



Appeal Decision

Site visit made on 7 July 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2020

Appeal Ref: APP/J1915/W/20/3244954

Eden House, Fanshaws Lane, Brickendon, Hertfordshire SG13 8PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Miss S Malik against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1957/FUL, dated 23 September 2019, was refused by notice dated 19 November 2019.
 - The development proposed is demolition of existing barns and their replacement with a new 3 bedroom dwelling with associated parking and access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. While the application form refers to the site location as on Fanshawes Lane, the Council's decision notice and the appeal form both refer instead to Fanshaws Lane. I have therefore used this spelling which is consistent with street signage at the junction with Brickendon lane in the banner heading above.
3. The Council's report on application reference 3/19/1957/FUL raised concerns that the demolition of the main barn on the site would result in the loss of a non-designated heritage asset, and that the development would not preserve or enhance the Brickendon Conservation Area (CA). In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. While not included as a reason for refusal of the application, the main parties have also had the opportunity to make further representations in respect of these matters and I am therefore satisfied that no party would be prejudiced by my consideration of them as part of my main issues below.

Main Issues

4. The appeal site is within the Green Belt. Accordingly, the main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt;
 - ii) the effect of the proposal on the openness of the Green Belt;
 - iii) the effect of the proposal on the character and appearance of the Brickendon CA, including with regard to the demolition of the main barn on the site, a non-designated heritage asset; and
 - iv) if the development would be inappropriate, whether the harm by

reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development in the Green Belt

5. The appeal site is located amongst a small cluster of buildings accessed from Fanshaws Lane and includes two single-storey barns, as well as a pond and areas of gravel and soft landscaping. The barns are positioned on either side of the gated access onto the site close to the boundary with the lane and comprise a wider main barn towards the western part of the site and a more modern barn with a sheet-metal roof towards the pond at the east. A mobile home is currently present to the rear of the site. The fairly dense woodland and open fields which surround the appeal site and nearby buildings results in a secluded and distinctly open and rural character to the area which is reinforced by the simple design and modest scale of the buildings on the site.
6. The main parties advise that planning permission has previously been granted on the site in 2016 for extension and conversion of the main barn to a dwelling¹, and subsequently in 2017 for the replacement of the more modern barn with a garage and 2 open-fronted car ports². The appeal before me proposes instead to replace the existing buildings with a dwelling on the north west part of the site.
7. Within the Green Belt, policy GBR1 of the East Herts District Plan 2018 (EHDP) outlines that applications will be considered in line with the provisions of the National Planning Policy Framework (the Framework). Paragraph 145 of the Framework identifies that, with certain exceptions, the construction of new buildings is inappropriate in the Green Belt. These exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
8. Both main parties indicate that works to extend and convert the main barn to a dwelling have commenced, although the building was in visibly poor condition and was clearly not in residential use at the time of my visit, and works to extend the building above ground level were not evident. I also saw no indication that works had commenced in relation to the permission for the replacement garage, and I do not know whether this permission remains extant. Notwithstanding the implementation of permission for conversion of the main barn to a dwelling, these factors cast doubt in my mind that the use of the existing barns has, in reality, been altered to residential. However, I recognise that the use of the buildings was not an issue raised by the Council and so may not have been fully addressed by the appellant.
9. Be that as it may, to be considered an exception to inappropriate development, the Framework also requires that a replacement building is not materially larger than the one it replaces. Although approval may have been given which would increase the area of buildings on the site, these are not currently present and I cannot be certain that they will be realised. I have therefore considered the replacement building against those to be replaced as they currently exist.

