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## Appeal Decision

Site visit made on 16 November 2022

**by Stephen Wilkinson BA BPI DIP LA MBA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 7 March 2023**

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**Appeal Ref: APP/J1915/W/22/3302750**

**Highfield Nursery, U40 between Pigs Green and Hadham Road, Wellpond Green, Standon, SG11 1NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Barry Pestell against East Hertfordshire District Council.
  - The application Ref 3/21/2458/FUL, is dated 23 September 2021.
  - The development proposed is demolition of four agricultural buildings and erection of two detached four bedroom dwellings with integrated garages.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. The appeal was accompanied by an application for costs from Mr Barry Pestell against East Herts District Council. This application is the subject of a separate decision.

### Procedural Matters

3. For reasons of clarity, I have used the description of development from the Councils decision letter. This differs from that used by the appellant in the application form.
4. The appeal was lodged against the non-determination of the application. The officer's delegated report identifies that if it had been in a position to make a decision it would have been refused for three putative reasons. These relate to the size of the dwellings on this back land site, its location regarding access to services and the lack of information in respect of ecology.
5. The appeal raises three issues:
  - the effect of the proposed scheme on the character and appearance of the local area,
  - the location of the site with regard to access to services, and
  - the effect of the proposed scheme on the biodiversity of the site.

## Reasons

### *Character and appearance*

6. The appeal site has been sub divided from the former Highfield nursery and is currently occupied by four single storey former agricultural buildings. They are set back from the road although visible from surrounding properties and the road.
7. The site is located in Wellpond Green, a category Group 3 village within the settlement hierarchy included in Policies DPS2 and Policy VILL3 of the East Herts District Plan.
8. Wellpond Green has a settlement pattern largely comprising short stretches of detached residential properties fronting roads with occasional large properties set away from roads in extensive gardens. Policy DES3 requires new development to respect the character of its surrounding area. This is supported by Policy GBR2 which seeks to protect the rural areas beyond the Green Belt from development.
9. The appeal site has the benefit of a Class Q<sup>1</sup> approval for the conversion of the former barn and packing shed (Plots 1 and 2), into single dwellings, (the Prior Approval). I understand that following the discharge of planning conditions conversion works have commenced and the approved scheme represents a 'fallback position'. I regard this as a material factor in the determination of this appeal.
10. The appeal scheme involves the demolition of all the existing buildings and development of two detached 2 storey dwellings located across the site. The design of both dwellings aims to replicate that of the fallback scheme<sup>2</sup>.
11. However, the height of both buildings would have a ridgeline of around 1.0m higher than the two existing buildings due to their steeper pitch as a result of including a first floor. Despite this they would still be slightly lower than the tallest building which could be retained as part of the 'fallback' position.
12. Elevational treatment for both proposed buildings will be of more contemporary design than that of the fallback scheme and include large glazed areas, render and timber boarding with zinc panels used in the elevation of plot 2. They would each have large garden areas.
13. These changes are markedly different from the fall back scheme. Inherent within the Prior Approval process is a requirement that external changes are kept to a minimum to retain the appearance of agricultural buildings to ensure that their impact on the character and appearance of the area is minimised.
14. In contrast, the appeal scheme would create 2 large buildings which account for almost all the floorspace of the four existing buildings resulting in a completely new scheme. This would have a more urbanising effect on this

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<sup>1</sup> The Town and Country Planning (General Development Order) (England) Order 2015 as amended allows approval of certain types of development subject to conditions. Schedule 2 Class Q allows the conversion of building from agricultural use to residential use subject to conditions.

<sup>2</sup> 3/20/0241/APRN & 3/2/1143/APRN

rural location and contrast with the prevailing pattern of development in the area for schemes set away from the road.

15. Although the PA scheme would involve 4 retained buildings they are characteristic of the surrounding rural area having limited impact on its character and appearance despite.
16. Policy GBR2 allows for the replacement of buildings providing their scale and massing are considered appropriate for the area. The Council's objection to the scheme relies strongly on this policy in respect of the size, form and character of the proposals.
17. The level of harm arising on the character and appearance of the area from the appeal scheme compared with that arising from the fallback position would be significantly different. The proposed buildings would be clearly visible from surrounding properties.
18. For these reasons, I conclude that there would be conflict with those aspects of Policies DPS2, VILL3, GBR2, HOU12, and DES4 of the East Herts Local Plan 2018 which aim to protect the character and appearance of the area through prevention of backland development and the preservation of its rural character.

#### *Access to services*

19. Although I recognise the importance of the fallback position in securing the principle of residential development on this site, the requirements of Schedule 2, Class Q do not require reference to the sustainability of a site's location and consideration against the requirements of adopted policy.
20. The Council's adopted Local Plan policies are predicated on the identification and protection of a sustainable settlement hierarchy requiring development to be located in the larger centres in the district. Outside these centres development should be proportionate to local needs. Policy DPS 2 is reinforced by Policy TRA1 which is consistent with the Framework and aims to encourage development in locations which would allow access to services by a genuine choice of transport modes. The appeal site is not on a bus route, local roads are unlit and do not have the benefit of pedestrian footways.
21. Whilst the Prior Approval scheme is a legitimate fallback position it was not made against adopted policy requiring an assessment of the potential harms arising from its location and reliance on private transport. The site does not allow a genuine choice of transport. The fallback position does not change this situation as a matter of principle; a position supported by adopted policy and the Framework.
22. However, if I were so minded to allow this appeal the outcome, in terms of traffic generated would not differ from the fallback position. So whilst there is conflict with Policies DPS2 and TRA1 of the East Herts District Plan 2018, the fall back position is a material consideration in this regard which overcomes the objection in policy terms to the appeal scheme.

#### *Ecological impacts*

23. The Ecology Survey included with the appeal provides a baseline position and identifies some enhancements which could improve biodiversity. These broadly address the requirements of Policy NE3 of the East Herts District Plan 2018.
24. I therefore do not find conflict between Policy NE3 and the appeal scheme under this main issue.

### **Planning balance**

25. I recognise that the PA for conversion of 2 buildings on this site represents a fall back position which is a material consideration in the determination of this appeal.
26. However, I regard the determining issue in this appeal as the impact of the proposed scheme on the character and appearance of the surrounding area.
27. The appellant has included in evidence several appeals involving proposed development following the grant of PA which were allowed by my inspector colleagues. Whilst I am not bound by these decisions and do not have full details of the sites before me, they can be distinguished from the circumstances of this appeal.
28. Appeal 3175499 involved a barn conversion following a PA for a similar scheme. However, there was no material difference between the two sites. Similar considerations informed the decision (3156030) involving a marginal change in layout between the PA scheme and that for which permission was sought with the addition of just one bedroom. Regarding appeal 3200095 the proposed scheme would have had the same footprint as the PA and would have been located on the same site. Finally, appeal 3248009 whilst involving new development was well screened.
29. In contrast the appeal scheme before me would result in two completely new buildings of a design at variance with the rural character of the area. These would be in stark contrast to the scheme granted under Prior Approval.
30. For these reasons the appeal is dismissed.

*Stephen Wilkinson*

INSPECTOR