



Appeal Decision

Site visit made on 9 August 2022

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2022

Appeal Ref: APP/J1915/D/22/3295202

Legges Cottage, Fanhams Hall Road, Wareside, Ware SG12 7SD

- 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 D Birchenough against the decision of East Herts Council.
- The application Ref 3/21/2754/HH, dated 28 October 2021, was refused by notice dated 10 January 2022.
- The proposed development is timber framed storage shed with open bays and a clay tiled roof (retrospective).

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the rural character and appearance of the area.

Reasons

3. The appeal site is located in an isolated location within open countryside. It comprises the residential property, Legges Cottage, a Grade II listed building, and its extensive residential curtilage / garden area. Further residential properties lie to the east of Legges Cottage all served by a shared gated entrance off Fanhams Hall Road, a 'restricted' byway.
4. The area of garden within which the building the subject of this appeal is located to the west of the cottage and its immediate garden area and is separated from it by hedging. The Council confirms that planning permission was granted for a change of use of the land from agricultural to residential a few years ago. However, whilst it has a residential use, it appears as a separate less 'domesticated' area, though I note that it appeared to be mown and new planting had been carried out.
5. The existing building for which retrospective permission is sought is located towards the northern boundary of this area and is accessed via a separate access marked by a timber gate off the byway. A belt of trees lies to the north of the building extending along the boundary with the byway and the public footpath that runs from it in a south-westerly direction to the west of the appeal site. These trees provide some screening but the existing building is visible from both these rights of way.
6. The site and its surroundings lie within an area designated as 'rural area beyond the green belt' in the East Herts District Plan (2018) (DP) in respect of which policy GBR2 states that in order to maintain this countryside resource, which is valued for its open and largely undeveloped nature, certain listed

types of development will be permitted provided they are compatible with its character and appearance. This includes the replacement of a building provided the size, scale, mass, form, siting, design and materials of construction are appropriate to the character, appearance and setting of the site and its surroundings. It also includes the limited infilling or partial or complete redevelopment of previously developed sites subject to certain criteria.

7. The appellant contends that there were a number of previously existing buildings on the site which the new building has replaced. Aerial photos show that there were two buildings sited towards the north of the site though of considerably smaller footprint. Other photos show a shed and what appears to be a couple of similar collapsed structures. Whilst the Appellant contends that these buildings had a similar volume to the existing building, on the basis of the information provided it would seem that the new building is significantly larger.
8. The Appellant also suggests that the new building has resulted in a beneficial improvement to the visual appearance of the site and setting of the listed building through the replacement of 'several dilapidated buildings dotted around the site'. The photographs provided appear to show that at least a part of the site was unkempt with some of the structures having collapsed. However, it is my view that the extent of the evidence provided is insufficient to demonstrate this point conclusively.
9. Whilst I acknowledge that the building is not prominent within the wider landscape, I agree with the Council that it can be seen from various points along the byway and nearby footpath, including through the gated access that has been created. Whilst the existing trees along the northern boundary of the site do provide some screening the size and scale of the building is nevertheless evident. At the time of my site visit there were persons using the byway though I acknowledge that its use by vehicular traffic is limited.
10. Overall, whilst I agree that the building has the appearance of a traditional 'rural' barn, it is my view that, by virtue of its size and scale, it detracts from the open character of the site and its surroundings and is therefore not appropriate to the character, appearance and setting of the site bearing in mind the aim of the policy to maintain the open and largely undeveloped nature of the rural area.
11. DP policy HOU11 relates to development within residential curtilages, including residential outbuildings. Although the land on which the building has been built has only relatively recently been given permission for a change of use to garden land, it appears to be common ground between the parties that it can be considered to be within the curtilage of the property and that therefore this policy is relevant. However, the policy takes a similar approach in terms of requiring development to be appropriate to the character, appearance and setting of the existing dwelling and surrounding area and for the reasons set out above, I do not find this to be the case.
12. I therefore find that the development results in conflict with DP policies GBR2, HOU11 and DES4, the latter which also seeks to ensure that development complements its surroundings.

Other Matters

13. I have had regard to the National Planning Policy Framework which seeks to ensure that the planning system contributes to the achievement of sustainable development. The Appellant has highlighted various aspects that are considered to contribute towards the economic and social objectives, including the contribution to the local economy and the benefits arising to the Appellant in providing a secure storage building. However, for the reasons set out above I find that the development is harmful to the natural environment, nor is it sympathetic to local character or the intrinsic character of the countryside. Overall, the negative aspects are such that the development does not contribute to achieving sustainable development.
14. The Appellant has referred to another site relating to an extension to a garage at a residential property. However, the site circumstances do not appear to be comparable and I note that the garage is located much closer to the host dwelling than is the case with this appeal. In addition, as set out above, I do not agree that the building the subject of this appeal is 'not visible from any aspect within the public realm' as suggested by the Appellant and in any event, the visibility of the development is not the only matter to consider in the context of relevant policy.
15. The Appellant also makes reference to a possible fall-back position but appears to concede that permitted development rights do not apply in this case. In any event, there is no evidence in the form of a lawful development certificate and thus this matter cannot be given any weight.
16. It appears to be common ground that the building lies within the setting of the listed building, Legges Cottage, but that no detrimental impact arises. I concur and agree that the setting of the heritage asset would be preserved.

Conclusion

17. I conclude that the development fails to accord with the development plan and there are no material considerations that indicate a decision otherwise.
18. I therefore conclude that this appeal should be dismissed.

P Jarvis

INSPECTOR