



Appeal Decision

Site visit made on 27 March 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/J1915/W/23/3331901

Quinbury Farm, Hay Street, Braughing, Hertfordshire SG11 2RE

- 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 G.J and C.H Langley-Jones of Langley's Property Development Limited against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0356/FUL.
 - The development proposed is conversion of barn to a residential dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of barn to a residential dwelling at Quinbury Farm, Hay Street, Braughing, Hertfordshire SG11 2RE in accordance with the terms of the application, Ref 3/23/0356/FUL, subject to the conditions in the attached schedule.

Background and Main Issue

2. Since the Council determined the application, an appeal has been allowed on land adjacent to the appeal site for the continued erection of four dwellings¹. In light of that decision, the Council no longer seeks to defend those parts of its reason for refusal as it related to the isolated and unsustainable location of the site.
3. The parties have confirmed that planning permission has subsequently been granted for conversion of the barn the subject of this appeal to a single residential dwelling². I have no reason to think that this permission would not be implemented were this appeal to be dismissed and it therefore represents a realistic fallback position. Consequently, the principle of residential use of the barn has been established and it is not necessary for me to consider this further.
4. Given the above, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site consists of an agricultural barn accessed via a byway open to all traffic. The site includes what is described as an agricultural field which leads to a narrow river. There are further fields on the opposite side of the byway and to the rear of Quinbury Farm Cottage however on the opposite side of the river where the land rises sharply there is a small tree belt.

¹ APP/J1915/W/23/3317491 allowed 5 December 2023

² 3/23/2140/FUL granted permission 2 February 2024

6. At my site visit, I observed the dwellings granted on appeal under construction and Quinbury Farm Cottage which has the benefit of extant permissions for its demolition and replacement with a four bedroom dwelling³. There is also what appears to be a large residential property beyond those under construction. While the existing farm house is sited in proximity to the access, the farm cottage is not. Furthermore, the adjacent approval has a courtyard type layout. Dwellings facing the highway will no longer be a key characteristic of the immediate area. The proposed conversion, facing towards the courtyard, would not be incongruous in this context.
7. The proposed development would incorporate a notable proportion of the adjacent field into the private amenity space. This field is a small area of land which will ultimately be bounded by the small enclave of residential development at Quinbury Farm and the river and treebelt beyond. It would only be visible to users of the byway for a short duration due to the elevation changes. Suitable boundary treatments would limit the extent to which any resultant domestic paraphernalia would be visible to users. The surrounding landscape would remain predominantly rural and would contrast with the immediate surrounds of the appeal site given the extant permissions. The use of part of the field as a domestic garden would not have an adverse effect on the rural character and appearance of the area.
8. The existing barn is a modern structure entirely functional in its appearance. There are a variety of dwellings, existing and proposed, in immediate proximity to the site. The existing dwellings do not display any consistent pattern of fenestration. The approved plans for the adjacent four dwellings show some variety in the form of the proposed fenestration, although it would be in a generally regular position. The proposal before me shows openings which, while symmetrical along the front and rear elevations, would have the openings in different positions. However, as established above, the proposed dwelling would not occupy a prominent position in the landscape. It is not in an area of any particular sensitivity. As a result, the proposed alterations would be acceptable.
9. The proposed development would therefore have an acceptable effect on the character and appearance of the area. It would be in accordance with East Herts District Plan (2018) (EHDP) Policies DES4 and GBR2(d), and Braughing Neighbourhood Plan Policy 2 which, taken together and insofar as they relate to this appeal, require alterations to buildings to be of a high standard of design, be appropriate to the character, appearance and setting of surrounding areas and contribute to local distinctiveness.

Other Matters

10. During the course of the appeal, the Council advised it now considered it could demonstrate a five year supply of deliverable housing land. This is disputed by the appellant. However, given that the principle of residential use of the site has been established, and the lack of harm I have found above, the proposal would comply with the development plan when read as a whole. As such, paragraph 11c of the National Planning Policy Framework (the Framework), which requires development that does not conflict with the development plan to be approved, is engaged.

