



Appeal Decisions

Hearing held on 29 September 2021

Site visits made on 17 and 29 September 2021

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 01/11/2021

Appeal Refs: APP/N0410/W/20/3265148 & APP/N0410/Y/20/3265149 Allerds Farm, Crown Lane, Farnham Royal SL2 3SF

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission and section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeals are made by Dylon 2 Ltd against the decisions of Buckinghamshire Council.
 - The applications Ref PL/20/0009/FA and PL/20/0010/HB, dated 31 December 2019, were refused by notices dated 30 June 2020.
 - The development proposed is demolition of existing buildings (save for the Grade II barn) and erection of four houses (3 new dwellings) with ancillary coach house / garages and landscaping together with the repair and refurbishment of the Grade II barn and its incorporation as part of the dwelling house to be erected on Plot 2.
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Decisions

1. The appeals are allowed and planning permission and listed building consent are granted for demolition of existing buildings (save for the Grade II barn) and erection of four houses (3 new dwellings) with ancillary coach house/garages and landscaping together with the repair and refurbishment of the Grade II barn and its incorporation as part of the dwelling house to be erected on Plot 2 in accordance with the terms of the applications Ref PL/20/0009/FA and PL/20/0010/HB, dated 31 December 2019, subject to the conditions in the attached schedules.

Application for costs

2. An application for costs was made by Dylon 2 Ltd against Buckinghamshire Council. This application is the subject of a separate Decision.

Main Issues

3. Prior to the Hearing, the Council indicated that reasons for refusal relating to affordable housing and access management and monitoring of the Burnham Beeches Special Area of Conservation (SAC) could be dealt with in a S106 unilateral undertaking (UU) being prepared by the appellant, and that subject to this being satisfactory, these reasons for refusal would be withdrawn. A signed and dated S106 UU was provided which I comment on later in this decision.
4. The Council subsequently withdrew reason for refusal 3 relating to the SAC but maintained an objection that it had not been shown that affordable housing

could not be provided in another way than an off-site financial contribution. Following the submission of a revised layout plan, the Council also withdrew its objection 5 relating to provision of the safe collection of waste. The main issues are therefore as follows:

Listed building appeal

- The effect of the proposed works on the architectural and historic significance of the listed building.

Planning appeal

- Whether the proposed development would be inappropriate development in the Metropolitan Green Belt having regard to the revised NPPF of 2021 and any relevant development plan policies;
- The effect on the openness of the Green Belt;
- The effect on the character and appearance of the area;
- Whether the proposed contribution towards affordable housing is appropriate;
- The effect on the setting of the listed building; and
- If 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 required to justify the proposal.

Reasons

Policy background

5. On 1 April 2020 Buckinghamshire Council was created and became the local planning authority for the area previously covered by Aylesbury Vale District Council, Chiltern District Council, South Bucks District Council and Wycombe District Council. On 21 October 2020, Buckinghamshire Council resolved for various reasons to withdraw the emerging Chiltern and South Bucks Local Plan 2036. No weight can be attached to this plan.
6. The relevant development plan policies are set out in the South Bucks Core Strategy (CS) of February 2011 and the saved policies of the South Bucks District Local Plan (LP) adopted in 1999 and consolidated and updated in 2007 and 2011. Also relevant is supplementary planning document (SPD) *Affordable Housing* published in 2013 and the Chiltern and South Bucks Character Townscape Study of 2017.
7. The National Planning Policy Framework (NPPF) was first issued in 2012 and updated in 2019 and in July 2021. The aims of LP and CS policies need to be understood in the context of the latest guidance. The parties referred to the revised NPPF at the hearing and I have taken account of it in this decision.

