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## Appeal Decision

Site visit made on 9 September 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 October 2020**

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**Appeal Ref: APP/N5090/W/19/3243913**

**Leahurst Nursery, 36A Galley Lane, Barnet EN5 4AJ**

- 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 Mr Lyndon Osborn against the decision of the Council of the London Borough of Barnet.
  - The application Ref 19/2716/FUL, dated 13 May 2019, was refused by notice dated 9 July 2019.
  - The development proposed is described as: 'Conversion of garage to single dwellinghouse'.
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### Decision

1. The appeal is allowed, and planning permission is granted for the conversion of garage to single storey dwellinghouse; associated parking, amenity space and refuse and recycling area at Leahurst Nursery, 36A Galley Lane, Barnet EN5 4AJ in accordance with application Ref 19/2716/FUL, dated 13 May 2019, subject to the conditions listed in the attached schedule.

### Procedural Matters

2. For clarity and precision, I have taken the address in the banner heading from the appeal form and Council's decision notice. The description of development in the banner heading is taken from the application form. However, in my decision, I have taken the more detailed description from the Council's decision notice.

### Main Issue

3. The main issue on this appeal is whether the proposed development would be inappropriate development in the Green Belt.

### Reasons

4. The appeal site comprises a rectangular parcel of land. At its southern end is a single storey garage (the building), of commercial design, which is of timber construction with a profiled metal sheet roof, situated on a concrete base. The building comprises 3no. bays, with the middle bay housing a 2-post ramp. Double doors lead to each bay and face the existing area of hardstanding with the access to Galley Lane beyond. At the time of my visit, 3no. vehicles were parked on the land to the front of the building and a further 3no. vehicles were located inside the building. The 3no. vehicles outside were all under car covers, but 2no. vehicles were under poly tunnel styled car ports. Additionally, to the side of the building adjacent to the nursery access, various other items were stored such as a trailer, gas bottles and a skip.

5. It is proposed to convert the building to a dwelling and use the hardstanding to the front of the building as a parking area. Around the front, rear and side elevations would be a modest paved area, providing the outdoor amenity area for the proposed dwelling and refuse storage areas etc. The submitted Amenity and Landscaping Plan shows that the surface covering in this area would comprise of paving slabs. However, this excludes the area off the side elevation that faces the rear gardens of properties on Galley Lane.
6. Amongst the list of development that is defined in paragraph 145 g) of the National Planning Policy Framework (The Framework) as being not inappropriate in the Green Belt is "the partial or complete redevelopment of previously developed land...which would: not have a greater impact on the openness of the Green Belt than the existing development". Furthermore, paragraph 146 d) of the Framework states that the "re-use of buildings provided that the buildings are of permanent and substantial construction" is not development that is inappropriate in the Green Belt.
7. Policy DM15 of the Council's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) indicates that development proposals within the Green Belt will be assessed against national policy and any relevant Local Plan policies. DMP Policy DM15, along with Policies CS NPPF, CS1 and CS7 of the Council's Local Plan (Core Strategy) Development Plan Document 2012 (CS) are reflective of the requirements of the Framework. However, DMP Policy DM15 is more detailed in relation to Green Belt objectives, where I find DMP Policy DM15 v. of particular relevance in the determination of this appeal.
8. Whilst concerns have been raised in relation to the permanence of the building and its construction, there is very little evidence to support this assertion by the Council. My attention has been drawn by the appellant to the building occupying the site since 2006 and the construction methods detailed in the residential conversion. In the absence of substantive evidence to the contrary, I am satisfied that it has been demonstrated that there would be no need for major works to facilitate the conversion. Furthermore, the plans show that no extensions or exterior alterations are proposed that might affect the openness of the Green Belt.
9. Neither the Framework or DMP Policy DM15 makes specific reference to garden areas and parking associated with proposals for the re-use of existing buildings as dwellings. Both support the development, with certain caveats, and it is accepted that they therefore acknowledge gardens and parking would be included in such proposals. Whilst such features in a residential conversion could have an adverse effect on openness, I find in this case that the manner of the conversion, including the modest amount of outdoor amenity space around the building would not be materially different to the existing situation. This is particularly notable in respect of the existing hard standing to the front of the building that currently is used for storage as set out above and, as such, it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
10. Both main parties have drawn my attention to 2no. previous appeal decisions on the site, which were determined by different Inspectors. However, the first decision<sup>1</sup> relates to the erection of an agriculturally tied dwelling. The second

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<sup>1</sup> APP/N5090/W/16/3158426

decision<sup>2</sup> relates to the stationing of a mobile home for a temporary period of 3no. years. Therefore, I conclude that there are significant differences between these appeal proposals and that of the scheme before me, and both decisions illustrate that every proposal has to be considered on its own particular merits. Additionally, 'essential need' is not a decisive factor in the determination of the proposed development subject of this appeal. Therefore, I find little within these previous appeal decisions that would lead me to alter my conclusions in this case.

