



Appeal Decision

Site visit made on 17 October 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 27th November 2023

Appeal Ref: APP/J1535/W/22/3310295

Colemans Farm, Toot Hill Road, Stanford Rivers, Ongar CM5 9QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ian Gorst against the decision of Epping Forest District Council.
 - The application Ref EPF/3259/21, dated 17 December 2021, was refused by notice dated 27 June 2022.
 - The application sought planning permission for the demolition of agricultural buildings, construction of two detached houses, extension to dairy cottage garden, provision of boundary treatment and hard and soft landscaping without complying with a condition attached to planning permission Ref EPF/3065/18, dated 14 January 2019.
 - The condition in dispute is No 2 which states that: "The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 2118/04C, 2118/05, 2127/01C, 2127/02, 2127/03."
 - The reason given for the condition is: "To ensure the proposal is built in accordance with the approved drawings."
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of agricultural buildings, construction of two detached houses, extension to dairy cottage garden, provision of boundary treatment and hard and soft landscaping at Coleman's Farm, Toot Hill Road, Stanford Rivers, Ongar CM5 9QN in accordance with the terms of the application, Ref EPF/3259/21, dated 17 December 2021 without compliance with condition No 2 previously imposed on planning permission Ref EPF/3065/18, dated 14 January 2019, but subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Epping Forest District Local Plan 2011 to 2033 (EFLP) was adopted by the Council on 6 March 2023. This has replaced the Epping Forest District Local Plan (1998) and the Epping Forest District Local Plan Alterations (2006). The relevant policies for the appeal are DM4 and DM7, which were referenced in the Council's reasons for refusal and on which the appellant was given the opportunity to comment. Therefore, I have determined the appeal having regard to these policies.
3. Amended drawings have been submitted with this appeal. The Council have been given the opportunity to comment on the revised drawings. In addition, during the course of the appeal a correction was made to one drawing. Although the appeals process should not be used to evolve a scheme, I am satisfied that in this case the changes are not substantive and that other

interested parties would not be prejudiced. Consequently, I have considered the drawings in the determination of this appeal.

4. The application subject to this appeal is made under Section 73A Town and Country Planning Act 1990. The development appeared to be largely complete and has been carried out without complying with conditions subject to which planning permission was granted. The area of dispute relates to the approved plans referenced in Condition No 2 and the appellant seeks its replacement with a condition specifying the plans that reflect the amended design as listed above. For the avoidance of doubt the appeal has been determined based on the appeal drawings.

Main Issues

5. The main issue is the effect that amending condition 2 would have on:
 - whether the development is inappropriate development in the Green Belt in respect of local and national policy;
 - the effect of the development on the openness of the Green Belt;
 - the effect of the proposal on the Grade II listed Colemans Farmhouse; and
 - if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate

6. The appeal site falls within land defined as Green Belt. It is within an enclave of domestic development at Colemans Farm and is accessed via a narrow lane. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. However, certain forms of development are considered not inappropriate. The Parties agree that the original development and therefore the appeal development falls outside the list of exceptions contained within the Framework and EFLP Policy DM4 and I have no evidence before me to suggest otherwise.
8. Consequently, I conclude that the house is inappropriate development in the Green Belt, having regard to local and national policy. Therefore, Policy DM4 of the EFLP requires there to be very special circumstances. I will return to this later in my decision.

Openness

9. The house is a large, man-made feature, however based on the evidence before me, it has replaced several modern agricultural buildings that had a substantially larger volume.
10. Although the height and volume of the house has marginally increased from the original permission and can be seen within its immediate surroundings, the changes do not fundamentally affect the spatial and visual openness of the site when compared to the previously approved scheme. Moreover, the overall

volume of development on site is significantly less than the former agricultural buildings.

11. Consequently, the house has a neutral effect on the openness of the Green Belt when compared to the previous approval and hence has had a positive effect when compared to the former agricultural buildings.

Colemans Farmhouse

12. The house forms part of the setting of the adjacent Grade II listed Colemans Farmhouse. It is a large timber framed, part plastered and part weatherboarded structure which forms part of the historic isolated farmstead surrounded by open countryside. A courtyard is formed by the Farmhouse and a number of attractive converted former farm buildings. Insofar as is relevant to this appeal, the Farmhouse derives significance from its historic agricultural use and courtyard layout, its architectural character and detailing as well as its rural setting.
13. The Council concluded that the original permission would preserve the setting and hence the significance of the Farmhouse as the substantial modern agricultural buildings would be removed and replaced with houses of an appropriate scale and design.
14. The dormer is located on the southwest elevation and is not visible from within the historic courtyard. Although somewhat domestic in its design, it is set down significantly from the ridge line with a limited overall scale. Moreover, it appears subservient to the main mass of the building. There are numerous rooflights within the Farmstead and due to their low profile, they do not distract from the overall simplicity of the roof form.
15. Although the house has a projecting flat-topped mid-strey with a large amount of associated glazing, it appears distinctly agricultural in its overall appearance. It is clear upon inspection that the house replicates certain architectural elements from the surrounding historic agricultural buildings, including the mid-strey and brick eaves detailing.
16. The materials used are high-quality and traditional in appearance and reflect the materials used around the Farmstead. Whilst the amount of brick used has increased when compared to the previously approved elevations, the elevations are well-balanced and in keeping with the rural agricultural appearance of the surrounding buildings.
17. Due to its use of traditional materials, detailing and simple agricultural form, when compared to the previous condition of the site, the house is in keeping with the listed Farmhouse and surrounding converted agricultural buildings and maintains the simple agricultural character of the Farmstead.
18. Given the above, I conclude that the house preserves and enhances the setting of the Grade II listed Colemans Farmhouse when compared to the former agricultural buildings. Consequently, I find no conflict with EFLP Policy DM7 which requires that the significance of heritage assets are preserved. Similarly, there is no conflict with the Framework which seeks to ensure that developments are sympathetic to local character and history.