¹ Application reference 3/15/2476/FUL

² Application reference 3/17/0018/FUL

10. Notwithstanding some slight differences in the exact measurements referred to by the main parties, the evidence of both parties suggests that the main barn currently has an area of around 53sqm, that the more modern barn has an area of around 55sqm, and that the proposed dwelling would have an area of approximately 140sqm. While floor area is only one factor which affects whether a building is materially larger, on this basis, the dwelling would be significantly and materially larger than the area of the main barn at the west of the site as it currently exists.
11. Although I have not been provided with full details of the case, the appellant suggests with reference to a High Court judgement³ that there is no reason in principle why the exception for replacement buildings at paragraph 145 of the Framework cannot apply to a group of buildings as opposed to a single building. However, even taking the 2 existing buildings together, the development would result in an increase in floor area of around 32sqm or 30%. In addition, the dwelling would be of increased height than the existing buildings and would also extend the maximum depth of built form from the street frontage. In combination with the increase in floor area, these factors would in my view result in a dwelling materially larger than the currently existing buildings on the site.
12. Accordingly, even if I were to find that the replacement building would be in the same use, the development would not satisfy the requirements at paragraph 145 of the Framework. I therefore conclude that the proposal would constitute inappropriate development which the Framework states is, by definition, harmful to the Green Belt. This does not mean the potential fallback position under the previous approvals is not relevant, but it is something which should be more properly considered in the context of other considerations, and I return to this matter below.

Openness of the Green Belt

13. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and permanence. With regard to openness, the Planning Practice Guidance makes it clear that this has both a spatial and visual dimension⁴.
14. The width of the building along the access lane would be broadly comparable to the total combined width of the 2 existing buildings along this frontage. However, the spacing between the existing buildings breaks up their overall mass and visual impact. In contrast, the consolidation of the built form within a single building together with the increased height of this larger building would result in a greater overall bulk, taking up more space. Despite existing fencing to the frontage of the site, the increased dimensions of the dwelling would still be apparent and would increase the prominence of the development on the site, particularly in views along the access lane.
15. As a consequence, there would be a modest loss of openness in both spatial and visual terms which would cause harm to the Green Belt in addition to that already identified by reason of inappropriateness.

³ Tandridge District Council v Secretary of State for Communities and Local Government and Jason Syrett

⁴ Paragraph: 001 Reference ID: 64-001-20190722

Character and Appearance of the Brickendon CA

16. The appellant has not provided a formal assessment of the significance of heritage assets that may be affected by the development. However, in addition to the location of the site within the Brickendon CA, the Council indicate that the main barn was formerly an outbuilding associated with the nearby listed building of Fanshaws as part of the Long Leys site, although not within its curtilage. The appellant has not challenged the Council's description of the barn as a non-designated heritage asset, and I also note that the Brickendon Conservation Area Appraisal Plan 2 Management Plan (BCAMP) additionally highlights the barn as an 'unlisted building to be protected from demolition'.
17. The barn's simple design with a weatherboard exterior and a pantile roof reflects its rural location and historic use, and I find that the architectural interest of the building together with its historic interest in association with the listed building make a positive contribution to its significance. On this basis, I agree that it warrants consideration as a non-designated heritage asset within the Brickendon CA. Moreover, the modest scale of both existing buildings on the site retains a significant degree of openness, and I find that the simple design of the buildings, in keeping with the rural character and appearance of this area, further contributes positively to the significance of the CA.
18. The proposal would result in the total loss of the non-designated heritage asset main barn from the site. Although still single-storey, the replacement dwelling would be of greater height, size and overall bulk and mass than both existing buildings on the site. The proposal would also result in a single building of much greater width than the 2 existing buildings, set very close to the frontage of the site where it would be highly visible along the street frontage where it would be urbanising and would detract from the existing open appearance.
19. In addition, the proposed design of the building with extensive areas of glazing and external materials of white render and vertical metal sheet cladding would not reflect the traditional vernacular materials that I saw to other buildings nearby, and would be out of keeping in the rural area.
20. While I recognise the existing appearance of the main barn, for these reasons I find that the replacement dwelling would detract from the predominantly open and semi-rural character of the site, and would cause harm, rather than preserving or enhancing the CA. This harm would be in addition to the loss of the non-designated heritage asset barn.
21. The harm to the CA would be localised, and as such would be less than substantial in the terms of paragraph 196 of the Framework. Consequently, the harm should be balanced against the public benefits of the proposal. In accordance with paragraph 197 of the Framework, a balanced judgement is also required having regard to the loss of the main barn as a non-designated heritage asset and its significance. I return to these considerations in my planning balance below.