The site and surroundings

8. The site lies north west of the main urban area of Slough in a mixed area mainly defined by open fields, plant nurseries and residential properties with some commercial use. Crown Lane is of limited width and is distinctly rural in character with no footway or street lighting. It is mostly lined with high hedges and leads from the urban area south of Farnham Lane directly towards

Burnham Beeches, a wooded Special Area of Conservation (SAC). Passing northward, there is a gradual sense of transition from the more densely developed southern end of the lane as it approaches the SAC. The appeal site lies not quite halfway along the lane.

9. The site is surrounded by open fields on 3 sides. A single storey dwelling and domestic garden lies at the front of the plot. A group of former agricultural structures including former stables and a listed timber barn of at least 17th century origin lie near the house. Behind this is a large steel framed metal-clad building and various ancillary structures, the original purpose of which is less clear. The steel framed building is of substantial and permanent construction. All the buildings show clear evidence of commercial vehicle related activity including maintenance, breaking and storage and the hard-surfaced external open areas are congested with vehicles of all types, many in poor condition.

Whether the proposed scheme would represent inappropriate development in the Green Belt; and the effect on openness of the Green Belt

10. The current vehicle related activities have been ongoing since at least 2011. An Inspector in 2008¹ noted that the application at that time for 2 detached dwellings referred to the existing buildings as farm buildings. He further noted that they lay in a landscape whose overall character and appearance had been determined mainly by agriculture and did not then convey a sense of dereliction. The appellant asserts that agricultural use ceased prior to 1980 but there is no firm evidence for this. Local residents confirm the 'inappropriate activity' continued for many years. What is clear now is that whilst the listed barn was evidently originally erected for agricultural use, the other buildings on the site now have no obvious function in working the land, growing plants or any other agricultural aim. Stables and tack rooms for equine activity do not serve an agricultural purpose.
11. The Council eventually failed to succeed in enforcement action against unlawful uses on the site between 2011 and 2017 because the activity had ceased. There is no evidence of any further enforcement action being pursued since then and the buildings show clear evidence of up to date tools and machinery being used. The Council moreover acknowledged non-agricultural use of the largest building, albeit in connection with an application for prior approval for conversion to 3 residential units, in 2015, on the basis that the building did not comprise an agricultural unit. The non-agricultural uses have clearly been ongoing for a very significant time. I consider that as a matter of fact and degree, the buildings on the site and the entire curtilage fall within the definition of previously developed land set out in the glossary to the NPPF.
12. Paragraph 149 of the NPPF indicates that the construction of new buildings in the Green Belt should be regarded as inappropriate but exceptions include g) *...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; or - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.* The proposed buildings would occupy a smaller footprint than the existing buildings on the site and the removal of the largest utilitarian metal-clad building close to the eastern boundary would significantly

¹ APP/N0410/A/08/2081982

improve openness overall. Considering the alternative, whilst the introduction of a group of obviously domestic residential buildings would constitute a degree of harm to the rural character of the surroundings, the scheme would contribute to an identified affordable housing need by means of a commuted sum. I conclude on this issue that the proposed development would not be inappropriate development in the Green Belt.

Character and appearance

13. Crown Lane already has a mixed character including 'ribbon' type residential development north and south of the appeal site, a close of recently erected dwellings a short distance to the north (Crown Gardens) which replaced a Wyevale garden centre, commercial activity as well as plant nurseries and open fields. In this context, the addition of dwellings of obviously suburban character as proposed would still appear discordant to a degree, because they would further diminish the perception of the area as agricultural. The existing site is untidy and used for non-agricultural purposes but is clearly not predominantly residential. Activities inevitably associated with people living in as opposed to working the land include comings and goings by motor vehicles as well as the use of domestic gardens involving attendant paraphernalia such as play equipment. However the gardens would be screened from the public highway by an existing wall and planting and from nearby footpaths by reinforced hedging of natural species. Boundary treatments between the dwellings could be controlled by condition. These measures would help mitigate the harm caused by the introduction of obviously more urban development in a rural location. The design of the dwelling on plot 2, incorporating the listed barn, would be significantly more sympathetic to the open agricultural surroundings. I conclude however that the proposal would conflict with the aim of paragraph (a) of policy H9 and the general aims of policy EP3 of the LP which require development to be compatible with the character of the surrounding area.