³ 3/23/2272/FUL granted permission 19 February 2024 and 3/22/0138/FUL granted permission 25 May 2022

11. The site would be accessed via the byway. While this is unmade, it is of sufficient width that cars could pass. The verges would also provide a place for pedestrians if passing cars. The proposal would therefore be acceptable in highway safety terms and would not adversely affect users of the byway. There is no evidence to demonstrate that the additional use of the byway that would be generated by the proposed development would necessitate improvements to its surface, or that the development could not be carried out without encroaching onto the byway.
12. It may be that the supporting documentation to the previous permission for conversion on the wider site referred to the demolition of this barn. However, it has not been required as part of the recently allowed appeal. National policy is to boost significantly the supply of housing, and targets are expressed as a minimum. Surpassing these is not a reason to dismiss an appeal. This proposal is to be assessed on its own planning merits, and it is not for this appeal to compare this proposal with the subsequently approved scheme. Nor would it bind future decision makers in other locations given the specific circumstances of this site. The principle of residential use of the site has been established and the need to travel by private car to access services and facilities would be the same for this proposal as the approved. There would be economic benefits from employment during the construction stage and spending by future occupiers.

Conditions

13. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 56 of the Framework. I acknowledge the conditions imposed on the recent appeal decision however I have considered conditions in this case on the basis of the evidence before me. I have made amendments to some of them for consistency and clarity purposes.
14. In the interests of certainty, I have imposed conditions stipulating the timescale for the commencement of works and the approved plans. It is reasonable and necessary for details of materials and boundary treatments to be approved. An appropriate degree of control can be achieved through approval of written details of materials and it is not necessary for samples to be submitted. It is reasonable and necessary to control external lighting and working hours to protect the living conditions of surrounding residents. It is reasonable and necessary for details of landscaping to be secured and for provision to be made for the replacement of any planting within five years. I have amended the condition to require the planting plans to be prepared with regard to the recommendations of the preliminary ecological appraisal. There is such limited planting within the appeal site that it would not be necessary to require its retention, however it is reasonable and necessary to ensure that there would not be any adverse effects on those trees that lie outwith the site boundary. I have amended the period in which trees shall be replaced to from first occupation of the dwelling as this is more precise.
15. It is reasonable and necessary for the development to be carried out in accordance with the mitigation measures identified in the preliminary ecological appraisal (PEA). The PEA indicated a construction environmental management plan would be necessary and I have imposed an additional condition to require this. It is necessary for this to be a pre-commencement condition to ensure that appropriate safeguards are in place for the duration of the development.

The PEA also specified biodiversity enhancements. There is no substantive evidence before me that this would not deliver appropriate enhancement, therefore it is not necessary for further biodiversity information to be submitted.

16. It is reasonable and necessary to ensure that provision for car parking is provided. Details of the surfacing of such areas would be controlled by the landscaping condition and further repetition is not necessary. The site is within an area of water stress so it is reasonable and necessary to require that water consumption be limited to 110 litres or less per person per day. I have amended the condition to require the details of the measures to be approved by the local planning authority to ensure that the condition is enforceable and to require their retention to ensure the measures are effective. The manner in which the building will reduce energy demand has been set out in the energy and carbon reduction section of the sustainability questionnaire. This is sufficient to meet the requirements of the development plan and compliance can be secured via an amended condition. Given the sensitive end use of the site and the former agricultural use of the building, appropriate contamination conditions are considered reasonable and necessary. I have removed the tailpiece to ensure the condition is precise.
17. It is reasonable and necessary to ensure that floodplain compensation is provided and to ensure that the air source heat pump would not have an adverse effect on the living conditions of surrounding occupiers.
18. There is no substantive evidence before me of any surrounding noisy uses that would give rise to the need for additional controls on sound insulation. There is no evidence that the conversion works would give rise to levels of dust sufficient to require additional control. Construction sites are required to be kept in good order by other legislation, so a condition is not necessary to control this.
19. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. There is no evidence before me that the site is in a valued landscape such that it would be necessary to withdraw permitted development rights for extensions, alterations, outbuildings or boundary treatments. Class AA rights would not apply as the dwelling would be constructed after 28 October 2018. The appeal site is of sufficient size storage of bins could be achieved without the need for a specific planning control. An electric vehicle charging point is shown on the approved plans, and the building regulations address this issue so a further condition would not be necessary. While noise may be an issue from air source heat pumps, the proposed condition would not be enforceable as it would require measurements to be taken from land which may not be in the appellant's control.

