



Appeal Decisions

Site visit made on 4 January 2023

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2023

Appeal A Ref: APP/W0340/W/22/3298207

Cleardene Farm, Ashmore Green Road, Ashmore Green RG18 9ES

- 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 Abdolla Jafari-Assi against the decision of West Berkshire District Council.
 - The application Ref 21/00330/FULMAJ, dated 8 February 2021, was refused by notice dated 28 January 2022.
 - The development proposed is described as "conversion of 4 agricultural buildings into 4 residential dwellings, including part demolition and landscaping."
-

Appeal B Ref: APP/W0340/W/22/3306639

Cleardene Farm, Ashmore Green Road, Ashmore Green RG18 9ES

- 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 Abdolla Jafari-Assi against the decision of West Berkshire District Council.
 - The application Ref 22/00810/FULMAJ, dated 30 March 2022, was refused by notice dated 22 July 2022.
 - The development proposed is described as "conversion of redundant buildings at Cleardene Farm, Ashmore Green, into four detached dwellings, and to demolish two redundant buildings."
-

Decision

1. Appeal A is dismissed and planning permission is refused.
2. Appeal B is allowed and planning permission is granted for the conversion of redundant buildings at Cleardene Farm, Ashmore Green, into four dwellings, and to demolish two redundant buildings at Cleardene Farm, Ashmore Green Road, Ashmore Green RG18 9ES, in accordance with the terms of the application Ref 22/00810/FULMAJ, dated 30 March 2022, subject to the conditions in the attached schedule.

Preliminary Matters

3. As set out above there are two linked appeals on this site. In appeal A, the four buildings would be retained and converted. In appeal B, two of the buildings would be demolished and the remaining two converted to residential. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

4. The main issues are;

- The principle of the proposed development with specific regards to the conversion of rural buildings;
- The effect of the proposed development on the character and appearance of the area;
- Whether the proposed development would comply with national and local planning policies which seek to steer new development away from areas at highest risk of flooding;
- The effect of the proposed development on biodiversity; and
- The effect of the proposed development on highway safety.

Reasons

Conversion of Buildings

5. Policy C4 of the West Berkshire Housing Site Allocations Development Plan Document 2006-2026 (DPD) allows for the conversion of existing redundant buildings in the countryside to residential use subject to compliance with a number of criteria. The Council considers the scheme conflicts with 2 of those criteria, which require: (i) the building to be structurally sound and capable of conversion without substantial rebuilding, extension or alteration; and (ii) the applicant can prove the building is genuinely redundant and a change to a residential use will not result in a subsequent request for a replacement building.
6. The appeal buildings are former poultry units finished in timber cladding with sheet metal cladding for the roof. The four buildings are similar in their design and construction and, whilst being long buildings, are of a typical agricultural design. A site inspection report produced by CM Quebral Consulting Ltd assessed concludes that the buildings are structurally sound and capable of being converted.
7. With regards to Appeal A, the proposed development would significantly alter the external appearance and overall design of the existing buildings, demolishing parts of the buildings to create narrow sections an overall F-shaped layout. The scale of the works required in order to undertake the proposal would result in a development that would have little resemblance to their existing design, form and layout. Appeal A would therefore be contrary to DPD Policy C4 (ii).
8. With regards to Appeal A I consider that the proposed development would require the substantial alterations to the existing buildings and would therefore be contrary to DPD Policy C4.
9. With regards to Appeal B, I conclude that the buildings are structurally sound and capable of conversion without substantial rebuilding, extension or alteration; and are genuinely redundant. The proposal, insofar as it relates to Appeal B, would therefore comply with DPD Policies C1 and C4 which provide criteria for assessing the conversion of existing redundant buildings in the countryside to residential use.