Other Considerations

22. The development would provide an additional dwelling, although this benefit would also be delivered should the existing barn be extended and converted to residential use in accordance with the existing permission. In any case, the contribution to the general supply of housing would be limited by the small

- scale of the development, and given these factors, I afford moderate weight to this public benefit of the proposal.
23. There is no dispute between the parties that works have commenced on the site to implement the conversion of the main barn to a dwelling. I am uncertain whether or not permission for replacement of the more modern barn with a garage and car ports remains extant. However, the Council have not suggested that there has been any material change in circumstances which mean that this would no longer be considered acceptable. I therefore consider that the previous approvals for development represent a fallback position which is an important material consideration.
24. There are some minor variations in the areas suggested for the buildings on the site by the main parties. However, even taking the appellant's figures, the proposed dwelling would have an area of only around 2sqm less than the total area of the 2 buildings approved under the earlier permissions.
25. Against this limited reduction in area, the evidence before me indicates that the dwelling would be of greater height than the approved buildings. In comparison to these approved buildings which would have spacing between them helping to break up their bulk and mass, the appeal proposal would also concentrate development within a single building. This would result in a wide expanse of continuous development along the site frontage and would increase the appearance of bulk. Notwithstanding the small reduction in floor area, I find that the appeal proposal would result in a building with an overall scale, bulk and mass that would be materially larger than the approved buildings, and that the visual impact of the building would increase appreciably in comparison to the fallback position. It would accordingly reduce openness and detract from the rural character and appearance of the site, and I cannot agree with the appellant that the proposed single building would improve openness.
26. I acknowledge that the extension and conversion of the main barn to a dwelling under the fallback position would entail significant works to the structure of the existing building. Nevertheless, the details before me indicate that materials would match the existing main barn. Its overall form and simple appearance would be largely retained externally, particularly in views along the street frontage. In contrast, the appeal proposal would result in the total loss of the non-designated heritage asset, and I have found that the design and materials of the dwelling would be urbanising and somewhat out of keeping with the area.
27. For these reasons, I find that the appeal proposal would cause greater harm to the openness of the Green Belt and the rural character and appearance of the CA than the fallback position under the earlier approvals. It would also result in the loss of a non-designated heritage asset which the BCAMP highlights should be protected from demolition. The fallback position does not therefore offer a direct comparison for the development, and notwithstanding a slight reduction in the floor area of the dwelling, does not weigh in favour of the proposal.
28. I acknowledge the existing condition of the main barn on the site and concerns that repairs and improvements to the access road are being delayed pending the completion of works on the appeal site. However, there is no firm evidence that the building's condition poses a significant risk, nor that the extant permission for its extension and conversion which would secure its future could

not be implemented in the absence of the appeal proposal. This limits the weight that I afford to these matters.

Other Matters

29. There are a number of mature trees near to the appeal site, including a large Oak to the front of the site between the proposed new access to the site and the dwelling. The Council advise that conditions suggested in the event that the appeal is allowed would enable suitable consideration of the impacts of development and safeguards to ensure the long-term retention of this tree and I have no reason from the information before me to reach an alternative view. However, this is a neutral factor and does not weigh in favour of the proposal.
30. The Council have not raised specific concern that the development would cause harm to the setting or significance of the nearby listed building. Given the separation of the appeal site and the nature of the development, I am satisfied that the proposal would have a broadly neutral impact, thus preserving the building and its setting in accordance with section 66(1) of the Act.

Planning Balance and Conclusion

31. Drawing matters together, the development would cause harm to the Green Belt by virtue of inappropriateness, and would cause some further modest harm to its openness. In accordance with the Framework, I give this harm substantial weight. The development would additionally cause harm to the character and appearance of the Brickendon CA. The harm to this designated heritage asset is a matter that attracts great weight having regard to paragraph 193 of the Framework and the statutory duty under section 72(1) of the Act. The loss of the non-designated heritage asset on the site further weighs against the proposal.
32. Against this, the provision of a dwelling would add to the supply of housing. However, this benefit would also be delivered by the potential fallback position. Given that I have found that the appeal proposal would result in greater harm to the Green Belt and to both designated and non-designated heritage assets than the fallback, this factor does not weigh in favour of the proposal.
33. I have also noted comments submitted in support of the proposal. However, I find that the other considerations, either individually or collectively, do not in this case clearly outweigh the harm that I have identified so as to amount to the very special circumstances necessary to justify the development in the Green Belt. Similarly, public benefits would not outweigh the harm to the CA as a designated heritage asset, nor the loss of the non-designated heritage asset.
34. The proposal would therefore conflict with the Framework. It would also conflict with Policy GBR1 of the EHLP, and there are no material considerations which would outweigh the conflict with the development plan. Accordingly, and for the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR