



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: 26th June 2024

Appeal Ref: APP/J1915/W/23/3329956

Greenleys, Slough Road, Allens Green, Hertfordshire CM21 0LR

- 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 Mr Hicks against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/2078/FUL.
 - The development proposed is proposed development for replacement of existing business units and a detached dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided me with copies of amended plans that were submitted to the Council during the course of the application but which the Council declined to accept. I have determined the appeal on the basis of the plans that were considered by the Council in the interests of fairness to all parties.
3. During the course of the appeal, the Council confirmed that it could now demonstrate a five year supply of deliverable housing land. The appellant has not disputed this and I have determined the appeal accordingly.

Main Issues

4. The main issues are:
 - the principle of the proposed development with specific regard to its location, the loss of an agricultural use, and access to services;
 - the effect of the proposed development on the character and appearance of the area, including its effect on the significance of designated heritage assets;
 - whether the proposed dwelling would provide acceptable living conditions for future occupiers with specific regard to outlook, light and noise; and
 - whether the proposal makes appropriate provision for sustainable building methods and biodiversity net gain.

Reasons

5. The appeal site lies at the edge of Allen's Green, a rural hamlet. It is roughly rectangular. There are four Nissen hut style buildings and a barn surrounded by

hardstanding. There is a grassed area on the eastern side of the site towards the existing dwelling at Greenleys on which some rubble was sited at the time of my site visit. While these buildings could be in a better condition, their overall form and appearance are not uncommon in rural areas. The site is not visually intrusive, rather it is an established part of the settlement.

Management choices have contributed to its appearance, and this is not a reason to find that the site has a negative effect on the surrounding area. The site also did not appear vacant at the time of my site visit.

Principle of Development

6. East Herts District Plan (2018) (EHDP) Policy ED2 III requires development that would result in the loss of an agricultural use to demonstrate, amongst other things, that the current agricultural use is no longer needed or viable. It is not in dispute that the lawful use of the barn is agricultural.
7. The barn does benefit from prior approval for its conversion to a dwelling. However, in the absence of any evidence that this has been implemented and the agricultural use lost, the proposed development would still need to be assessed against EHDP Policy ED2. The appellant has asserted that the barn has not been used in over 10 years due to viability issues. However, there is no substantive evidence of this before me. The planning history of the site does not constitute evidence that there is not a need for agricultural use of the site, nor that it would not be viable. I therefore cannot be satisfied that there is no longer a need for the barn or that its use is no longer viable.
8. The prior approval for the conversion of the barn may no longer be extant. However, even if it is, that permitted development right only applies to conversions. It does not extend to the construction of a new dwelling which would require planning permission and consideration against the relevant policies of the development plan.
9. As there is no evidence before me that the prior approval has been implemented, so it follows that the proposed dwelling would not constitute a replacement. The Council has not alleged that the proposed dwelling would be isolated for the purposes of paragraph 84 of the National Planning Policy Framework (the Framework) and I have no reason to find otherwise. However, LP Policy VILL3 sets out that Group 3 Villages are the least sustainable locations for development, but that limited infill will be allowed where it has been identified in an adopted Neighbourhood Plan. However, there is no such Plan before me.
10. While the first reason for refusal identifies harm arising from the development due to the dependence on the private car, the officer's report only assesses this as an issue for the dwelling. I have considered this issue on the same basis.
11. It may be that cycling a distance of less than 5km is readily achievable for able-bodied people and that there are a number of settlements with services and facilities within this distance of the appeal site. However, the roads surrounding Allen's Green are narrow, generally unlit and do not provide for segregated cycle ways. It therefore does not follow that cycling would represent an attractive option in these circumstances, particularly if it involved families with young children as may be the case for a four bedroom home as is proposed. It is therefore likely that future occupiers of the proposed dwelling would have a high degree of reliance on the private car.

