broadly reflected in Policy GB2A and Policy GB8A of the *Epping Forest District Local Plan 1998 – Local Plan Alterations Adopted July 2006* (LP). In particular, Policy GB8A refers to the change of use or adaptations of buildings provided a number of criteria are met. This includes that the building is of permanent and substantial construction and that the use would not have a materially greater impact than the present use on the Green Belt and the purpose of including land in it.

9. Paragraphs 89 and 90 of the Framework indicate limited exceptions to inappropriate development. In terms of Paragraph 89 of the Framework, bullet point 3 permits the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
10. Neither the Policy GB8A nor the Framework indicates what 'disproportionate' means in practice; for example as a numeric figure. The proposal in this case seeks the erection of single storey extensions to the restored barn creating about 50sqm of floorspace. This would provide one bedroom and a living room area, as shown on the submitted drawings. The heights, depths, bulk and form of these extensions would not be dissimilar to the existing building.
11. The Council refer to the view that the change of use of buildings is only allowed where it does not increase the volume of the building. However, this position does not appear to be supported by any reference to volume or any other metrics within either Policy GB2A or Policy GB8A. It is clearly, therefore, for the decision-maker to come to a view as to whether the development would be disproportionate within the policy context.
12. In this case, I consider that for the above reasons, the extensions would be relatively modest in size and scale to the original building and in this respect should not be considered as disproportionate. Accordingly, the proposal would fall within the exception provided by bullet point 3 of Paragraph 89 of the Framework and not constitute inappropriate development. In such circumstances, it follows that the proposal would not erode openness nor be at odds with the purposes of Green Belt.
13. As such, in finding that the proposal would not be inappropriate development within the Green Belt, I conclude that the proposal would accord with Policies GB2A and GB8A of the LP, and the Policies of the Framework, in relation to Green Belt.

Listed building

14. As considered in the procedural matters, the Council would have approved listed building consent were it in a position to do so. Its Conservation Officer concluded that the design has now been revised to address concerns of an earlier scheme including aspects such as the retention of historic timbers as open stud walls. In exercising the statutory duty set out in Sections 16(2) and 66(1) of the PLBCA, and the desirability of preserving listed buildings and their settings, I see no reason to disagree with the conclusions of the Council's heritage experts.
15. Accordingly, I find that the proposal in respect of both Appeal A and Appeal B would satisfy the statutory tests of preserving the listed building. It would therefore accord with Policy HC10 and HC12 of the LP and the Policies of the Framework, which amongst other aims seek to conserve heritage assets.

Conditions

16. In considering the imposition of planning conditions and those suggested by both the Council and the Appellant, I have had regard to Paragraph 206 of the Framework and the national Planning Practice Guidance and the use of planning conditions.

17. In relation to Appeal A, a condition requiring the submission of an ecological survey is reasonable in order to protect any protected species on site. A condition relating to foul and surface water drainage is necessary in the interest of public health.
18. In terms of contaminated land, the Council have suggested a number of conditions. Given the possible impact on human health from such land, I consider that a condition is necessary however this could be worded to be more precise.
19. An archaeological condition is necessary given the groundworks involved for the extensions and to allow the recording of any findings of interest. The submission of a tree protection plan and Arboricultural method statement is necessary and reasonable in order to protect trees on or near to the site in accordance with Section 197 of the TCPA.
20. A condition removing permitted development rights in relation to Classes A, B, D and E of the General Permitted Development Order 2015, as amended, has been suggested. The Guidance advises that the removal of such rights should only be in exceptional circumstances. Given the location of the site within the Green Belt I consider that the proposal represents an exceptional case where the removal is proportionate. Whilst not suggested by the main parties, a condition requiring the submission of a landscaping scheme, which should include details of any boundary treatments proposed, would be reasonable in this case for similar reasons.
21. In relation to both appeals, conditions requiring the planning permission and listed building consent to be carried out in accordance with the submitted drawings and for samples of external finishes are necessary to provide certainty and to protect the designated heritage assets.

Overall Conclusion

22. I have found that the proposed development would not constitute inappropriate development in the Green Belt as defined by the adopted development plan and the Framework, as it would represent at least one of the exceptions. I have also found that the proposed works would not result in any harm to the listed building or its setting.
23. Accordingly, I find that the proposal would accord with the adopted development plan and there are no material considerations which indicate a decision otherwise.
24. For the reasons given above, I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

Appendix A – List of conditions 3173778

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PA16648/100, FP16648/101, PA166848/01, FP16648/02, 16/041 Rev A, Simon Pryce Arboricultural Report 16/041 dated 6 August 2016.
- 3) No development shall take place until samples of the materials and finishes to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 4) No development shall take place (including but not limited to demolition or site clearance), until a Preliminary Ecological Appraisal has been submitted to the local planning authority. Should the survey reveal the likely presence of any European Protected Species or any species protected by UK legislation such as the *Countryside and Wildlife Act 1981*, as amended, or the breeding sites or resting places for such species, then specific protected species surveys must be carried out by a suitably qualified ecologist. These surveys should be submitted to and approved in writing by the local planning authority.

Should the protected species survey reveal the presence of specific protected species or their breeding sites or resting places on the appeal site or likely to be directly affected by the development, a detailed mitigation strategy in accordance with guidelines available from Natural England (or other relevant body) should be submitted to the local planning authority. All works shall proceed in accordance with the approved strategy.
- 5) No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with such details.
- 6) No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan and Arboricultural Method Statement in accordance with BS:5837:2005 (Trees in relation to construction) or any subsequent replacement standard, has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved Tree Protection Plan and Arboricultural Method Statement.
- 7) No development shall commence until an assessment of the risks posed by any potential contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with *British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11)* (or equivalent British Standard and Model Procedures if

replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 8) If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 90 days of the report being completed and approved in writing by the local planning authority.
- 9) No groundworks of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved by the local planning authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any other Order revoking, further amending or re-enacting that Order) no development generally permitted by virtue of Classes A, B, D and E of Part 1 of Schedule 2 to the Order shall be undertaken without the prior written permission of the local planning authority.

Appendix B – List of conditions 3173776

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: PA16648/100, FP16648/101, PA166848/01, FP16648/02, 16/041 Rev A, Simon Pryce Arboricultural Report 16/041 dated 6 August 2016.
- 3) No works shall take place until samples of the materials and finishes to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the local planning authority. The works shall be constructed in accordance with the approved details.