



Appeal Decision

Site visit made on 8 December 2021

by Stephen Brown MA(Cantab) DipArch RIBA

an Inspector appointed by the Secretary of State

Decision date: 21 February 2022

Appeal Ref: APP/A1910/C/21/3278485

Silver Birches, Little Gaddesden, Berkhamsted HP4 1PE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is by Mr P Saunders against an enforcement notice issued by Dacorum Borough Council.
 - The enforcement notice, ref. E/19/00268, was issued on 9 June 2021.
 - The breach of planning control alleged in the notice is:
Alterations and building works to an outbuilding in order to facilitate its material change of use to an independent residential dwellinghouse.
 - The requirements of the notice are to:
 1. Cease the use of the building shown hatched black on the plan attached to the notice as an independent residential dwellinghouse.
 2. Remove all fixtures and fittings that facilitate the independent residential use of the outbuilding, including but not limited to stairs, kitchen, bathrooms, electricity supply and plumbing.
 3. Remove the dormer and roof extensions and revert the roofline back to its original design, appearance and scale as shown on drawing no. 089/EX/120 attached to the notice.
 4. Remove all additional windows and doors to the south, west and eastern elevations and reinstate the original cladding/timber and/or brickwork as shown on drawing no. 089/EX/120 attached to the notice.
 5. Remove all internal walls and ceilings and restore the building to its condition prior to the material change of use and building works taking place.
 - The periods for compliance with the requirements are:
Step 1 – 6 months.
Steps 2, 3, 4 and 5 – 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (e), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been made on ground (a), an application for planning permission is deemed to have been made under s.177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the alterations and building works to an outbuilding in order to facilitate its material change of use to an independent residential dwellinghouse on land at Silver Birches, Little Gaddesden, Berkhamsted HP4 1PE referred to in the notice.

Procedural matters

2. In the ground (a) appeal and to some extent in ground (f) the appellant claims that the development might be considered as an ancillary residential use of the main dwelling, and therefore not require planning permission. No formal appeal has been made on ground (b) – that there has not been a breach of planning control as a matter of fact. Nevertheless, I consider these claims amount to a ‘hidden’ ground, and I have determined the case as if a ground (b) appeal had been made.

Background

3. Silver Birches is a detached bungalow set in a substantial plot lying on the south-western side of Nettleden Road North. The outbuilding in question – which I shall refer to as ‘the barn’ for the purposes of this decision – stands close to the western corner of the site. Access to it is through gates and along a drive between the bungalow and the north-eastern site boundary. The area where the outbuilding stands is effectively separated from the bungalow garden by a curved brick wall. There are also a large windowless timber shed and a chicken coop within this area. The shed is long-standing and is probably connected with the former use of the site as a chicken farm, as was the barn. The chicken coop is clearly a recent introduction used by the barn’s occupants.
4. A retrospective planning application for the retention of the change of use of the barn to a residential dwelling, and extension with a dormer and modifications to openings was made in 2019. Permission was refused¹. The reasons for refusal mirror the reasons for issuing the enforcement notice.
5. An Atlas cedar in the garden is protected under the Dacorum Borough Council, land at Silver Birches, Little Gaddesden, Berkhamsted HP4 1PE Tree Preservation Order 2020 (TPO 577), confirmed on 12 May 2020.
6. The development plan comprises the Dacorum Borough Council Core Strategy of 2013, and saved policies of the Dacorum Borough Local Plan of 2004.

The appeal on ground (e)

7. This ground is that copies of the notice were not served as required by s.172 of the Act. S.172(2) states:
A copy of an enforcement notice shall be served - (a) on the owner and on the occupier of the land to which it relates; and (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
8. The appellant argues there is a difference between the date the notice takes effect stated in the notice itself – 7 July 2021 – and the date stated in the covering letter – 9 October 2019. Furthermore, the list of those served attached to the notice says that it is a listed building enforcement notice.
9. These are not strictly matters concerned with service of the notice but are concerned with its validity. However, the notice clearly states the date on which it takes effect, that is, 28 days after issue. The date stated in the covering letter is very obviously an error and has no effect on the validity of the notice itself. Similarly, the notice itself is very clearly a planning enforcement notice,

¹ Application ref. 4/02148/19/RET. Decision notice dated 27 May 2020.

and any attached notes do not affect its validity, although they clearly contain typographical mistakes.

10. I find no defect with the service of the notice, which was served on the owner of the land and complies with the requirements of s.172(2). The appeal on ground (e) therefore fails,

The 'hidden' ground (b) appeal

11. As noted above the appellant argues that the barn development is occupied by the appellant's daughter and should be seen as ancillary to the use of the bungalow as a residential dwelling, and part of the same planning unit.
12. A separate ancillary building of the sort that is suggested might for instance consist of a bedroom with shower facilities and perhaps the possibility to make a cup of tea. However, the barn is now a three bedroom house with all the facilities necessary for day to day life. It has its own demarcated garden, access drive and parking area. Irrespective of who lives in the house, as a matter of fact and degree I consider the barn has become a separate dwellinghouse, quite distinct from the original bungalow. It now constitutes a separate planning unit.
13. Had a ground (b) appeal been made, on the balance of probabilities it would have failed.

