



Appeal Decision

Site visit made on 11 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/J1915/W/23/3332220

The Grange, Swades Farm, Wareside restricted Byway 024, Hertfordshire SG12 7QG

- 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 Ian Holman against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1092/FUL.
 - The development proposed is described as conversion of barn at Swades Farm to form a residential dwelling, demolition of an existing outbuild and erection of new garaging.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of barn at Swades Farm to form a residential dwelling, demolition of an existing outbuild and erection of new garaging at The Grange, Swades Farm, Wareside restricted Byway 024, Hertfordshire SG12 7QG in accordance with the terms of the application, Ref 3/23/1092/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. The appellant has made an application for an award of costs. This is the subject of a separate decision.

Preliminary Matters

3. The Council, with the agreement of the appellant, revised the description of development. I will use this for the purposes of my decision.
4. There is no dispute between the parties that the proposal would not be inappropriate development within the Green Belt. From the evidence before me I have no reason to reach a different view in this regard.
5. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

6. The main issues are:

- i) whether the appeal site is a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities;
- ii) the effect of the proposed development on the living condition of the occupants of neighbouring properties, with particular regard to noise;
- iii) whether appropriate measures to mitigate against climate change are proposed; and
- iv) whether the proposed development would preserve the setting of the Grade II listed building known as 'Swades Farmhouse'.

Reasons

Location

- 7. Policy DPS2 of the East Hertfordshire District Plan 2018 (District Plan) sets out a broad development strategy in the form of a hierarchy. Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. The other policies in the development plan flow from this overarching strategy
- 8. Policy TRA1 of the District Plan relates to sustainable transport and requires that development proposals should be primarily located in places which enable sustainable journeys to be made to key services and facilities by a range of sustainable transport options.
- 9. The appeal building lies outside of a settlement within open countryside. However, in the context of a rural setting the site is not isolated in that it would be located within a small cluster of existing properties and the site is within approximately 1km distance of the settlement of Ware, one of the districts main settlements, which is noted as providing a comprehensive range of local services and employment opportunities. Furthermore, the appeal site is located a similar distance to Wareside, which is identified as a Group 2 village which has limited facilities.
- 10. The Framework promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. It also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
- 11. In terms of accessibility, the appeal site is located relatively close to Ware, which contains a variety of services to meet day-to-day needs of residents. However, from the evidence before me and from my site visit, access to the nearby settlements and their services are limited. The B1004, which links the appeal site to Ware, is an unlit road with no pavement and is subject to the national speed limit. Whilst my attention has been drawn to a number of public rights of ways (PROWs) linking the appeal site to Ware and Wareside, this is across fields and would not be a realistic choice for many users, including those with prams, mobility issues and neither in poor weather or hours of darkness.

12. Given the limitations of the immediate rural roads, PROWs and limited public transport, the future occupants of the proposed dwelling, particularly in periods of inclement weather or darkness, would be unlikely to walk or cycle and would be reliant upon private vehicle use to meet their basic day-to-day needs. In these circumstances the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location.
13. Both parties refer to a number of appeal decisions and applications stating that they provide support regarding their stance on the location of the site. It is acknowledged that great weight should be applied to a Decision granted by the Secretary of State or an Inspector, and the Planning Practice Guidance (PPG) which refers to the importance of determining similar cases in a similar manner.
14. Whilst the application at Mardocks Farm¹ may have similarities to the appeal site in terms of a similar location, from the evidence before me the proposal related to a larger quantum of development and designated heritage assets. It is understood that in this circumstance the preservation of heritage assets outweighed the harm identified in terms of its location. Accordingly, the circumstances of this case are not comparable to the appeal scheme before me.
15. The development at Elbow Lane² related to a larger quantum of development, including new build elements and located a greater distance from a settlement than the appeal scheme. As such it is not comparable to the proposal before me. From the limited information available to me, the context of the case at Stelfox House³ differ to those before me.
16. The appellant refers to an appeal decision at The Courtyard⁴ and Fryars Farm⁵. It is understood that in The Courtyard case the existing building had an established use within the D Use Classes Order. Accordingly, the proposal is not directly comparable to the scheme before me. The decision at Fryars Farm has some similarities to the appeal before me in that it related to an extension and alteration of an existing building. However, I have limited information regarding the site context. In any event, as the site location differs, I cannot be certain that the circumstances are directly comparable.
17. My attention has also been drawn to the planning history of the appeal property, which included a previous permission⁶ for the building to be converted into four residential dwellings. However, it is understood that this permission has lapsed and is therefore not determinative to the appeal scheme before me.
18. Having regard to the above appeal decisions and planning permissions, I consider the material considerations in those particular instances differ from this appeal proposal. As a result, I have dealt with this appeal on its own merits.

