



Appeal Decisions

Site visit made on 11 April 2024

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2024

Appeal A Ref: APP/J1535/W/23/3315833

New Barns Farm, Epping Road, Roydon, HARLOW, CM19 5DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Heritage Estate Group Limited against the decision of Epping Forest District Council.
 - The application Ref is EPF/1459/22.
 - The development proposed is Demolition of redundant agricultural barns. Erection of 8 dwellinghouses (Use Class C3), conversion of Grade II listed Barn to a residential dwelling (Use Class C3), and other ancillary infrastructure.
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Appeal B Ref: APP/J1535/Y/23/3315846

New Barns Farm, Epping Road, Roydon, HARLOW, CM19 5DB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Heritage Estate Group Limited against the decision of Epping Forest District Council.
 - The application Ref is EPF/1637/22.
 - The works proposed are Listed building Consent for demolition of redundant agricultural barns. Erection of 8 dwellinghouses (Use Class C3), conversion of Grade II listed Barn to a residential dwelling (Use Class C3), and other ancillary infrastructure.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed and listed building consent is refused.

Preliminary Matters

3. There are two appeals before me. To avoid duplication, I have dealt with the appeals together where appropriate.
4. Class R of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO), gives permitted development rights for the change of use of a building and land within its curtilage from a use as an agricultural building to a flexible use, including Class B8, storage. The appeal statement refers to several permitted development rights but the planning history lists only one Prior Approval application¹ and this gives change of use for one barn only. Whether other buildings would have permitted development rights would be dependent on their meeting the

¹ Ref: EPF/0894/22

relevant criteria and on the basis of what is before me, I am unable to make that judgement.

5. In relation to Class R, curtilage is defined within Paragraph X of Schedule 2, Part 3 of the GPDO as: *the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or; an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building.*
6. I requested copies of the Prior Approval application, the decision, accompanying plan and the officer's report in relation to that permission. The barn in question is identified on the drawing and its area is stated in the documentation. As such, the maximum area of curtilage outside the barn that could be considered to have benefited from permitted development under the Prior Approval application would be equal to that of the barn's floor area. In any case, it would be land immediately alongside that barn.
7. The other agricultural buildings within the appeal site appear to remain in agricultural or forestry use in planning terms and consequently do not fall within the definition of Previously Developed Land (PDL) as set out in Annex 2 of the National Planning Policy Framework (the Framework). This excludes land that is or was last occupied by agricultural or forestry buildings. Consequently, I have concluded that only a limited area of land within the appeal site can be considered to be curtilage and this would be adjacent to the barn now used as storage.
8. One of the reasons for refusal concerns the Epping Forest Special Area of Conservation (SAC). The officer's report and the Council's statement are inconsistent with regard to the proximity of the Epping Forest SAC, and the appellant's ecology consultant notes that the site is outside the Epping Forest SAC's Zone of Influence (ZOI). The screening opinion undertaken when the appeal was lodged also indicates that the site is outside the Epping Forest SAC ZOI and I have proceeded on that basis. However, the ecology report identifies that other protected sites are nearby, and I have referred to these below.
9. Since the application was determined the Council has adopted the Epping Forest Local Plan 2011 – 2033 (LP). As the Council has advised that the policies from the earlier development plan have been revoked, I have referred to policies only from the recently adopted LP and which were submitted as part of this appeal.
10. On my way to carry out the site visit I was advised that I would not have access. However, I was able to look into the site from the road at various points and concluded that together with the submitted evidence, I was able to determine the appeal.

Main Issues

11. The main issues are:

- Whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies (Appeal A);

- The effect of the development on the openness of the Green Belt (Appeal A);
- Whether the development would preserve special features of the Grade II listed Barn at Newbarns Farm, and the Grade II listed Granary at Newbarns Farm, including settings, and whether the development would enhance or preserve the character or appearance of the Nazeing and South Roydon Conservation Area (CA) (Appeals A and B);
- Whether the development would accord with local policies with regard to location (Appeal A);
- The effect of the development on the living conditions of nearby residents (Appeal A);
- Whether the development would have an adverse effect on protected sites with regard to biodiversity (Appeal A); and,
- Would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal (Appeal A).