Conclusion

20. For the reasons given above the appeal should be allowed.

J Downs

INSPECTOR

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: 1660/01 Rev A and 1660/03.
- 3) Prior to the first occupation or use of the development hereby approved, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development should be implemented in accordance with the approved details.
- 4) Prior to any above ground building works being commenced details of the external materials of construction for the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.
- 5) Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 9/19 'Domestic exterior lighting: getting it right!'. Lighting should be minimised and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.
- 6) In connection with all site preparation, demolition, construction, conversion and ancillary activities, working hours shall be restricted to 08:00 - 18:00 hours on Monday to Friday, 08:00 - 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.
- 7) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing by the local planning authority. The submitted details shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable. The planting plans shall be prepared with regard to the advice in Appendix H of the Preliminary Ecological Appraisal. The development should be implemented in accordance with the approved details. All hard and soft landscape works shall be carried out in accordance with the approved details.
- 8) Any trees or plants that, within a period of five years after planting, 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 its written consent to any variation.
- 9) All trees and hedges immediately adjoining the site and any shown as being retained on the landscaping plan to be agreed by condition 7 shall be protected from damage as a result of works on the site in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following first occupation of the approved development. In the event that trees or hedging become damaged or

otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

- 10) Before the development commences, a construction environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include measures to prevent pollution of watercourses in accordance with BS 42020:2013, Biodiversity – Code of Practice for planning and development. The development shall be carried out in accordance with the approved CEMP.
- 11) The development hereby permitted shall be carried out in accordance with the details of the Preliminary Ecological Appraisal dated 31st May 2022 and the mitigation and enhancement measures contained therein.
- 12) Prior to the first occupation of the development hereby approved, spaces shall be provided for the parking of cars as shown on the approved plans and the spaces shall be retained for such use in connection with the development.
- 13) Prior to any above ground works taking place, a scheme setting out measures to ensure a water efficiency standard of 110 litres (or less) per person per day shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and the approved measures thereafter retained.
- 14) The development hereby approved shall be carried out in accordance with the responses in the energy and carbon reduction section of the sustainability checklist.
- 15) The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures:
 1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
 2. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated.
 3. Details of any ongoing monitoring.

The development shall be carried out in accordance with the approved measures.

If during the works contamination is encountered which has not previously been identified, works shall stop until the additional contamination has been fully assessed in an appropriate remediation scheme which shall be

submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any approved remediation scheme.

Prior to first occupation of the dwelling, a validation report detailing the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted

- 16) Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
- 17) The development shall be carried out in accordance with the submitted flood risk assessment 'Doc ref: Plot 5 Quinbury Farm FRA Revision A, (dated March 2023) and the mitigation measures set out in Section 5 point 5.32 with respect compensatory storage as shown in Appendix F of the FRA on the north-east portion of the site where land will be lowered/ manipulated to provide the storage.

The compensatory storage shall be fully implemented prior to occupation and thereafter retained and maintained for the lifetime of the development.

- 18) The rating level of noise emitted from the air source heat pump (ASHP) hereby approved shall not exceed 10dB below the existing background noise level as measured or calculated at 1 metre from the façade of the nearest noise sensitive property. The measurement and assessment shall be made according to BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound' at the nearest and / or most affected noise sensitive premises, with the ASHP operating at maximum capacity and be inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics.