



Appeal Decision

Site visit made on 18 July 2023

by K Allen MEng (Hons) MARCH PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 7th September 2023

Appeal Ref: APP/J1915/W/22/3304709

Fishers Farm, Ermine Street, Colliers End SG11 1ER

- 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 G Williamson of LW Developments Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/0563/FUL, dated 11 March 2022, was refused by notice dated 16 May 2022.
 - The development proposed is the conversion of existing barns into 4 residential dwellings with associated parking and landscaping.
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Decision

1. The appeal is allowed, and planning permission is granted for the conversion of existing barns into 4 residential dwellings with associated parking and landscaping at Fishers Farm, Ermine Street, Colliers End SG11 1ER in accordance with the terms of the application, Ref 3/22/0563/FUL, dated 11 March 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Both parties have referred to a previous appeal¹. Although on the same site, the previous appeal and the appeal currently before me are significantly different. The previous appeal sought to demolish two existing barns on site and make substantial alterations to a listed building, with a total of 8 dwellings created around a new courtyard. The current appeal will maintain the existing structures and access on site and proposes 4 dwellings in total. Whilst I have had regard to the previous appeal decision as a material consideration, I have reached my own conclusions on the proposal based on the evidence before me.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - whether, having regard to local and national policy, the appeal site is a suitable location for the development.

¹ Appeal Reference: APP/J1915/W/21/3269273

Reasons

Character and appearance

5. Colliers End is a rural linear settlement, with most dwellings set close to the highway. Several large agricultural buildings can be glimpsed between dwellings contributing to the rural agricultural character of the village. The appeal site is located on the northern edge of the village, comprising a farmyard which includes a Grade II listed barn and two large modern barns. Access is provided to the barns via a concrete/loose gravel farm track with large areas of grass and scrub to the north and east. An overgrown dry pond and adjacent property physically separate the modern barns from the highway. The appeal site is cluttered with numerous pieces of machinery, vehicles, and sheds in various states of repair and a large pile of rubble. Despite its proximity to the village, and glimpsed views across the pond, the appeal site visually relates to the open countryside and contributes significantly to the open rural character.
6. Although set back from the highway, the proposed dwellings would maintain the existing layout and massing of the site. The proposal would alter the two modern barns to allow for their conversion into dwellings with the addition of doors and windows. However, it would utilise materials typical of agricultural buildings and would largely maintain the agricultural character and appearance of the structures. Further, minimal landscaping interventions would be made across the site to facilitate the conversion. The layout and proposed hard surfacing material would be in keeping with the existing loose gravel tracks and the proposed post and rail fences would be appropriate to the rural character.
7. Activities and movements associated with residential use, such as waste storage and vehicle parking, would be apparent from the highway but would not appear significantly different to the current state of the appeal site and would not harmfully detract from the existing rural character. Further, the proposal would improve the overall appearance of the site, through the introduction of enhanced planting, the reinstatement of the overgrown dry pond and the removal of disused machinery and vehicles from site.
8. Given the above, I conclude that the proposal would not harm the character and appearance of the area. Consequently, the proposal accords with Policies GBR2 and DES4 of the East Herts District Plan (October 2018) (EHDP) and Policy SP1 of the Standon Parish Neighbourhood Development Plan 2017-2033 (September 2019) (SPNP). Collectively these policies seek to ensure development is compatible with the character and appearance of the rural area, considering siting, materials, and landscaping.
9. Similarly, the proposal would accord with the National Planning Policy Framework (the Framework) which requires that development is sympathetic to local character and is visually attractive as a result of good architecture.
10. The Council reference Policies SP7 and SP8 of the SPNP in the reason for refusal. However, these policies relate to the distribution of development and are not relevant to the character and appearance of the area.