The appeal on ground (a) and the deemed planning application

14. This ground is that planning permission should be granted for the matters stated in the notice.
15. I consider the main issue to be:
16. The effect of the development on the character and appearance of the appeal site and area in its vicinity, with particular regard to its location within the Chilterns Area of Outstanding Natural Beauty (AONB), and to potential effects on the nearby protected tree.
17. The converted barn was formerly single-storey having a part pitched roof with rooflights and a part flat roof. Access to the building was by means of double doors. A drawing shows that it had a kitchen and washroom off the main space. The building now has a first floor clad in black stained weatherboarding, and a tiled crown roof with dormers to the south-east. On the ground floor are principally a large kitchen and living room with various service rooms, and on the new first floor three bedrooms and a bathroom.
18. This part of Little Gaddesden is a linear development of sparsely spaced dwellings along this minor rural road, with relatively large fields and areas of mature woodland surrounding. Some of the dwellings are long-standing farmhouses but there are also several examples of more modern houses including the recently built Deer Leap Manor adjacent to Silver Birches.
19. As noted above, the barn stands within what is effectively its own separate garden area. The building can barely be seen from the road given the length and slight curvature of the drive, an intervening brick and timber shed and overhanging trees. When the gates on the drive are closed it is not seen at all from normal viewpoints on the road. It is well screened from sites on the other

sides by dense tree planting. I consider the building has virtually no visual impact on the surrounding area.

20. As regards the wider AONB, it comprises chalk grassland with extensive wooded areas along with open agricultural land. Traditional domestic buildings are typically of brick, or brick and flint, with clay tiles. Black horizontal weatherboarding and brick are typical materials for older agricultural buildings with the AONB.
21. In this context the brick and weatherboarding of the barn are to my mind quite suitable for this site. The crown roof form on the other hand is a modern introduction that is somewhat unsympathetic. However, the scale is such that it is not a dominating feature of the site and given the secluded nature of the barn and the greater dominance of large trees I do not consider it causes harm in terms of the character or appearance of the area. Furthermore, the original building was not of a particularly traditional form.
22. While several of the sites in this area are very extensive indeed, there are also residential sites of modest size. Given the already separate nature of the barn site, and the reasonably generous size of the two gardens, I do not consider conversion to a two-storey dwelling creates a cramped form of development. Indeed it appears to me a good use of brownfield land to create an additional dwelling. In those terms there is no conflict with the aims of Core Strategy Policy CS7 insofar as it may permit small-scale development on a previously developed site.
23. The Atlas cedar is indeed a very fine mature specimen. It stands over 12 metres from the barn at the closest, within the separate garden area of the bungalow. The outermost branches of the crown are at least 2 metres from the barn at their closest. Given that the barn and the tree have subsisted together for many years it is unlikely that alterations to the barn will have harmed the root structure of the tree, or that this might happen in the future. Furthermore the separating distance makes it relatively unlikely there will be future applications for lopping, or more seriously for felling. If there are any such proposals, I consider the Council have enough control through the TPO process to ensure unwarranted loss of the tree is prevented and that any lopping or pruning is carried out responsibly.
24. Overall, while there is a sustainability issue in terms of lack of nearby accessible services, this is outweighed by the provision of a new dwelling on a piece of brownfield land that makes use of an existing building, albeit much extended. I consider there is minimal harm to AONB interests as a result of the somewhat incongruous roof form, but that the scale and materials of the building, and its lack of visual impact make it acceptable.
25. I consider the development accords with the aims of the development plan, with particular reference to Core Strategy Policy CS7, which includes allowances for small-scale development on previously developed sites, and Policy CS12 in that the development is well assimilated on its site. Furthermore, it accords with Core Strategy Policies CS24 and CS25 in that it has a neutral effect upon AONB and historic landscape interests. As regards the protected tree, the development would accord with saved Policy 99 of the Local Plan, which seeks to encourage tree preservation.

26. I conclude on the main issue that the barn has a neutral effect on the character and appearance of the appeal site and area in its vicinity, with particular regard to its location within the Chilterns Area of Outstanding Natural Beauty (AONB), and to potential effects on the nearby protected tree.

27. No planning conditions have been put forward. Since the building already exists I shall apply none.

Conclusions

28. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. I do not therefore need to go on to consider the appeal on grounds (f) and (g).

Stephen Brown

INSPECTOR