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# Appeal Decision

Site visit made on 17 February 2022

**by L Douglas BSc (Hons) MSc MRTPI**

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

**Decision date: 21 March 2022**

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**Appeal Ref: APP/X1925/W/21/3273490**

**The Carriers, Green End, Sandon, Buntingford, Hertfordshire SG9 0RQ**

**Grid Ref Easting: 533022, Grid Ref Northing: 233495**

- 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 Barry Mellor against the decision of North Hertfordshire District Council.
  - The application Ref 20/01729/FP, dated 3 August 2020, was refused by notice dated 27 October 2020.
  - The development proposed is 'change of use of redundant agricultural building to one 3-bed residential unit with all associated building works'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have taken the description of the development proposed for the banner heading above from the appeal form and the Council's decision notice, as this more clearly describes the whole of the development proposed compared to the description provided in the application form.
3. The Council's officer report advises that its adopted plan is out of date and the decision notice refers to the emerging North Hertfordshire Local Plan 2011-2031 (ELP). No information has been provided to explain the progress or current position of the ELP, but both of the main parties agree that it is at an advanced stage and as such, significant weight should be afforded to its policies.
4. There is a dispute between the parties as to whether the appeal building is located within the garden of The Carriers and whether it constitutes a redundant agricultural building. No certificates of lawfulness have been presented to confirm the lawfulness of any uses of land. The appeal building and the appeal site are of substantial size and did not appear to be used for purposes incidental to the enjoyment of the adjacent dwelling at The Carriers at the time of my visit, and nor did they appear to form part of its residential garden.
5. The appellant has referred to the appeal building as being erected with the benefit of a 1998 planning permission to replace several agricultural buildings and used for the keeping of livestock until 2001, following which it was used for the storage of agricultural equipment. I saw it appeared to be in use for the storage of what appeared to be agricultural equipment and in generally good

condition for such purposes. I have therefore assessed the appeal based on the description of development provided in the appeal form.

## **Main Issues**

6. The main issues are: i) the effect of the proposed development on the character and appearance of the area, with particular regard to the setting of the Grade II listed building known as The Carriers; and ii) the sustainability of the proposed development, with particular regard to its location.

## **Reasons**

### *Character and Appearance*

7. The Carriers and the appeal site are located within the 'Rural Area beyond the Green Belt', as defined in the ELP, and form part of a collection of what appeared to be residential and agricultural buildings in the countryside settlement of Green End, south of the village of Sandon. The appeal site and its surroundings are rural in character and secluded from local services; bounded by open fields, with views of spacious properties.
8. The Carriers is a two storey Grade II listed building dating from the early nineteenth century, with a white stucco finish and hipped slate roof and a single storey rear extension clad in white weatherboarded timber. It is a large, handsome building in a spacious rural location, accompanied by a substantial modern annexe building to the front of the main dwelling.
9. The appeal site is an area of land to the rear of The Carriers and is accessible by an unmade track, referred to as 'Drovers Path' by the main parties, which runs adjacent to the southern boundary of The Carriers' garden. The appeal building is a substantial building too, with single and two storey elements, and is located within a large parcel of land which is separate from the garden of The Carriers by way of its boundary fencing and unkempt state and layout. The appeal site and the field within which it is located form part of the close surroundings of The Carriers and make a positive contribution to the rustic character and appearance of the area. The appeal site and the appeal building therefore form part of the setting of the listed building and the undeveloped nature of the appeal site makes a positive contribution to that setting.
10. A detailed assessment of the setting of the listed building and its significance has been carried out within the appellant's Heritage Statement<sup>1</sup> (HS). I concur with the HS that the principal (west) elevation is of high significance for the building's special architectural merit, while the side and rear elevations are of moderate and low significance respectively. The entrance to The Carriers and the rural nature of its setting are of high significance, but I do not agree with the HS's conclusion that the appeal building detracts from the significance of the listed building. Although the appeal building appears unmaintained, it has the presence of a functional rural building, typical for the area, rather than that of an uncharacteristic feature within the listed building's setting.
11. The appeal building is of a traditional agricultural style. Although it appears to be in the process of falling into a poor condition, it has a neutral impact upon the setting and significance of the listed building. The proposed development would necessitate very few external alterations to the appeal building, save for

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<sup>1</sup> Heritage Statement by Elizabeth Mayle BA(Hons) MA IHBC dated July 2020

the installation of new windows and doors, which would maintain the appeal building's neutral effect on the setting of the listed building.