Location

11. EHDP Policy DPS2 outlines the strategy for development within the district, primarily focusing development on sustainable brownfield sites and urban areas. SPNP Policy SP7 is consistent with this approach concentrating development within the defined village boundaries of the largest villages within the parish.
12. SPNP Policy SP8 permits development within the defined village boundaries of Colliers End. However, the parties agree that the appeal site is located outside of but immediately abutting the defined village boundary of Colliers End and therefore, lies within the 'Rural Area Beyond the Green Belt'. Further, as the appeal site comprises land that is occupied by agricultural buildings it cannot be considered a brownfield site.
13. Certain types of development within the Rural Area Beyond the Green Belt are supported by EHDP Policy GBR2. Part d of the policy permits for the alteration of buildings where the proposed development is appropriate to the character, appearance and setting of the site and surrounding area. The Council have suggested that the proposal would not accord with Policy GBR2 part d on two grounds.
14. First, that the proposal would conflict with EHDP Policy DES4 which provides design criteria for development and amongst other things, seeks to secure the character and appearance of the area. However, as concluded above, the proposal would be in accordance with Policy DES4 and would be in keeping with the area.
15. Second, that as the proposal would require alterations to be made to the site as well as the existing buildings it would go beyond what the policy allows. This interpretation of the policy is extremely limiting and would not be consistent with the Framework which supports development that would re-use redundant buildings and enhance their immediate setting. As identified above the proposal would improve the appearance of the site. Consequently, the proposal would accord with the aims of EHDP Policy GBR2 part d.
16. EHDP Policy INT1 and SPNP Policy SP1 are consistent with the Framework's presumption in favour of sustainable development. Policy INT1 Part I further seeks to secure development that improves the economic, social, and environmental conditions of an area. Although referenced in the Council's reason for refusal, the parties agree that the proposal would be considered compliant with the sustainability ethos of the policies and that the proposal would be accessible, and I see no reason to disagree.
17. Therefore, having regard to local and national policy, I conclude that the appeal site is a suitable location for the development. It would accord with the aims of Policies DPS2, GBR2, DES4 and INT1 of the EHDP and Policies SP1, SP7 and SP8 of the SPNP which collectively outline the spatial strategy for the area by identifying where growth and development should be focussed whilst seeking to ensure development is compatible with the character and appearance of the rural area and would be appropriate to the setting of the site. The proposal would also accord with the Framework, where it promotes the reuse of redundant or disused buildings and enhance their immediate setting.

Other Matters

18. Additional concerns have been raised by Standon Parish Council. While the parish may prefer the proposal to provide smaller units, the existence of other 4 bedroomed dwellings in the area is not a reason, on its own, to refuse development which accords with the development plan. Although details have not been provided for foul or surface water drainage, I have little substantiated evidence before me to suggest that the proposal would exacerbate any existing capacity issues. Further, I am satisfied that a suitably worded condition would secure adequate surface water drainage systems and their ongoing maintenance. Similarly, further details regarding the assessment of contamination, landscaping provisions, biodiversity net-gain and energy efficiency could be secured via condition.
19. The appeal site forms part of the setting of the adjacent Grade II listed farmhouse and barns as well as the neighbouring property Barnacres. In accordance with the statutory duty imposed by section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving the setting of the listed buildings in the determination of this appeal. The buildings derive significance from their architectural character and detailing and rural setting. The proposal would maintain the existing massing of structures and subject to suitably worded conditions, would maintain the agricultural character of the appeal site. Consequently, the proposal would not harm the setting of the listed buildings.

Conditions

20. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. I have considered the conditions put forward by the Council against the Framework and where necessary I have amended the wording in the interests of effectiveness and precision.
21. Aside from the statutory condition required to set the necessary time limit for development [1], a condition is required to indicate the approved plans to provide certainty [2]. The appellant has provided their written agreement to the pre-commencement conditions, and I am satisfied those conditions need to be such.
22. A construction management plan is necessary to establish safety and environmental procedures for the work phase of the scheme [3]. Due to the agricultural use of the appeal site, a contamination risk assessment is necessary in the interests of the health and safety of the future occupiers and the surrounding environment [4]. These reports are required before the commencement of development so the relevant standards and procedures relating to the construction phase are established and familiarised by site operatives before work begins and any potential contamination hazards are identified.
23. To secure the appearance of the proposal, a condition requiring the submission of external facing material samples is necessary [5]. Although the appellant has provided a sustainable construction, energy and carbon reduction statement, a condition requiring further design details is necessary to secure sufficient climate change adaptations and reduce carbon emissions [6].

24. EHDP Policy WAT5 seeks to ensure that surface water run-off is managed sustainably in accordance with the sustainable drainage system (SUDS) hierarchy. I have imposed a condition requiring the submission of a sustainable surface drainage scheme [7], in lieu of the Council's suggested condition imposing the Environment Agency's flood risk standing advice which would not be precise or enforceable.
25. The various proposed hard and soft landscaping conditions will be amended and combined with the suggested conditions relating to boundary treatments and biodiversity to ensure that the site adequately assimilates into the area and appropriate ecological enhancements are made [8]. A further condition is necessary to ensure existing planting is protected during the construction period and that existing and proposed planting is retained into the future [9]. As the site is relatively flat and the existing buildings are to be retained, it is not necessary for detailed ground levels/contours to be submitted.
26. A condition is required to ensure the parking area is in place prior to occupation so as not to effect highway safety [10]. Secure bicycle storage and electric vehicle charging points are required to promote sustainable transport [11,12].
27. EHDP Policy WAT4 requires higher water efficiency standards in residential development than the Building Regulations in response to the challenging local circumstances on water supply in the area, therefore a condition on water efficiency is necessary and reasonable [13]. I am satisfied that a condition limiting the nitrogen oxide emissions from all gas-fired boilers is necessary and reasonable to ensure an adequate level of air quality in accordance with EHDP Policy EQ4 [14].
28. While Planning Practice Guidance states that conditions restricting the future use of permitted development rights often do not pass the test of reasonableness or necessity, given the close proximity of the proposal to the neighbouring listed buildings, in this instance, I am satisfied that it is necessary to prevent future enlargements, improvements or alterations to safeguard the rural agricultural character of the appeal site, preserving the setting of the listed buildings [15].
29. I have not imposed the Council's suggested condition regarding machinery operation hours as this is adequately addressed via other legislation and details of proposed working hours will be provided via Condition 3. Details of the external facing materials to be used in the proposal will be provided via Condition 5. Although in the setting of the adjacent listed buildings, no works are proposed to them. Therefore, it is not necessary to impose a further materials condition related to the 'making good' of existing buildings.

Conclusion

30. Notwithstanding the Council's 5 Year Housing Land Supply position, for the reasons given above, I conclude that the development accords with an up-to-date development plan and the Framework and should be approved without delay. Therefore, subject to the identified conditions, the appeal is allowed.

K Allen

INSPECTOR

Schedule of Conditions

- 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 following approved plans:
 - NWA-19-007-S4LOC_E Rev A
 - NWA-19-007-SURV Rev A
 - NWA-19-007-1 Rev A
 - NWA-19-007-2 Rev A
 - NWA-19-007-50 Rev A
 - NWA-19-007-51 Rev –
 - NWA-19-007-52 Rev –
- 3) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall include details of:
 - a) access, egress and turning arrangements;
 - b) the parking of vehicles of site operatives and visitors;
 - c) loading and unloading of plant and materials;
 - d) storage of plant and materials used in constructing the development;
 - e) wheel washing facilities;
 - f) cleaning of site entrances, site tracks and the adjacent public highway;
 - g) delivery, demolition, and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures. Before the development is first occupied a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority.

- 5) No development above ground works, apart from approved demolition works and site preparation works, shall commence until samples of all external facing materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples before the development is first occupied.
- 6) No development above ground works, apart from approved demolition works and site preparation works, shall commence until details of the design and construction of the dwellings, demonstrating how summer overheating and winter heating energy demand will be minimised, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the development is first occupied.
- 7) No development above ground works, apart from approved demolition works and site preparation works, shall commence until a sustainable surface water drainage scheme to deal with the additional surface water run off arising from the development, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is first occupied and thereafter retained as such for that specific use.
- 8) No development above ground works, apart from approved demolition works and site preparation works, shall commence until, a landscaping/biodiversity scheme has been submitted to and approved in writing by the local planning authority. The details shall include:
 - a) retained landscape features;
 - b) hard surfacing materials;
 - c) planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment);
 - d) schedules of plants, noting species, sizes and proposed numbers/densities where appropriate;
 - e) boundary treatments indicating the type, position, design, and materials;
 - f) buffers around water bodies;
 - g) measures to enhance biodiversity, demonstrating a biodiversity net gain;
 - h) management/maintenance plan, indicating long term design objectives, management responsibilities and maintenance schedules;
 - i) an implementation programme.

Development shall be carried out in accordance with the approved details, management/maintenance plan and the agreed implementation programme.

- 9) All existing retained trees, hedges and plants on and immediately adjoining the site shall be protected from damage as a result of work on the site, to the satisfaction of the local planning authority, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent replacement British Standard, for the duration of the works on site. Any trees, hedges or plants (existing retained or proposed) that, within a period of five

years after planting (or replanting if previously failed), are removed, die or become, in the opinion of the local planning authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the local planning authority gives written consent to any variation.

- 10) Prior to occupation of the development hereby permitted, the access, parking and turning areas shown on drawing NWA-19-007-50 Rev A, shall be provided, and thereafter retained as such for that specific use.
- 11) Prior to occupation of the development hereby permitted, a scheme detailing secure cycle parking, shall be submitted to, and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is first occupied and thereafter retained as such for that specific use.
- 12) Prior to occupation of the development hereby permitted, at least one electric vehicle charging point per dwelling shall be installed and be available for immediate use. The electric vehicle charging points shall thereafter be retained and kept in good working order as specified by the manufacturer.
- 13) Prior to occupation of the development hereby permitted, measures to ensure compliance with the Building Regulations optional water efficiency standard of 110 litres (or less) per person per day shall be incorporated and be available for immediate use. The measures shall thereafter be retained.
- 14) Prior to occupation of the development hereby permitted, all gas-fired boilers installed within the development hereby permitted must meet a minimum nitrogen oxide emissions standard of <40 mgNO_x/kWh. The emissions standard shall thereafter be retained.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement, or other alteration of any dwellinghouse as described in Schedule 2, Part 1, Classes A, AA, B, C and E of the Order shall not be undertaken without the prior written permission of the local planning authority.

*****End of Conditions*****