Reasons

Green Belt

12. The appeal site lies within the Green Belt. Paragraph 154 of the Framework states that a local planning authority should regard the construction of new buildings within the Green Belt as inappropriate development, but then goes on to list exceptions.
13. Paragraph 154 g) of the Framework sets out an exception for limited infilling or the partial or complete redevelopment of PDL. However, as set out above, the only area of the site that could be considered to fall within the definition of PDL is the barn that has permitted change of use and a further area immediately adjacent to or around that barn. Only the dwelling located close to the footprint of the barn with permission for a change of use could be considered to be located on PDL. There is nothing before me to suggest that a split decision might be acceptable so I have continued my reasoning on the basis that the site as a whole cannot be considered to be PDL.
14. As such the building of eight new dwellings would amount to inappropriate development, which by definition, is harmful to the Green Belt.

Openness

15. One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. When considering the impact of development on the Green Belt, openness is generally considered to mean the lack of development or activity.
16. The site currently has buildings and activity in relation to farming and storage activities. At present the buildings are arranged in a fairly tight cluster on one side of the appeal site and there is an area of arable land between the buildings

and the road. The circulation areas and hardstanding are closely and functionally associated with the building layout.

17. Eight dwellings would reduce openness, arising from the bulk of the dwellings themselves, and from the increased activity and domestic paraphernalia of their gardens and parking areas. Moreover, the dwellings and their gardens and associated activity would be spread across the entire appeal site. This would constitute a substantial loss of openness in spatial terms, irrespective of visibility from the road.
18. The Landscape and Visual Impact Assessment (LVIA) concludes that although there would be a marginal decrease in total building footprint, and a marginal decrease in building volume, the proposed dwellings would be taller than some of the existing barns. In addition, the 3D image comparing the current bulk and mass of the barns with the proposed dwellings shows that there would be a considerable spread of built form across the site compared to the current situation. This reinforces my reasoning with regard to the loss of openness.
19. I acknowledge that the roadside vegetation and the bungalow would screen the development from some viewpoints, and additional planting could be undertaken to provide screening. However, the courts have found that openness can be assessed in spatial or visual terms. In this case, screening the development from the public domain would not alter the loss of openness arising from the extent and spread of built form and activity within the site. This would constitute a greater loss of openness than that currently existing. Moreover, the extent of development and built form across the appeal site would conflict with the aim of safeguarding the countryside from encroachment.
20. Furthermore, the current site activity is appropriate for the rural context and limited to specific areas of the site. The development would extend residential activity across the entire appeal site. I give the harm arising from loss of openness considerable weight.
21. Even if I concluded that all the appeal site constituted PDL, Paragraph 154 g) of the Framework qualifies the exception for development on PDL by stating that there can be no greater impact on openness than the existing development. In this case there would be a greater impact on openness than the existing development.
22. The development would therefore be inappropriate development which would be contrary to LP Policy DM4 which is concerned with safeguarding the Green Belt, as well as contrary to guidance in the Framework. Paragraph 153 of the Framework states that substantial weight should be given to harm in the Green Belt.

Designated Heritage Assets

Listed barn

23. The listing states that the long timber framed 3-bay threshing barn dates from around 1700. It has internal arch braced tie beams, and a red tile half hipped roof. It can be seen at the head of a U-shaped arrangement of buildings open to Epping Road on the 1873 Ordnance Survey map. The enclosure of the yard remained intact until the 1970's, although the aerial photographs suggest that the original side wings to the listed barn had been replaced by structures with a

far wider footprint. The current farm has extensive buildings to the rear of the original yard.

24. The heritage statement notes that the listing for the barn appears to be incorrect as it is not shown on the 1839 tithe map. The weatherboarding also sits above a stock brick base which is more likely to date from the 19th century. I see no reason to disagree with these statements. Nonetheless, the maps and other evidence shows that it remained at the heart of the farm whilst it underwent expansion. These works included the building of a detached farmhouse to one side, the opening up of the yard on its eastern side and the addition of the far larger structures to the rear, one of which is attached to the listed barn's rear elevation, subsuming the former midstretey.
25. From the road and what appears to be the farm's main vehicular entrance, the barn is a significant visual presence, although the modern barn to the left-hand side conceals the full extent of its principal elevation. A pair of centrally located cart doors are positioned immediately opposite the road entrance, reflecting the yard's original layout and the barn's functional importance within that layout.
26. Internally there is evidence of plain queen post construction, and tie beams sitting on arched braces. However, there is also evidence of machine cut replacements to the timber structure and rendering to sections of the brick base, and the incorporation of the midstretey into the more modern barn to the rear. The historic fabric appears compromised. Nonetheless, the barn remains a large single width space which gives a sense of its original scale and purpose as a 19th century threshing barn.
27. Externally the barn has lost its former and immediate connection with open fields to the rear, and the attachment of more modern and utilitarian farm buildings has both damaged its original form and fabric, and diminished its visual impact. Nonetheless, it has a simple form that is immediately reflective of its original function and context. I conclude that the barn's significance is derived primarily from its overall form and its spatial relationship with the road, the open countryside and the nearby granary, as discussed below. These reflect its historic purpose and the use of materials and vernacular of the period.