12. Drovers Path leads to the appeal site from the unadopted highway which serves The Carriers and provides access to nearby agricultural fields. As a narrow, unmade track between a brook/ditch and the boundary of secluded properties leading to fields, it is a typical rural feature seen in views and experienced alongside the front and south side elevations of the listed building. As part of the listed building's setting, the undeveloped nature of Drovers Path makes a positive contribution to that setting of moderate to high significance.
13. A short part of the western end of Drovers Path would be hard surfaced in concrete and finished with flint stones, and a new access point would be made to it from land currently forming the southeastern corner of The Carriers' garden. A GroundTrax CellPave driveway would lead across the open land to the rear of The Carriers to a parking area beyond the appeal building. The extent of the proposed access comprised of GroundTrax CellPave would be sympathetic to its secluded location and accompanied by planting, including the part which would be located within The Carriers' existing garden.
14. Notwithstanding the general use of concrete for many farm tracks and entrances throughout the countryside, the concrete surfacing of the western end of Drovers Path would have a harmful effect on the rustic character and appearance of the area. This would be evident in views of The Carriers from its entrance and along Drovers Path and would harm how the listed building is experienced in its rural surroundings.
15. A very small part of the concreted surface of Drovers Path would be finished with flint stones to match the existing driveway of The Carriers, but I disagree with the findings of the HS that this would be sufficient to ensure the setting of the listed building would not be harmed. The wider extent of the concreted access along Drovers Path and what would be a harsh, formal relationship with its surroundings, including the adjacent brook/ditch which may need associated bank repair or raising, would be a marked negative change to the existing pleasant rural characteristics of the narrow, unmade track.
16. Planting is proposed around and along the boundaries of the appeal site. Although this would form an appropriate boundary between the access and The Carriers, it would not enhance its setting or mitigate the harm referred to above. The formalised planting proposed around the appeal building in particular would appear constrained and at odds with this countryside location.
17. The proposal would therefore harm the rural character and appearance of the area on account of the proposed hard surfacing of part of Drovers Path, which would also harm the setting of the listed building at The Carriers. The level of harm which would be caused to the significance of the listed building would be 'less than substantial' as referred to by the Framework. The Framework advises that where less than substantial harm would be caused to the significance of a heritage asset, that harm should be weighed against the public benefits of the proposal, including securing the optimum viable use of the heritage asset.
18. I have been referred to a number of economic, environmental and social benefits which are claimed to be likely to result from the proposal, but few of these comprise meaningful public benefits. There would be an increase in demand for services in nearby villages and there would be some public benefit

from the provision of a family sized house. Safety improvements to a nearby culvert do not appear to be dependent on the proposal being granted. These would all be modest public benefits, even in the absence of a five-year housing land supply, which I shall address below, and would not outweigh the harm I have identified. There would be no enhancement of the setting of the listed building or the appeal site's surroundings and any proposed planting would fail to benefit the public in a meaningful way.

19. The proposal would conflict with Policies HE1, SP1, SP9 and D1 of the ELP, which encourage development to respect its surroundings and respond positively to local context, amongst other things. Policy HE1 seeks to conserve and preserve the significance of heritage assets and their setting. Policy SP5 states a general policy of restraint will be operated in Rural Areas beyond the Green Belt by the application of those detailed policies, amongst other things.