¹ 3/23/1872/FUL

² APP/J1915/W/23/3320083

³ APP/J1915/W/20/3252334

⁴ APP/J1915/W/20/3256475

⁵ APP/J1915/W/22/3313115

⁶ 3/21/2949/ARPN

19. For the reasons stated above, the proposal would not provide a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities. I therefore find conflict with Policies DSP2, INT1 and TRA1 of the District Plan and the Framework. Collectively, these policies seek to direct development to be located in places that enable sustainable journeys to be made to key services and facilities.

Living conditions

20. In the absence of sufficient information, the Council had concerns regarding the acceptability of the air source heat pump (ASHP) proposed.
21. The appellant asserts that an ASHP could be installed under permitted development. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed ASHP requires planning permission. If the appellant wishes to ascertain whether the development would be lawful, they may make an application under section 192 of the Act.
22. Notwithstanding the above, from the evidence before me the applicant withdrew the ASHP from the proposed development, with the submission of a revised plan, prior to determination of the application by the Council. The Council's Decision notice references the amended plan (485.23.07 B) within its list of considered plans. In this respect the Council has not provided any clarity, nor have they stated that they no longer wish to defend this reason for refusal.
23. On the basis that the ASHP was withdrawn from the proposed development I find no conflict with Policy EQ2 of the District Plan, which amongst others seeks to minimise the potential impact of development on human health, including by reason of noise.

Climate change measures

24. Amongst other things policies CC1 and CC2 of the District Plan require all new development proposals to demonstrate how carbon dioxide emissions will be minimised across the development site, taking account of all levels of the energy hierarchy and that the energy embodied in construction materials should be reduced through re-use and recycling, where possible, of existing materials and the use of sustainable materials and local sourcing.
25. Policy WAT4 of the District Plan relates to the efficient use of water resources. This policy outlines that development must minimise the use of mains water by incorporating water saving measures and equipment.
26. The appellant submits that the building would be designed to align with modern standards, and that Part L of the Building Regulations require energy performance greater than the requirements of the development plan policy and the Council's SPD on such matters. The appellant updated the Renewable features/climate control measure report (Rev A) which provides some detail of measures that would be taken in order to reduce energy. However, the Council maintains that the information is not sufficient. Nevertheless, I note that the Council has suggested a number of conditions should the appeal be allowed, including one in relation to water consumption.
27. The appellant submits that the property will have an EV charger, so car usage need not have a negative impact. While the use of electric vehicles is becoming

more commonplace, there is no mechanism before me to guarantee that occupants of the proposed dwelling would only use electric vehicles, and so I can only give this possibility limited weight.

28. Nevertheless, whilst I have found the evidence before me to be inconclusive in demonstrating that the proposal would have compliance with the development plan policy, I am satisfied that such matters could be satisfactorily dealt with by condition. Therefore, subject to condition, the proposed development would be in accordance with the relevant provisions of policies DES4, CC1, CC2 and WAT4 of the District Plan. Collectively, amongst others, these policies seek to incorporate high quality innovative design, new technologies and construction techniques, including zero or low carbon energy and water efficient, design and sustainable construction methods.

Setting of listed building

29. The appeal site is proximate to a Grade II listed building known as Swades Farmhouse (List entry no 1341432). Accordingly, I have had regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of this building.
30. Swades Farmhouse is a late 17th or early 18th century timber frame weatherboarded farmhouse which derives its significance from its architectural and historic merit as an example of local vernacular and its association with the agriculture.
31. The appeal building forms part of a U-shaped modern range of buildings to the north-east of the listed building. Its modern form, combined with the separation between and its relationship to the listed building is such that it currently has a neutral effect on the setting of the listed building.
32. The proposed residential use would be accommodated within the existing building with limited changes to its external appearance.
33. The Council has concerns regarding the lack of detail regarding the height and finish of the solar panel installation. The solar panels would be located behind the appeal building and would be of a limited height and scale. From the evidence before me, and as observed at my site visit, I am satisfied that the proposed solar panels would be positioned far enough away from the listed building, and screened by the existing buildings, such that there would be no loss to the special interests and setting of the listed building. Whilst a cross section of the panels has been provided in the interests of certainty, a condition for the precise specification of the panels would be reasonable and necessary.
34. In respect of the external finish of the proposed garage/outbuilding these are indicated to be of painted timber boarding under a tiled roof. Having regard to the site context, including materials of existing buildings and structures, and the ancillary nature of the proposed outbuilding this would be an appropriate finish. In the interests of certainty, a condition for the precise materials is necessary to preserve the character and appearance of the area.
35. Accordingly, having regard to S66(1) of the Act I am satisfied that the proposed development would preserve the setting and any features of special architectural or historic interests which the listed buildings possess.