Character and Appearance

10. The site is accessed by a single lane track and lies some way from the nearest public road. The existing buildings form a small group with Cleardene Farm Bungalow, The New Bungalow and Kirby, all residential dwellings, which are otherwise surrounded by grazing fields and woodland. The appeal site is located in an elevated position. Views into the site are largely from the nearby right of way and long views from the north.
11. With regards to Appeal A the Council argues that the proposed development would overly large and incongruous. The existing buildings, whilst being fairly large in scale, are of an agricultural design that is typical in rural areas. The proposed development would require the redesigning of the existing buildings to an F-shape layout and the introduction of a number of new openings, including large area of glazing and balconies. The proposed development would represent a convoluted design that would contrast abruptly with the simple form of the existing buildings. Whilst there are limited views of the appeal site from nearby roads, it would be visible from a public right of way which runs close to the site. From these views the proposal would jar with the simple rural character of the immediate area.
12. Appeal B would demolish two of the buildings and convert the remaining two into four dwellings. The Council considers the proposal to be of a poor-quality design and would not make a positive contribution to the character and appearance of the area. While I accept that the existing buildings are of no visual or historic merit and are functional in appearance, the fact is they are existing and will continue to remain on the site. The buildings are redundant to their former use as poultry units and it is therefore preferable to reuse them for another purpose than to allow them to deteriorate, which could have an adverse impact on the character and appearance of the countryside.
13. The buildings are not particularly prominent, and the proposed residential use would be contained within the existing curtilage of the buildings, so avoiding encroachment out into open countryside. Additionally, two of the buildings would be removed and the remaining space would be used for garden and parking area.
14. Having regard to these considerations, I conclude that the conversion of the two of the buildings in the manner proposed would not have a harmful effect on the rural character and appearance of the area.
15. In regard to Appeal A, the proposed development would be contrary to DPD Policy C3 and Policies ADPP1, CS14 and CS19 of the West Berkshire Core Strategy (2012) (CS) which together seek to ensure that new development has regard to its impact on the landscape character of the area. The proposal would be contrary to paragraph 130 of the Framework which seeks good design sympathetic to local character.
16. With regards to Appeal B, the proposed development would comply with Policy C3 of the West Berkshire Housing Site Allocations Development Plan Document 2006-2026 and Policies CS14 and CS19 of the West Berkshire Core Strategy 2006-2026, which require new development to have regard to its impact on the landscape character of the area and its sensitivity to change. The proposal would also comply with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks good design sympathetic to local character.

Flood Risk

17. Much of the site lies within Flood Zone 1, which is classed as at a low probability of flooding, CS Policy CS16 requires that on all development, that surface water is managed in a sustainable manner through the implementation of sustainable drainage methods. Additionally, in development sites of over 1 hectare the policy also required the submission of a Flood Risk Assessment (FRA). Such an assessment has not been submitted with the proposal.
18. The appellant asserts that whilst the appeal site runs to some 1.25 ha, this is largely due to the inclusion of the existing access road. The area for construction on the appeal site is under 1 ha. The submitted report by CM Quebral Construction Ltd notes that there is no existing run off problems.
19. The appeal site includes several areas where drainage areas could be included within the site. The Council objected to the proposal on the basis that not enough information had been provided on the approach to surface water drainage. The submitted information indicates there is a reasonable basis to suppose that an adequate means of surface water drainage can be incorporated into the proposed development, so I consider it an acceptable approach to secure additional details through a planning condition.
20. I conclude that both proposed developments would be an acceptable location for new dwellings with regards to flood risk and surface water drainage. Consequently, the development would comply with CS Policy CS16, Part 4 of the DPD which together seek to ensure that developments do not increase flood risk elsewhere and use sustainable drainage methods. They would also comply with Paragraph 167 of the Framework which seeks to ensure that development is appropriately flood resilient and any residual risk can be managed.