The Granary

28. The 19th century weatherboarded granary is a small square raised building with a red tile pyramidal roof, situated at the side of the vehicular entrance and close to the carriageway.
29. Its function is clearly signalled by its raised floor, and it shares some materials and detailing with the listed barn. It is likely that they were built at the same time. The granary's significance arises from its overall form, such historic fabric as remains and its spatial relationship with the barn which reflects its original function. It also contributes to the listed barn's setting as a reflection of the original farm layout and the commonality of form and materials which reflect the vernacular of the period.

Proposals and effects – listed barn and granary

30. The development would constitute the conversion of the listed barn to a dwelling, with the removal of the attached barn to the rear, and the

replacement of the attached barn on its principal elevation with a structure of similar width and roof form to that now existing, but with less length. All other barns would be demolished.

31. The main range's forward extension would extend beyond the barn's flank wall and its ridge would extend above the barn's eaves. It would appear clumsily proportioned in comparison with the main range. I appreciate that it appears to have a similar profile to the existing barn, but this does not alter my reasoning.
32. To the rear, a small single storey hipped extension would replace the former midstrey. Its eaves would be lower than the height of the main range's cart doors and it would appear both underscaled and unrelated in form or function to the main range. It would present an unconvincing reflection of what would have been very likely to be a far larger and taller opening, allowing the direct passage of farm machinery and transport from one side of the barn to the other. There is nothing before me to indicate that its proportions or form reflect the original midstrey.
33. The proposed minimal intervention to the main range would reflect its plain agricultural form. However, the extensions outlined above would intrude into that simplicity. The elevations show the lack of relationship between the proposed extensions and the main range in proportion, detail and typology. The resultant dwelling would have a suburban and contrived appearance, which would detract from the barn's significance.
34. There would also be a loss of the internal space, which reflects the barn's former function, and some loss of historic fabric. However, given the confused arrangement of historic and more modern materials and structures, I give this harm minor to moderate weight only.
35. The granary's historic fabric would be unaffected, but its setting would become domesticated as a consequence of the barn's conversion and the residential use of the former farm yard. This would have an adverse effect on the granary's setting and reduce its significance.
36. The new dwellings would be located to the rear and west of the listed barn and the original yard layout. They would be aligned in a haphazard layout along an access road. Each new dwelling would have a long rectangular footprint, a dual pitched roof and largely flat elevations which would broadly reflect the bulk, form and typology of the listed barn's main range. They would extend over open land between the existing barns and the road.
37. However, there would be no underlying geometry to their alignment, and as a consequence of their loose spacing, the bulk of built form would extend well beyond the current developed area of the site and they would neither relate well to each other nor to the rural context. Notwithstanding that the listed barn and granary predate many of the current modern farm buildings, there is a recognisable agrarian context. This would be significantly diminished and as such the significance of the listed barn and its setting, and the setting of the granary would also be diminished.

Conservation area

38. The CA covers a very large area of open countryside situated between Harlow and Lower Nazeing, containing well preserved medieval settlements and a distinctive closed field pattern. Enclosed field systems are described by Historic

England² as occurring primarily in areas of low population density typified by isolated farmsteads and hamlets, and giving the impression of a random distribution pattern with no obvious pattern to growth or development. This is exemplified by the CA map which highlights the small irregular field pattern. The area's original field pattern and scattered farmsteads remains the basis of the current land use. At my visit I noticed the distinctive pattern of narrow winding lanes, tall hedgerows small fields seen in glimpsed views and the seemingly random field layout and associated features.

39. The Council's Settlement Edge Landscape Sensitivity Study states that *to the south of Roydon, the landscape comprises a patchwork of small to medium scale arable fields, lined with mature hedgerows and trees at field boundaries provide a sense of enclosure*, and locates the site within an area of pre-18th century field patterns with a high sensitivity to change. This assessment is reinforced by the LVIA.
40. As such, I see no reason to disagree with the description of the locality and conclude that the historic field pattern, together with views into farmland and natural field boundaries are key characteristics of, and fundamental to, the appreciation of the CA. Although the farm has been extended, the granary and the listed barn are very visible from the road and make a highly positive contribution to the CA and the surrounding field system.
41. I conclude that the significance of the CA is derived from a distinctive pattern of land use and landscape features, which contribute to an overarching rural and undeveloped character and appearance. I acknowledge that there are pockets or recent residential development but in the vicinity of the site, where there are occasional dwellings, they are very well spaced and partially concealed behind roadside vegetation.

Proposals and effects - CA

42. As set out above, the new dwellings would introduce eight large detached dwellings in place of the existing cluster of farm buildings and open grassland. Although the dwellings themselves would have a standard quasi barn styling, there would be clear urbanisation which would be visible from the road, both along the new access road and at the existing farm entrance beside the granary.
43. The argument is advanced by the appellant that the new dwellings would reflect the form of the listed barn and be arranged in a manner to reflect farm buildings. However, agricultural buildings are generally arranged in a manner that reflects underlying function and development over a long period of time. Although the current barns vary in size, height and extent, there is an underlying geometry in their layout and their clustering around the hardstanding, as well as a spatial relationship with each other. This reflects the farm's development and their function within the farm operations. The new dwellings would have a broad uniformity of form, bulk and height and would also be sited in a wholly haphazard and contrived layout which would bear no relation to their rural and agrarian setting. This would represent a substantial and incongruous intrusion into this sensitive landscape, eroding its significance.

² Field Systems, Historic England 2018

Heritage conclusion

44. The development would have adverse effects on the listed buildings, including settings, and the character and appearance of the CA, resulting in a loss of significance to all those assets. This would amount to less than substantial harm. LP Policy DM7 and Paragraph 208 of the Framework set out that where a development will lead to less than substantial harm to heritage assets, the harm should be weighed against the public benefits of the proposal including securing, where appropriate, its optimum viable use.
45. There would be moderate benefits arising from the addition of nine dwellings to local housing stock. I also acknowledge that conversion to a dwelling in principle could safeguard the listed barn's long term future. However, Paragraph 205 of the Framework states that when considering the impact of a development on the significance of heritage assets, great weight should be given to the asset's conservation. I conclude that the cumulative harm to these heritage assets would not be outweighed by the benefits arising from additional housing.
46. Consequently, the development would conflict with S16(2), S66(1) and S72(1) of the Planning (Listed Buildings and Conservation Act) the Act which taken together require the decision maker to have special regard or to pay special attention to, preserving or enhancing listed buildings or their settings, or to preserving or enhancing the character or appearance of conservation areas. There would also be conflict with LP Policy DM7 and Section 16 of the Framework which are concerned with the safeguarding of designated heritage assets.

Location

47. LP Policy SP1 sets out that around 48 new homes will be delivered in Roydon in the plan period, and that these will be built within defined settlement boundaries or rural exception sites. There is nothing before me to indicate that this is a rural exception site.
48. LP Policy SP2 states that development must provide for sustainable movement and access to local and strategic destinations, and LP Policy T1 states that development should minimise travel.
49. The transport statement indicates that there are local amenities including a convenience store, public house, primary school, hairdressers and pharmacy within 1.4 kilometres of the site. The nearest secondary school, petrol station and supermarkets are further away. There are bus stops indicated at a distance of 700 metres, and Roydon train station, with hourly services to London is 1.9 kilometres away. For a rural situation there is a wide range of day to day services and transport links within reasonable distance. However, as Epping Road is narrow, unlit and has no footways I conclude that its usefulness for pedestrians or cyclists would be very limited. Moreover, walking for 700 metres could be challenging for some future residents even if they used the limited bus service, particularly during darkness or when carrying bags or shopping. It therefore seems very likely that there would be considerable reliance on private vehicles for future occupiers.
50. The transport statement has calculated likely trip generation using the TRICS database, excluding town centre and edge of town centre data. This notes that

there are likely to be 4 or 5 trips in peak hours. The statement also calculates the likely trip generation from the barn that has permission for change of use. However, this is a rural location. It is unclear to me whether even edge of town data would be comparable to the situation here. Moreover, the base data includes flats and terraced houses which would probably not be directly comparable to the large family houses proposed. As such, I give the trip generation estimate limited weight.

51. I acknowledge that the existing farm, forestry or commercial use will generate some traffic. However, on the basis of what is before me I am unable to conclude that it would be comparable to that likely to be generated by the development. In the light of the above, I conclude that the development would not accord with local policies with regard to location and that there would be conflict with LP Policies SP1, SP2 and T1 as set out above.