36. For the reasons stated, I therefore conclude that the proposal would preserve the setting of the Grade II listed building known as Swades Farmhouse. It therefore accords with Policies DES4 and HA1 of the District Plan, which amongst others requires development proposals to be of a high standard of design and layout to reflect and promote local distinctiveness and preserve, and where appropriate enhance, the historic environment of East Herts. I also find the proposal would accord with the heritage aims of the Framework in this regard.

Planning Balance

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise.
38. The Council cannot demonstrate a five-year housing land supply. However, the extent of the shortfall is not before me. Nevertheless, in such circumstances the titled balance at paragraph 11 of the Framework is engaged. The Framework goes on to state that the application should be approved unless the application of Framework policies that protect areas or assets of particular importance (as defined by the Framework) provide a clear reason for refusing permission or the harm caused by the application significantly and demonstrably outweigh its benefits, when assessed against policies of the Framework as a whole. In this context, the policies considered to be out of date include those relating to the development strategy and delivery of housing.
39. I note the benefits of the re-use of the building for residential purposes in making a positive contribution towards the supply of housing where there is an identifiable housing land supply deficit. It is a government objective to significantly boost the supply of homes. Whilst the proposal is of limited scale the Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services from future occupiers.
40. It is not disputed between the parties that the appeal building is of substantial and permanent construction and has an established residential use, albeit ancillary to the existing dwelling. The appeal proposal would make effective use of an existing building which is very much domestic in its appearance. Despite policy conflict because of the unsustainable location of the site I give significant weight to the re-use of the building that is supported by the green belt policies of the development plan and the Framework.
41. Having considered the benefits and adverse impacts, and associated policy conflict, of the scheme before me I conclude that any adverse impacts would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. As such, the presumption in favour of sustainable development, as set out in the Framework applies.

Conditions

42. The Council has provided a list of conditions, which the appellant has agreed to. I have considered these in line with the relevant tests set out in the Planning Practice Guide and the Framework. In the interests of precision, conciseness, and enforceability the wording of some of the conditions has been amended.
43. I have imposed the standard time limit condition for commencement of the development and a condition listing the approved drawings for the avoidance of doubt.
44. A condition for the submission and agreement of the external materials of construction, the solar PV installation and the bin storage are reasonable and necessary in the interests of character and appearance. A condition regarding energy and water efficiency is necessary to ensure the development supports the efficient use of resources in accordance with local plan policy. A condition for tree protection measures is necessary to ensure existing landscape features are retained.
45. The Council has suggested a condition for the provision of infrastructure for electric car charging. However, the requirement for such is now secured under another regime.

Conclusion

46. Notwithstanding the identified conflict with development plan policy, there are material considerations, including the Framework, that indicate that the proposal should be determined otherwise than in accordance with the development plan in this case. As such the appeal should be allowed.

R. Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 485.23.00 A, 485.23.06 B, 485.23.07 B, 485.23.10a and 485.SP01.
3. Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
4. Prior to installation, details of the specification of the solar PV panels shall be submitted to and approved in writing by the Local Planning Authority, and

thereafter the development shall be implemented and maintained in accordance with the approved details.

5. Prior to first occupation of the development hereby approved, details of the bin storage 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.
6. The development hereby approved shall not be first occupied unless and until a Water Efficiency Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall detail how the development will ensure that the potential water consumption by occupants of the new dwelling does not exceed 110 litres per person per day. The development shall be carried out in accordance with the approved details and any measures shall be implemented, installed and operational prior to its occupation.
7. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority 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 contractual practical completion 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.

*****End of Schedule*****