Biodiversity

21. Paragraph 174 of the Framework refers to amongst other things, protecting and enhancing sites of biodiversity, and minimising impacts on and providing net gains for biodiversity. Paragraph 180 indicates that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, planning permission should be refused.
22. The Planning Practice Guidance states that an ecological survey will be necessary in advance of the planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate.
23. An Ecological Impact Assessment (EIA) produced by ECOSA was submitted with Appeal A and also used for Appeal B. The EIA identified that one of the buildings on the site supported a low status day roost of common pipistrelle bats. Additionally, the site supports badgers, breeding birds and hedgehog. The Council are concerned that the EIA was produced for Appeal A and was not updated for Appeal B, which includes the complete demolition of two of the buildings.
24. Whilst an updated EIA was not undertaken, the EIA did cover demolition of sections of the buildings that would be required in order to construct the proposed development under Appeal A. Based on the evidence before me I consider that the survey carried out provides the necessary certainty that the

proposed development can adequately mitigate and enhance biodiversity features in both proposals.

25. For the reasons outlined above I conclude that it has been demonstrated that the scheme would avoid or adequately mitigate unacceptable harm to biodiversity features on the site. Both proposed developments would therefore comply with CS Policy CS17 which seeks, amongst other things, to ensure that development demonstrate that there are no reasonable alternatives, and that adequate compensation and mitigation measures are provided. The proposals would also comply with paragraphs 174 and 180 the Framework that seeks to protect and enhance sites of biodiversity value.

Highway Safety

26. The proposed development would utilise an existing access and track. My visit to the appal site was a snapshot in time in regard to highway conditions but it was reasonable to conclude that levels of traffic would increase during peak hours. The crux of the matter for the Council and in regard to this main issue was that the existing access has to steep a gradient and that refuse vehicles would not be able to use the track due to the gradient and distance from the main highway.
27. The access track is already in residential use with three dwellings utilising it. The appeal is supported by an Appeal Statement produced by i-Transport which details that the proposed development would provide an improved access through width, alignment, gradient and surface improvements which would accommodate two vehicles passing. Additionally, a bin collection area would be provided close to its junction with the adjoining highway.
28. The improvements that form part of the proposals would benefit the existing dwellings located along the access track. With this and the above in mind, the proposed developments would not have a harmful impact on highway safety. Accordingly, I find no conflict with CS Policy CS13 or paragraph 111 of the Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

Conditions

29. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). A condition requiring the submission of materials is necessary in the interest of the character and appearance of the area. I consider that conditions regarding surface water drainage, landscaping, landscape and ecological management plan and a construction environmental management plan are necessary in order to ensure the proposed drainage, landscaping and biodiversity mitigation is completed and maintained. Conditions regarding improving the access track, parking and the provision of electric vehicles charging cycle storage are necessary in order to ensure a safe access and to promote the use of alternative methods of travelling. I have altered the wording of some conditions in order to ensure they comply with the PPG.
30. With regards to the Council's request for a condition requiring further details with regards to boundary treatments, I note that this information is included on the landscape plan. As such, I see no reason that this condition should be included. The condition requiring the submission of an additional ecological

survey is not necessary as adequate information has been provided with the appeal.

31. I have given careful consideration to the inclusion of the condition removing permitted development rights, having had regard to the PPG's advice on the inclusion of such restrictive conditions in specific circumstances. In this instance, the proposed development (Appeal B), whilst currently being in keeping with the character and appearance of the area, if extended could have a harmful impact on the simple agricultural appearance. As such, I consider the condition to be necessary.
32. I note the appellant has viewed the conditions and have taken account of their comments.

Conclusion

33. For the reasons given, I conclude that Appeal A should be dismissed. With regards to Appeal B the scheme would accord with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision otherwise. Appeal B should therefore, subject to the above mentioned conditions, be allowed.