Other considerations

19. When the Council determined the original application, it was considered that the positive effect of the proposal on the setting of the listed Farmhouse would clearly outweigh the harm by reason of inappropriateness. I have been provided with the details of the two extant planning permissions^{1,2} for similar houses which could be implemented on the site if this appeal were unsuccessful. These extant permissions constitute fallback positions, and I am satisfied that there is a more than theoretical possibility that one of these permissions would be implemented if this appeal was not successful. Therefore, I give the fallback positions significant weight.
20. As I have concluded above, despite the alterations to the design, the house is in keeping with the rural, agricultural Farmstead and ultimately preserves and enhances the setting of the Grade II listed Farmhouse when compared to the former agricultural buildings. Consequently, I conclude that the scheme before me has no greater effect than the extant permissions, and I find that the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. The proposal would accord with Policy DM4 of the EFLP and the Framework where it seeks to control development within the Green Belt

Other Matters

21. I note concerns raised regarding increased traffic and highway safety, however there are existing permissions for similarly sized houses at the appeal site. Further, I have no substantiated evidence before me to suggest that the house has resulted in an increased level of traffic which has detrimentally effected highway safety. The appeal site is located over 8km from the Epping Forest Special Area of Conservation (SAC) and is outside of the Zone of Influence for the site. Consequently, I am satisfied that integrity of the SAC would not be affected.
22. Although a revised site plan has not been provided, I am satisfied that the change in footprint is marginal, such that the effect on the site and the landscaping scheme would be inconsequential.

Conditions

23. This appeal grants a new planning permission. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73A should also restate the conditions imposed on earlier permissions that continue to have effect. The Council's delegated report indicates that many conditions have been discharged. I have considered the previously imposed conditions, as well as those suggested by the Council and the appellant's comments in response. I have made such amendments as necessary to comply with those documents and for clarity and consistency.
24. As the development has started, it is not necessary to impose a condition requiring commencement within a set period. It is necessary to specify the

¹ Application Reference: EPF/3460/17

² Application Reference: EPF/3065/18

amended list of approved drawings as this provides certainty and defines the permission [1].

25. Based on the evidence before me, I am satisfied that some conditions related to contamination have been discharged, however I am unable to determine if contamination was found on site and if any required remediation works have taken place. Therefore, a condition is necessary to verify these issues and ensure that the site is safe for occupation [2].
26. 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 rural setting, in this instance, I am satisfied that it is necessary to prevent future enlargements, improvements or alterations and buildings etc incidental to the enjoyment of the dwellinghouse to safeguard the open, rural agricultural character of the area and protect the setting of the adjacent Grade II listed Farmhouse [3].
27. I have not imposed the Councils suggested condition requiring the submission of material samples, as the materials are detailed on the approved drawings and the house has been largely completed on site, using the materials as noted. I have not reimposed conditions related to the construction process or landscaping as the house and landscaping scheme have already been implemented and as the Council have not requested them, it is reasonable to assume the relevant timescales have passed.

Conclusion

28. For the reasons given above, I am satisfied that the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
29. Consequently, the house accords with the development plan as a whole and the Framework, and therefore the appeal is allowed and planning permission is granted subject to the terms set out in the formal decision above.

K Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 33317/3 Site Location Plan
 - 1310/20 Proposed Site Layout
 - 1310/26 Plot 2 Floorplan and Elevations 1 of 2
 - 1310/27 Plot 2 Elevations 2 of 2
 - TG_002 P12 Ground Floor Plan
 - TG_003 P15 First Floor Plan
 - TG_004 P6 Roof Plan
 - TG_302 P8 Planning Elevations
 - TG_305 P5 Planning Material Elevations
 - TG_306 P3 Planning Elevations North East
 - TG_307 P4 Planning Elevations South West
 - TG_308 P3 Planning Elevations South East
 - TG_309 P4 Planning Elevations North West
 - TG_SK001 P6 Planning Elevation Comparison Front Elevation
 - TG_SK002 P7 Planning Elevation Comparison Rear Elevation
 - TG_SK003 P7 Planning Elevation Comparison Side Elevations
 - TG_SK010 P3 Planning Floor Plan Comparison Ground & First
 - TG_SK011 P3 Planning Elevation Comparison Front Elevation
 - TG_SK012 P4 Planning Elevation Comparison Rear Elevation
 - TG_SK013 P4 Planning Elevation Comparison Side Elevation
- 2) Within 3 months of the date of this consent, a verification report demonstrating the effectiveness of the contamination remediation agreed under application reference EPF/3065/18 shall be submitted to and approved in writing by the local planning authority.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the enlargement, improvement, or other alteration of the dwellinghouse or buildings etc incidental to the enjoyment of the dwellinghouse, as described in Schedule 2, Part 1, Classes A, B and E of the Order shall not be undertaken without the prior written permission of the local planning authority.

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