### *Sustainability*

20. The appeal site is located in an area which is remote from services and facilities, and it is likely that future occupants of the proposed dwelling would be heavily reliant on private motor vehicle transport. The Framework supports sustainable patterns of development and Policy SP1 seeks to maintain the role of key settlements as the main focus for housing. Policy SP6 of the ELP encourages development which will enable sustainable journeys to be made to key services and facilities. The proposal would fail to respect these aims, but the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and there are other policies which would offer support for the proposal.
21. Policy CGB1 of the ELP supports development which relates to exiting rural buildings and Policy CGB4 supports the reuse of existing buildings which do not require major extension or reconstruction where the resultant building would not have a materially greater impact on the general policy aims of the Rural Area beyond the Green Belt, amongst other things. Paragraph 79 of the Framework promotes sustainable development in rural areas and states that where there are groups of smaller settlements, development in one village may support services in a nearby village.
22. There are some local facilities and services within Sandon, which are beyond what could reasonably be considered walking distance along country lanes without footpaths. The proposed dwelling would be isolated from those facilities and services and Paragraph 80 of the Framework advises that the development of isolated homes in the countryside should be avoided unless it would reuse redundant or disused buildings and enhance its immediate setting. This does not confirm the development of isolated homes is acceptable, but aside from whether the appeal building is redundant or disused, I have found the proposal would not enhance its immediate setting on account of the effect of the proposed access in my reasoning for the first main issue.
23. Although the proposal would receive support from Policies CGB1 and CGB4, these encourage the reuse of rural buildings in general, rather than offering any specific support for the provision of housing in the Rural Area beyond the Green Belt. The provision of a family sized house in such an area with no nearby facilities or services would conflict with the aims of Policies SP1 and SP6 and the Framework, which seek to direct new housing to existing settlements and encourage sustainable modes of transport, amongst other things.

## Other Matters

24. The Council is unable to demonstrate a five year housing land supply, as required by the Framework. In cases such as this, the most important policies are deemed to be out of date and Paragraph 11(d)i states planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance, such as designated heritage assets, provides a clear reason for refusing the proposed development. I have identified less than substantial harm which would be caused to the significance of a listed building which would not be outweighed by public benefits.
25. Policies within the Framework encourage the conservation of heritage assets and their protection from harm, except where there is clear and convincing justification for that harm. I have not found any such justification and the application of those policies provides a clear reason for refusing the proposal. The presumption in favour of sustainable development where the most important development plan policies are deemed to be out-of-date, as referred to by Paragraph 11 of the Framework does not therefore apply in this instance.
26. I have also been referred to Paragraph 120(d) of the Framework which sets out, in the context of making effective use of land, that planning decisions should promote and support development of under-utilised land and buildings, especially if this would help meet identified needs for housing where land supply is constrained and available sites could be used more effectively. Although the appeal building may be redundant to the appellant's agricultural needs, I am not convinced that the land and building are under-utilised compared to how they have been used historically. Their claimed use for agricultural purposes would exclude them from comprising previously developed land, and in my opinion the support for a single dwelling offered by the Framework in this regard does not outweigh the harm I have identified.
27. The Council has claimed the proposal would fail to accord with Policy TP1 of the ELP, which appears to be a reference to Policy T1. This seeks to ensure development would not lead to unacceptable highway impacts, amongst other things. The Highway Authority did not raise an objection to the proposal and the Council has not demonstrated the proposal would create any such unacceptable impacts. I note concerns from interested parties relating to the shared use of Drovers Path by pedestrians; however, I am satisfied that there would be no unreasonable harm to highway safety resulting from shared use of the small portion of Drovers Path by vehicles associated with the proposed development in addition to agricultural vehicles and pedestrians accessing the fields beyond. Such vehicles would travel at low speeds and there would be good visibility for all users. I do not therefore find any conflict with Policy T1.

## Conclusion

28. For the reasons given above I conclude that the proposal would fail to accord with the ELP and the Framework and there are no other material considerations that indicate planning permission should be granted. The appeal should therefore be dismissed.

*L Douglas*

INSPECTOR