Tamsin Law

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: 582 P001, 584 P002, 582 P004, 583 P006, 582 P010, 583 P011, 583 P012, 583 P013, 583 P014, 583 P015, 583 P016, 583 P017, 583 P018, 583 P021, 583 P022, 583 P023, 583 P090, Tree Protection Plan drawing no 1594-02 Rev A.
3. No above ground level development shall take place until a schedule of materials to be used in the construction of the external areas of the building and surfaces hereby permitted has been submitted to and approved in writing by the Local Planning Authority. Samples of the materials shall be made available for inspection on request. Thereafter the development shall be carried out in accordance with the approved materials.
4. No development shall take place until details of the scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate sustainable drainage principles to deal with surface water run-off from the roof of the dwellings hereby permitted and within the application site. The dwellings hereby permitted shall not be first occupied until the scheme of surface water drainage has been implemented in accordance with the approved details. The approved method of surface water drainage shall be retained thereafter.
5. No construction works shall take place outside the following hours, unless otherwise agreed in writing by the Local Planning Authority: 0730 to 1800 Mondays to Fridays; 0830 to 1300 Saturdays; No work shall be carried out at any time on Sundays or Bank Holidays.
6. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved CMS. The CMS shall include measures for:
 - (a) A site set-up plan during the works;
 - (b) 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) Erection and maintenance of security hoarding including any decorative displays and/or facilities for public viewing;
 - (f) Wheel washing facilities;
 - (g) Measures to control dust, dirt, noise, vibrations, odours, surface water run-off, and pests/vermin during construction;
 - (h) A scheme for recycling/disposing of waste resulting from construction works;
 - (i) Hours of construction work;

- (j) Hours of deliveries and preferred haulage routes.
7. No development shall take place until details of the vehicle parking and turning space areas have been submitted to and approved in writing by the Local Planning Authority. Such details shall show how the parking spaces are to be surfaced and marked out. No dwelling shall be occupied until the vehicle parking and turning space areas have been provided in accordance with the approved details. The parking and turning space shall thereafter be kept available for parking (of private motor cars and/or light goods vehicles) at all times.
 8. No development shall take place until details of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until an electric vehicle charging point has been provided in accordance with the approved drawings. The charging point shall thereafter be retained and kept available for the use of an electric car.
 9. The gradient of private drives shall not exceed 1 in 12 to enable them to be occupied by all users including those with mobility impairments.
 10. No development shall take place until details of the access into the site from Ashmore Green Road have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the access has been constructed in accordance with the approved details.
 11. No development shall take place until details of the cycle parking and storage space have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the cycle parking and storage space has been provided in accordance with the approved details and retained for this purpose at all times.
 12. No development shall take place (including demolition, ground works, vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) (also referred to as a Habitat or Biodiversity Management Plan) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:
 - (a) Description and evaluation of features to be managed.
 - (b) Ecological trends and constraints on site that might influence management.
 - (c) Aims and objectives of management.
 - (d) Appropriate management options for achieving aims and objectives.
 - (e) Prescriptions for management actions.
 - (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).

(g) Details of the body or organization responsible for implementation of the plan.

(h) Ongoing monitoring and remedial measures.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

13. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

(a) Risk assessment of potentially damaging construction activities.

(b) Identification of "biodiversity protection zones".

(c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).

(d) The location and timing of sensitive works to avoid harm to biodiversity features.

(e) The times during construction when specialist ecologists need to be present on site to oversee works.

(f) Responsible persons and lines of communication.

(g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

(h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the otherwise agreed in writing by the local planning authority.

14. No development or other operations shall commence on site until a detailed scheme of landscaping for the site is submitted to and approved in writing by the Local Planning Authority. The details shall include:

(a) schedules of plants noting species, plant sizes and proposed numbers/densities

(b) an implementation programme providing sufficient specifications to ensure successful cultivation of trees, shrub and grass establishment.

The scheme shall ensure;

(a) Completion of the approved landscape scheme within the first planting season following completion of development.

- (b) Any trees shrubs or plants that die or become seriously damaged within five years of this development shall be replaced in the following year by plants of the same size and species.
- 15. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C or E of the Town and Country (General Permitted Development) Order 2015, or any subsequent version thereof, no additions or extensions shall be made to, or outbuildings erected in the curtilage of the dwellings hereby approved without planning permission having first been granted on an application made to the Local Planning Authority for these purposes.