12. Electric vehicle charging points now form part of the Building Regulations and so are expected of new dwellings. Furthermore, their provision does not ensure that occupiers will own electric vehicles. This therefore would not mitigate the harm arising from the reliance on the private car.
13. It is likely that the existing employment use of the site also involves reliance on the private car. However, that does not justify allowing a dwelling on the site. Nor is there any evidence that the proposed development would have an adverse effect on highway safety including as a result of traffic generation.
14. The proposed employment units would provide approximately the same amount of floorspace as those they would replace. The general thrust of EHDP Policies ED1 and ED2 is to prevent the loss of employment land and vital sources of rural employment. Given the issues with the safety of the existing buildings, and the likely challenges that would arise from the shape of the existing buildings, the provision of modern employment floorspace would weigh in favour of the proposal. It would also involve the reuse of previously developed land and so would not conflict with LP Policy GBR2 with respect to the employment use. However, given the small scale of the proposal and its speculative nature, these benefits would be moderate. Nonetheless, in accordance with the advice in paragraph 124 of the National Planning Policy Framework (the Framework), I attach substantial weight to the reuse of brownfield land within a settlement.
15. When considered against the development plan as a whole, the proposal would not constitute sustainable development. It would be contrary to EHDP Policies DPS2 and VILL3 which set the development hierarchy for the area and confirm that Group 3 Villages are the least sustainable locations for development, TRA1 which seeks to direct development to primarily be located in places which enable sustainable journeys to be made, and ED2 which requires any loss of agricultural uses to be justified. The substantial weight to be given to the reuse of brownfield land would not outweigh these harms.
16. I do not find conflict with EHDP Policy GBR2 insofar as it relates to the redevelopment of previously developed land for employment use.

Character and Appearance including Heritage Assets

17. The Nissen huts have a distinctive semi-circular roof shape. This serves to substantially reduce their mass, relative to their width and height. They are a not uncommon feature in the countryside. The existing barn is also typical of agricultural buildings in the countryside. In that respect, the site provides an appropriate transition from the developed area of Allen's Green to the surrounding countryside.
18. The proposed employment building would have a slightly smaller floorspace than the existing buildings and would be no taller than the highest point of the Nissen huts. However, it would appear substantially larger due to its increased length and massing as a regularly shaped building. Although it is proposed to clad the building in black timber, it would nonetheless have a more urban appearance than the existing development on the site.
19. The site layout would present the car park towards the open countryside. With this, and the more modern appearance and perceived scale of the proposed employment units, the proposed development would appear as an urbanising

feature in the settlement. There would be limited opportunity for landscaping to provide a more appropriate transition from the open countryside to the settlement due to the position of the refuse stores and drainage ditch. I acknowledge there are trees adjacent to the site, however these are not within the appellant's control, and therefore could not be relied upon to screen the development.

20. Dwellings in Allen's Green typically face onto the main roads but there is no consistent or predominant style, scale or materials. The proposed dwelling, presenting a side elevation to the road would be atypical in this respect. There would be little by way of detailing to provide interest on the elevation facing towards Slough Road beyond the use of a glazed entrance hall. The proposed use of timber weatherboard would reflect the dwelling directly opposite the site, as would the overall form and scale of the proposed dwelling. However overall, the proposed dwelling would not positively contribute to the character and appearance of the area by failing to adequately address the highway.
21. The appeal site lies opposite the Grade II listed buildings Farmhouse at Dukes Farm and the Barn some 20 metres to the east of the house. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. The significance of these buildings as they relate to this appeal lies in their historic value as evidence of the agricultural history of the area.
22. The existing agricultural setting of the listed buildings to the rear and opposite the barn would remain unaltered. The appeal site is largely developed at present, and the proposed employment development would be slightly further away from the listed buildings than the existing. The addition of a dwelling, on land which lies between the existing built form, would not alter the setting of the buildings as the site is viewed as part of the existing built form of the settlement. I therefore conclude the setting of the listed buildings would be preserved, as required by the Act, EHDP Policies HA1 and HA7 and the provisions of Section 16 of the Framework.
23. Notwithstanding, I conclude that the proposed development would have an adverse effect on the character and appearance of the area and thus would be contrary to EHDP Policy DES4 which requires development to demonstrate a high standard of siting, layout and landscaping.