Affordable housing

14. The Council's SPD sets out the circumstances where a commuted sum payment in lieu of on-site affordable housing may be appropriate at section 7. Paragraph 5.9 says that in the limited circumstances where an applicant proposes and justifies a lower density scheme on a site that could reasonably accommodate higher density development, the Council will, subject to financial viability, expect the applicant to pay a commuted sum in lieu of the affordable housing that would otherwise need to be provided. CS policy CP3 acknowledges that where there are sound planning or other reasons, a financial contribution may be acceptable. I give weight to the evidence that the only 2 registered providers operating in the area both indicated that this was not a proposal where they would be interested in on-site provision. Moreover the site is not served by public transport and there are no footways, which lends weight to the case for a commuted sum to provide affordable housing in a more sustainable location. The SPD explains the method by which the commuted sum should be calculated and this has been incorporated into the UU, which I consider below. The proposed development would not conflict with the aims of Core Policy 3 of the CS in this regard.

The listed building

15. The timber frame barn is extremely neglected and has been substantially altered over many years in agricultural and then commercial use. Noticeably, a

main truss has been inappropriately altered to accommodate a car hoist. Despite this, it retains significant architectural and historic interest as a surviving remnant of the original farmstead. The proposed works would include additional post supports and a new clay tile roof and insulated floor to form a separate wing but integral part of the dwelling on plot 2. The plan form of the dwelling would reflect the disposition of adjoining buildings, now removed, when in agricultural use, as shown in archive photographs. The external finishes of this dwelling would be complementary to the barn. The adjoining cart shed with a lower ridge height would help to distinguish and emphasise the former functional purpose of the barn. Together these aspects of the scheme would aid in understanding its form and former purpose. The proposed works would ensure the continuing survival and use of the listed building which is currently in a parlous state.

16. The dwellings on plots 1, 3 and 4 would be contemporary in design, reflecting local architectural characteristics as set out in the Chiltern and South Bucks Townscape Character Study SPD but suburban in style. Having said that, those on plots 3 and 4 would replace a bulky, unsympathetic and utilitarian metal structure at the rear of the site. The new dwelling on plot 1 would be adjacent to the entrance from Crown Lane and far enough away from the restored listed building as part of a new house on plot 2 to avoid undue impact on the setting of the barn. However the overall development would have a suburban feel which would be counter-intuitive to understanding and appreciating the rural history of the site and the contribution the barn once made.
17. To conclude, the removal of sprawling and unsympathetic commercial structures and the sensitive restoration of the barn as part of a new dwelling would enhance the architectural and historic interest of the listed building and preserve it for future generations, at the cost of a minor degree of harm to its setting. The overall impact on heritage significance would be beneficial. LP and CS policies were adopted before the NPPF came in to being and the scheme would comply with certain heritage protection aims of policy C6 of the LP and CP8 of the CS but conflict with those that aim to protect setting. Paragraph 190 of the NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The minor degree of harm to the setting of the asset is outweighed by the benefits in heritage terms.

Other matters

18. A S106 UU has been provided with the objective of providing various benefits including a contribution towards affordable housing and a payment towards mitigating the impact of the scheme on the SAC. The sum suggested for the latter reflects the location of the site and the likelihood that future occupants would visit the SAC for dog walking and other activities. I consider that the provisions of the S106 are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. They meet the tests set out in Paragraph 57 of the NPPF and Regulation 122 of the CIL Regulations (2010). I conclude that the requirements of Regulation 123 and Planning Policy Guidance (PPG) have also been satisfied.
19. I have taken all the other matters raised into account. There is no evidence that local surface water drainage would be unacceptably affected by a new

sustainable drainage scheme and there would be clear environmental advantages in removing the current vehicle maintenance activity. Notwithstanding that this was carried out without planning permission, no effective action was taken to prevent it continuing over many years.

Conclusion

20. There is a difference in opinion between the parties as to the extent of the shortfall in housing land supply. I consider that whether the figure is 2.25 or 2.94 years of supply to be of rather academic importance, given that the NPPF requires local planning authorities to maintain specific, deliverable sites to provide a minimum of five years' worth of housing against their housing requirement. There is also a substantial shortfall in affordable homes.
21. Paragraph 11(d) of the NPPF indicates that when the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Development plan policies in the CS and LP are significantly out of date and moreover, unlikely to be replaced in the near future. The development would make a meaningful contribution to housing supply and would facilitate a useful sum towards meeting the need for affordable housing, in an area where there is an urgent need. Other advantages include the improvement in openness, ecological benefits and the reinstatement of a listed building for the future. The disadvantages in terms of the conflict with CS and LP policies on character and appearance and the setting of the listed building fall short of outweighing the benefits of this scheme on previously developed land in this area of distinctly mixed character.

Conditions

Planning appeal

22. The list of approved plans includes the revised site plan revision B including a refuse storage area at the entrance. The model condition controlling landscaping includes a requirement to provide details of the refuse storage area in order to ensure this is practical and attractive in this prominent location. The list of approved drawings also includes the revised drawing revision P2 indicating a reinstated truss in the barn. This would be a better visual solution for the occupants in the long term. No heritage purpose would be served by retaining the ad hoc 'scaffold plank' adaptation currently in place.
23. Other conditions necessary to make the development acceptable include making space available for parking of vehicles and turning; dealing with contamination due to the existing use; a restriction on bonfires; existing tree protection; a scheme for the management of common areas including the central area of bio-diverse planting; sustainable surface water drainage; ecological measures as recommended in the Betts Ecology Assessment; and details of external materials in order to ensure that the new dwellings are sympathetic to their rural location.
24. A restriction on permitted development rights is imposed to ensure that built development that might otherwise occur in gardens areas without permission being sought cannot overwhelm this rural site.

Listed building appeal

25. Apart from the usual time limitation condition and specification of the revised drawing mentioned above, the consent requires precise details of the works and repairs to the barn and restricts removal of original fabric.
26. For the above reasons, the appeals should be allowed.

Paul Jackson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jonathan Clay	Of Counsel
Chris Francis	West & Partners
Jamie Roberts MPlan RTPI	Tetlow King Planning
James Stacey BA (Hons) Dip	Tetlow King Planning
Patrick Maguire MA MSt IHBC	Asset heritage Consulting
Nigel Hammett RIBA SCA	Johnston Cave Associates
Christopher Rees LLB	
Iain Hutchinson	Dylon 2 Ltd
Jon Etchells MA BPhil CMLI	Landscape and Visual Impacts (by video link)

FOR THE LOCAL PLANNING AUTHORITY:

Elizabeth Aston	Planning Officer
Morwenna Breen-Haynes	Senior Conservation Officer

INTERESTED PERSONS:

Clive Robinson	Local resident
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DOCUMENTS

- 1 Copy of notes on the Council's statement of case in respect of landscape and visual matters, from Jon Etchells
- 2 Route Map to the Appellant's Unilateral Planning Obligation, provided by Mr Rees
- 3 Copy of signed and dated S106 Undertaking
- 4 Before and after plans of the Farnham Royal Garden Centre (Wyevale) scheme, provided by the appellant

Schedule of 14 conditions- planning permission

APP/N0410/W/20/3265148

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans ref:

0487-PL01A Location Plan
0487-PL02A Context Plan
0487-PL03A Existing and Proposed Built Footprint and Hardstanding Areas Plan
0487-PL04B Site Layout
0487-PL08 Plots 1 and 3 Floor Plans
0487-PL09 Plots 1 and 3 Front and Side Elevations
0487-PL10 Plots 1 and 3 Rear and Side Elevations and Section
0487-PL12 Plot 1 Car Barn
0487-PL13 Plot 2 Floor Plans
0487-PL14 Plot 2 Front and Side Elevations
0487-PL15 Plot 2 Rear and Side Elevations and Section

0487-PL16 Plot 4 Floor Plans
0487-PL17 Plot 4 Front and Side Elevations
0487-PL18 Plot 4 Rear and Side Elevations and Section
0487-PL19 Plots 3 and 4 Car Barns
0487-PL20 Comparison Plans

2574-A1-010-P2 Repair of Historic Fabric

3. Prior to first occupation of the development hereby approved, space shall be laid out within the site for the parking for cars, loading and manoeuvring, in accordance with the approved plan ref 0487/PL04/B. The area laid out shall be permanently retained for this purpose.
4. Prior to the commencement of the development hereby approved the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 - i) A preliminary risk assessment which has identified: • all previous uses • potential contaminants associated with those uses • a conceptual model of the site indicating sources, pathways and receptors • potentially unacceptable risks arising from contamination at the site.
 - ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.
 - iii) The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.
5. Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented.
6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of

condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 1, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 4.

7. No burning of materials in connection with the development hereby approved shall take place at any time.
8. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - a) a statement setting out the design objectives and how these will be delivered;
 - b) earthworks showing existing and proposed finished levels;
 - c) boundary treatments, including a detail scheme for repairing the existing flint walls;
 - d) vehicle parking layouts;
 - e) other vehicle and pedestrian access and circulation areas;
 - f) hard surfacing materials;
 - g) refuse storage units;
 - h) external lighting;
 - i) an implementation programme.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

9. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of tree protection. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development (in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced)).
10. No occupation of the development hereby approved shall take place until a scheme for the management and maintenance of the common areas including the Area of Bio-Diverse Planting, perimeter planting and the bin store has been

submitted and approved in writing by the Local Planning Authority. The development shall be retained and maintained in accordance with the approved scheme in perpetuity.

11. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

Further ground investigations: Infiltration rate testing in the locations of the proposed infiltration components (in accordance with BRE365); Drainage layout detailing the connectivity between the dwellings and the drainage components, showing pipe numbers, gradients and sizes, complete together with storage volumes of all SuDS components; Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site; Construction details of all SuDS and drainage components; Details of how and when the full drainage system will be maintained- this should also include details of who will be responsible for the maintenance. Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration of flow direction.

The development shall be constructed in accordance with the approved surface water drainage scheme.

12. Prior to the commencement of works above ground, details of the materials to be used in the construction of the external surfaces of the proposed development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
13. The development hereby permitted shall be carried out in accordance with the conclusions and recommendations set out in the Ecological Walk-Over Survey and Daytime Bat Assessment by Betts Ecology and Estates dated January 2019 and retained as such.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellinghouses, additions or buildings or enclosures incidental to the enjoyment of the dwellinghouses falling within Classes A, B and E shall be constructed.

Schedule of 4 conditions- listed building consent

APP/N0410/Y/20/3265149

1. The works to which this consent relates shall be begun no later than the expiration of three years beginning with the date on which this consent is granted.

2. The works hereby permitted shall be carried out in accordance with the approved plan ref 2574-A1-010-P2 'Repair of Historic Fabric' and the methodology set out in 'Proposed Conservation Works to the Barn' by Johnston Cave Associates dated December 2019.
3. Notwithstanding the consent hereby granted, unless shown on the approved plans none of the timbers forming the structural frame of the building shall be cut, removed or otherwise altered without the prior consent in writing of the local planning authority.
4. Prior to the commencement of any building works, a detailed itemised schedule of works and repairs shall be submitted to and approved in writing by the Local Planning Authority. This schedule of works shall include proposed materials of construction; detailed drawing of new windows and doors and details of new brickwork, boarding, rendering and plasterwork. The approved scheme of works shall thereafter be implemented before any occupation.