Biodiversity

52. The Biodiversity and Bat Survey Report³ (biodiversity report) sets out that the appeal site is approximately 1.9 kilometres from the Lee Valley Ramsar and Special Protection Area (SPA) including the Rye Meads Site of Special Scientific Interest (SSSI). These are designated sensitive areas under the EIA Regulations. The biodiversity report goes on to state that conducting a formal Habitat Regulations Assessment would be beyond its scope and that in any case the scale of development proposed indicates that any impacts, whether alone or in combination would be *de minimis*. I am unable to conclude whether that would be the case on the basis what is before me. However, as I have found harm in relation to other main issues it is not necessary for me to consider this further.
53. The Council has indicated at appeal that in the event that the appeal was allowed, mitigation in the form of contributions for managing and monitoring air pollution, providing electric vehicle points and high speed broadband to allow home working would provide sufficient mitigation for air quality impacts on the Epping Forest SAC. I have a completed Unilateral Obligation (UU) before me, which sets out those contributions. However as set out above, the evidence indicates that the site does not lie within the Epping Forest SAC ZOI and as such, this weighs neither for nor against the appeal.

Living conditions

54. The Council has raised a concern in relation to the living conditions of occupiers of the bungalow. The converted listed barn would be about 15 metres from the bungalow, and would have no windows on its north-western elevation. The overall form and mass would remain largely as existing, with a reduced front wing, and there would not be any intervisibility or overlooking.
55. The long rear elevation of one of the new dwellings would be broadly parallel to the bungalow. However, this would be at a distance of around 20 metres and even though there would be potential overlooking from the new dwelling's first floor, there would be sufficient distance for this not to have an adverse effect on the living conditions of the bungalow's occupiers. There would not be any conflict with LP Policies DM9 and DM10 which are concerned residential amenity.

³ foa ecology, November 2021

Other matters

56. The appellant appears to argue that the red line boundary which accompanies the Prior Approval decision allows all the land within that boundary to be used for flexible commercial use. However, as outlined above, this is not the case. In any case, the appeal statement goes on to state that alternative uses now occupy the site. It is unclear what uses are referred to and how extensive they are but if the barns are no longer used for agricultural purposes, they would fall outside the requirements for permitted development under Class R. As such I am unable to give any weight to the suggestion that widespread commercial use is a fallback scheme.
57. The appellant has drawn my attention to an appeal statement where the Inspector's balancing exercise demonstrated that in some circumstances the harm arising from inappropriateness can be outweighed by very special circumstances. I do not dispute that this can be the case. However each appeal is determined on its own merits, and in this case I have concluded that the development would conflict with the purposes of including land within the Green Belt.
58. I appreciate that the farm may no longer be viable, but there is limited information before me in this regard. In any case, and on the basis of what is before me, this does not alter my reasoning with regard to the main issues.

Other considerations

Enabling development

59. The appeal statement makes the argument that the development would fund the retention of the listed buildings on the site. However, this would appear to fall within the definition of enabling development. This is development that would not normally be in compliance with local and/or national planning policies. There is a clear procedure for the assessment of enabling development which is set out in HE guidance⁴. The guidance specifies the information required by a decision maker in order to determine whether a case for enabling development exists, including financial information to demonstrate that a conservation deficit exists. This evidence has not been provided. As such I am unable to conclude that enabling development is required or that it would ensure the future of the listed buildings. This carries no weight in favour of the appeal.

Housing supply

60. The appeal statement argues that the Council is unable to demonstrate five years housing supply land and that therefore Paragraph 11 of the Framework is engaged. However, Paragraph 76 of the Framework notes that councils are not required to provide annual updates with regard to specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the adopted plan is less than five years old, and the adopted plan identifies at least a five year supply of specific deliverable sites. The latest development plan was adopted in February 2023 and the examining Inspector found that there was more than five years housing supply land.

⁴ Enabling Development and Heritage Assets, June 2020

61. In any case, Paragraph 11d) of the Framework states that where there are no development plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies that protected areas of assets of particular importance provides a clear reason for reason for refusing the development proposed. Green Belt and designated heritage assets are specifically mentioned in the footnote as those relevant areas or assets and in this case the application of policies in the Framework has provided clear reasons for refusal.

Planning Balance and Conclusion

62. Notwithstanding the benefits arising from the provision of nine dwellings, which would increase local housing supply and provide a moderate economic boost to local shops and services, those benefits do not outweigh the harm identified. Even if I gave considerable weight to those benefits it would not be sufficient to outweigh the cumulative harm identified with regard to the Green Belt, heritage assets and the unsuitable location. As such, other considerations amounting to very special circumstances sufficient to outweigh the harm to the Green Belt do not exist.

63. The proposals would conflict with the Act, the guidance in the Framework, and relevant policies of the local development plan and there are no material considerations of such weight to lead me to conclude otherwise.

64. Appeal A is dismissed.

65. Appeal B is dismissed and listed building consent is refused.

A Edgington

INSPECTOR