11. For these reasons, I find that the proposal would represent development that is not inappropriate development in the Green Belt, and that its openness would be preserved in accordance with the terms of CS Policies CS NPPF, CS1, CS7, DMP Policy DM15, Policy 7.16 of the London Plan 2016 and the requirements of the Framework.
12. As I have not found that Green Belt harm would arise in this case, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required to make the proposed development acceptable.

### **Other Matters**

13. Paragraph 79 of the Framework states that planning decisions should avoid the development of isolated homes in the countryside, subject to a list of criteria. However, whilst the appeal site is located within the Green Belt, it is very close to other dwellings on Galley Lane and is not so physically separate or remote from other development within Barnet as to be isolated for the purposes of the Framework. The criteria in Paragraph 79 therefore do not apply in this case, and do not represent a material consideration that would outweigh the relevant development plan policies.
14. Local residents and an MP have also expressed a wide range of concerns including, but not limited to the following; operation of the business; highway safety; residential amenity; character and appearance, crime and emergency service access, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of local residents and MP, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.
15. Additionally, I have had regard to the concerns of neighbouring occupiers, regarding the means of access and restrictive covenants. However, any ownership issues are a private matter between the relevant parties and not within my jurisdiction. Furthermore, both the Council and interested parties have made reference to the lawfulness of the building. However, this is not a matter for my consideration on this appeal.

### **Conditions**

16. The Council has suggested conditions which it considers would be appropriate in its submission. I have reviewed these in accordance with the tests set out in

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<sup>2</sup> APP/N5090/W/18/3199640

the Planning Practice Guidance (PPG) and have amended the wording where necessary in the interests of clarity and simplicity.

17. For certainty, it is necessary that there is a condition requiring that the development is carried out in accordance with the approved plans and that a pre-commencement condition is necessary to ensure the submission of details/sample of roof material and that other facing materials match those present in the original building.
18. Additionally, it is reasonable and necessary to impose a condition removing certain permitted development rights, for the installation of windows or any other openings in the side elevations of the proposed development to ensure the living conditions of neighbouring occupiers are satisfactorily maintained.
19. Conditions restricting the future use of permitted development rights rarely pass the test of necessity and should only be used in exceptional circumstances. Thus, whilst recognising the site constraints, I do agree, in the interests of the openness and purposes of the Green Belt that the restrictions as suggested are necessary. Conditions relating to external lighting and means of enclosure area also necessary to ensure that if any such features are installed they do not harm the Green Belt.
20. Conditions relating to the provision of cycle parking is necessary in the interest of providing sustainable methods of travel. A pre-commencement condition securing the submission of a Construction Method Statement is reasonable and necessary to ensure that the proposed development does not adversely affect the living conditions of neighbouring occupiers or result in highway safety issues.
21. The Council has suggested a personal permission be imposed. However, planning permission usually runs with the land and it is rarely appropriate to provide otherwise. In this instance there are no exceptional circumstances that warrant the imposition of such a condition on the scheme before me. Hard and soft landscaping and a public highway condition was suggested by the Council, in relation to the submission of a landscaping plan and condition survey respectively, but the scheme is only for a modest single dwelling and it is therefore a small-scale development, so it would be unreasonable to attach such conditions in this instance.

## **Conclusion**

22. Taking all matters into consideration, I conclude that the appeal should succeed.

*W Johnson*

INSPECTOR

## **Schedule of Conditions**

- 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 approved plans: Drawing no. KCC2097/07 03/19tk; Drawing no. KCC2097/08 03/19cb; Drawing no. KCC2097/09 03/19cb; Drawing no. KCC2097/10 03/19cb and Drawing no. KCC2097/11 03/19cb.
- 3) No development other than demolition works shall take place until details of the materials to be used for the external roof surface of the buildings and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the materials as approved under this condition. The materials to be used in the construction of the other external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A, B, C, D and E of Part 1 of Schedule 2 of that Order shall be carried out within the area of the development hereby approved.
- 5) a) No external lighting (if any) shall be installed and used until details of the appearance and luminance of the proposed lighting has been submitted to and approved in writing by the Local Planning Authority.  
b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.
- 6) a) The development shall not be brought into use or first occupied until details of the means of enclosure (if any), including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority.  
b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.
- 7) The development shall not be brought into use or first occupied until details of 2no. long-stay cycle parking spaces (in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards), including the type of stands, gaps between stands, location and type of cycle store proposed shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in accordance with the details as approved under this condition before the development hereby permitted is occupied, and shall not be used for any purpose other than parking of cycles in connection with the approved development.
- 8) No site works including demolition or construction work shall commence until a Demolition and Construction Management and Logistics Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Demolition and Construction Management and

Logistics Plan submitted shall include, but not be limited to, the following information:

- i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
- ii. site preparation and construction stages of the development;
- iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
- iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
- v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
- vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
- vii. noise mitigation measures for all plant and processors;
- viii. details of contractor's compound and car parking arrangements;
- ix. Details of interim car parking management arrangements for the duration of construction;
- x. Details of a community liaison contact for the duration of all works associated with the development.
- xi. Provision of a competent banksman.

End of Schedule