Living Conditions

24. The proposed dwelling would be sited immediately adjacent to the proposed access track to the fields beyond the appeal site. The layout plans show a hedge to be planted along this boundary. This would result in a poor standard of outlook from bedrooms two, three and the study. While there would be an adequate level of light reaching these rooms due to the rooflights, this would not outweigh the poor outlook.
25. The proposed dwelling would be next to the track to serve the adjacent fields. There is no substantive evidence before me that this track would be subject to levels of use beyond those which would be expected in a rural area. Noise from farm traffic is to be expected in a village location, and as such, this would not

merit dismissing the appeal. However, this would not outweigh the harm I have identified above with respect to outlook.

26. The proposal would therefore not provide acceptable living conditions for future occupiers with specific regard to outlook and light. It would therefore be contrary to EHDP Policy DES4 which requires development to be of a high standard of design and layout. It also would be contrary to the advice in paragraph 135 of the Framework which requires development to function well and provide a high standard of amenity for future occupiers.

Biodiversity and Sustainable Design

27. EHDP Policy CC1 requires development to demonstrate how it has been designed to minimise overheating in summer, reduce the need for heating in winter and integrate green infrastructure. Policy CC2 similarly requires it to be demonstrated how carbon dioxide emissions will be minimised. Policy WAT4 seeks to minimise the use of water, setting a target of 110 litres or less per head per day. As a policy requirement of the adopted local plan, it is not appropriate for these considerations to be left to the building regulations stage of the development.
28. The Sustainable Construction, Energy and Water Statement submitted with the appeal makes generalised statements about how these will be achieved but there is no substantive detail. Likely U-values of materials have not been provided, despite the approved plans clearly indicating the proposed materials. There is no robust assessment of how the proposal has been oriented to address solar gain. There is no detail as to where an air source heat pump would be sited. The provision of such information would be proportionate to a development of the scale of that proposed.
29. The statement also makes assertions which are not consistent with the submitted plans. The windows in the proposed employment units and the windows serving the bedrooms and study in the western elevation of the proposed dwelling could not reasonably be described as large. The windows in the western elevation of the dwelling would be immediately adjacent to a hedge proposed to screen the field access. This does not instill confidence that sustainable construction measures have been integral to the development of the proposal.
30. The application was accompanied by a Preliminary Ecological Appraisal (PEA) which did not identify any particular biodiversity value to the site beyond use by transitory species, amenity grass and scatter scrub/ruderal colonisation. The findings of the PEA have not been questioned by the Council, and I have no reason to disagree with its findings.
31. The PEA included recommendations for biodiversity mitigation and enhancements, which the Council's officer report notes could have been conditioned for further detail. The distinction between this, and the net gain requirements of EHDP Policies NE2 and NE3 has not been explained by the Council. I also note the policies do not specify a level of net gain to be achieved. Given the findings of the PEA with respect to the existing site, a condition could be imposed which could be capable of securing appropriate biodiversity net gain as required by EHDP Policies NE2 and NE3.

32. However, the proposal would not make appropriate provision for sustainable building methods. It would therefore be contrary to EHDP Policies CC1, CC2 and WAT4 which taken together and insofar as they related to this appeal, require development to minimise resource use.

Other Matters

33. I have no reason to consider that the proposed development would have an adverse effect on highway safety. Sufficient parking, including cycle parking would be provided for both the employment units and the dwelling. There would not be an adverse effect on the living conditions of existing residents occupying the dwellings in the vicinity of the site and appropriate measures to minimise disturbance during construction could be secured by condition. Appropriate private amenity space is proposed for the dwelling, and outdoor space would also be provided to serve the employment units. The site would not be at risk of flooding and appropriate drainage could be secured by condition, as could any necessary measures to mitigate any contamination on the site. Appropriate provision for waste storage could be made. However, these would all be expected of any well designed development and as such are neutral.

Conclusion

34. EHDP Policy INT1 provides a version of the presumption in favour of sustainable development. As the Council can now demonstrate a five year supply of deliverable housing land, the appeal proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
35. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR