



Appeal Decisions

Site visit made on 24 October 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal A Ref: APP/J1915/W/23/3332238

8 Pole Hole Farm, Pye Corner, Gilston, Hertfordshire CM20 2RP

- 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 Magri Builders Ltd against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1396/FUL.
 - The development proposed is conversion of existing agricultural building to a residential unit.
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Appeal B Ref: APP/J1915/W/24/3339561

8 Pole Hole Farm, Pye Corner, Gilston, Hertfordshire CM20 2RP

- 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 Magri Builders Ltd against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2190/FUL.
 - The development proposed is conversion of existing agricultural building to a residential unit.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed, and planning permission is granted for conversion of existing agricultural building to a residential unit, at 8 Pole Hole Farm, Pye Corner, Gilston, Hertfordshire CM20 2RP, in accordance with the terms of the application, Ref 3/23/2190/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

3. This decision letter addresses two appeals at the same site, as set out in the banner headings above. Both appeals concern similar proposals with some minor differences. While I have determined each appeal on its own merits, I have addressed the common issues together to ensure conciseness and avoid duplication.
4. The application under Appeal A was determined before the application under Appeal B was submitted. The Appeal B application included additional evidence, which the Council's officer report confirms addressed the reason for refusal of the Appeal A application concerning the loss of an agricultural building. Given the similarities between the two proposals, I am satisfied that this conclusion can be applied to both appeals, and this issue is no longer in dispute between the main parties.

Main Issues

5. The main issues in the case of both appeals are:
 - whether the appeal site is a suitable location for housing, having regard to access to services and sustainable transport; and
 - whether the proposal would be inappropriate development in the Green Belt, and if so, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations that would amount to the very special circumstances required to justify the proposal.
6. Additional main issues in the case of Appeal A only are:
 - whether the proposal would have an acceptable effect on the character and appearance of the area; and
 - whether the proposal would make adequate provision for biodiversity.

Reasons

Suitability of location

7. The appeal site consists of a detached single-storey building within a gated complex comprised predominantly of residential units. The complex occupies the site of a former dairy farm, and the appeal building itself remains designated for agricultural use.
8. The site is located outside of a settlement and lies within the countryside. However, it is situated within a cluster of existing residential properties and is reasonably close to the nearby settlements of Gilston and High Wych, which have a range of local services and facilities. The larger settlement of Harlow, which provides a broader selection of amenities and public transport links, is located further to the south.
9. Despite the site's reasonable proximity to settlements, I observed during my visit that accessing them without a private car would be challenging. The site is adjacent to the main road linking High Wych, Gilston and Harlow. However, this road has a 60mph speed limit, is unlit, and lacks a footpath. The grass verges on either side were muddy and slippery during my visit and appeared unsuitable for individuals with pushchairs, wheelchairs or other mobility aids. The road itself is busy, relatively narrow, winding and undulating, with some vehicles travelling high speeds. I also observed conflicts between cyclists and vehicles, and these issues would likely worsen after dark, further deterring cyclists.
10. The appellant has highlighted that the road is served by bus routes providing access to larger settlements such as Harlow. However, reaching the nearest bus stops would still involve walking along unlit, footpath-free roads. While there are public rights of way connecting the site to nearby settlements, these routes appear largely unpaved, unlit, and in some places across challenging terrain.
11. The appellant also points to a development plan allocation and undetermined planning applications for several thousand dwellings and associated infrastructure on land to the opposite side of the adjacent road, known as

Gilston Garden Village. While this development may improve accessibility to the appeal site in the future, I am provided with limited detail of the proposal, its certainty, or its delivery timeline. As such, I can give limited weight to this matter and must base my observations on the current conditions and my observations during my visit.

12. Policy DPS2 of the East Herts District Plan, October 2018 (the DP) summarily seeks to deliver sustainable development by directing development towards – in hierarchical order – sustainable brownfield sites, sites in urban areas, urban extensions, and limited development in villages.
13. The appellant contends that the site is brownfield land. However, the National Planning Policy Framework (the Framework) explicitly excludes land that is or was last occupied by agricultural or forestry buildings from its definition of brownfield land. Accordingly, I do not find the site to be brownfield land, and it does not sit within the hierarchy defined by Policy DPS2.
14. Policy TRA1 of the DP summarily seeks to locate development in places which enable sustainable journeys to be made to key services and facilities, and to ensure that a range of sustainable transport options are available to occupants or users.
15. In light of the above considerations, I conclude that private car travel would likely be the default mode of transport for future occupiers of the proposed development. Accordingly, the development proposals subject to both appeals would not be suitably located in terms of access to services and sustainable transport, resulting in conflict with Policies DPS1 and TRA1 of the DP, the aims of which have previously been set out.

Whether inappropriate development in the Green Belt

16. The site is located within the Green Belt. Paragraph 152 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
17. Paragraph 155 of the Framework identifies certain forms of development that are not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. One such form of development is the re-use of buildings, provided they are of permanent and substantial construction. In this case, both parties agree that the proposals qualify as such development. Therefore, the question of inappropriateness rests on the respective effects of the proposals on the openness of the Green Belt.
18. Both appeals propose timber enclosures for the storage of bicycles and refuse bins. During my visit, I observed that the refuse enclosure was in position adjacent to the front of the building. It was modest in scale, constructed of materials closely matching the building it served, and was similar to structures found at neighbouring dwellings. Although the proposed bicycle storage was not yet in place, it too would be modest in scale and materiality, and would blend in with the adjacent tall brick wall forming part of the wider gated complex. Given their modest scale, compatibility with the existing built environment, and integration into the wider surroundings, these structures would preserve the openness of the Green Belt in both spatial and visual

terms. They would also not conflict with any of the five purposes of including land within it, as outlined in the Framework.

19. The Council has raised concerns about the potential addition of other domestic paraphernalia, such as play equipment or washing lines. However, these hypothetical scenarios are not part of the proposals before me. Furthermore, if the building were returned to its lawful agricultural use, similar paraphernalia associated with that use could have comparable effects on the openness of the Green Belt.
20. The primary distinction between the two appeal proposals lies in the proposed boundary treatments for the garden area. The Appeal A scheme includes close-boarded fencing, while the Appeal B scheme proposes a hedgerow.
21. The garden area is situated to the front and side of the existing building. It is currently partly enclosed between the side wall of the building and a brick wall adjacent to the entrance to the complex. Under the Appeal B scheme, the proposed hedgerow would provide a natural and verdant enclosure that would complement the existing surroundings without adversely affecting the openness of the Green Belt. In contrast, the close-boarded fencing proposed in Appeal A would introduce a solid, visually imposing boundary that would create an undue sense of enclosure. This would appear as a dominant physical feature, detracting from the visual and spatial openness of the Green Belt.
22. As such, the boundary treatment in Appeal A would fail to preserve the openness of the Green Belt and would constitute inappropriate development. This would conflict with Policy GBR1 of the DP, which requires development proposals within the Green Belt to be considered in line with the provisions of the Framework, which have previously been set out.
23. Conversely, the Appeal B proposal would preserve the openness of the Green Belt. For the reasons set out previously, I conclude that it would not be inappropriate development in the Green Belt and would accord with Policy GBR1 of the DP.

Character and appearance

24. The neighbouring dwellings within the complex feature frontages that are largely open, blending seamlessly into their front gardens and the communal areas beyond. Soft landscaped elements, such as hedges and lawns, contribute to the green and spacious character that defines the complex.
25. The solid boundary treatments proposed in Appeal A would introduce a prominent and uncharacteristically enclosed feature around the front garden. This would disrupt the open and spacious character of the complex, creating a stark contrast with the prevailing sense of openness and greenery in the surrounding area.
26. For these reasons, I conclude that the Appeal A proposal would harm the character and appearance of the area. It would therefore conflict with Policy DES4 of the DP, which summarily requires all development proposals to be of a high standard of design and layout to reflect and promote local distinctiveness.

Biodiversity

27. Policies NE2 and NE3 of the DP require all proposals to achieve a net gain in biodiversity, where it is feasible and proportionate to do so. While the Council is satisfied that the additional soft landscaping included in the Appeal B proposal would meet these policies, it considers that the Appeal A proposal falls short of compliance.
28. The appellant notes that the site previously had minimal biodiversity value. I acknowledge that the building has recently been renovated, with previous planning permission allowing for landscaping enhancements that may have improved its biodiversity value. However, my assessment must focus on the current proposal, which provides limited evidence of additional biodiversity enhancement.
29. Although the appellant suggests that biodiversity improvements could be secured through a planning condition, the lack of detail in the current proposal makes it uncertain whether such enhancements could be delivered without requiring alterations to other aspects of the scheme. Imposing such a condition would not meet the tests set out at paragraph 56 of the Framework, which requires planning conditions to be reasonable and enforceable.
30. For these reasons, I conclude that the Appeal A proposal fails to provide sufficient evidence to demonstrate a net gain in biodiversity. As such, it would conflict with Policies NE2 and NE3 of the DP, the aims of which have previously been set out.

Planning Balance

31. The Council confirms it cannot demonstrate a five-year supply of deliverable housing sites. While the full extent of the shortfall has not been provided, footnote 8 of the Framework makes clear that in such circumstances, the tilted balance set out at paragraph 11 d) of the Framework is engaged. This requires that development proposals be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework as a whole.
32. The appeal site lies within an existing predominantly residential complex, and the building's external appearance is consistent with the neighbouring residential properties. Given the viability challenges associated with reusing the building for agricultural purposes or alternative employment-generating uses, its reuse for residential purposes would align with its surroundings and make effective use of the land, reflecting a key objective of the Framework.
33. The proposals would also contribute positively to the supply of housing in an area with an identified shortfall, which supports the Government's objective to significantly boost the supply of homes. While this contribution would be modest in scale, it nonetheless carries significant weight in the context of the paragraph 11 d) balance.
34. In terms of Appeal A, the proposal would conflict with the policies of the development plan and the Framework in several respects including its location, its effects on biodiversity and the character and appearance of the area. Furthermore, the proposal would constitute inappropriate development in the Green Belt, which the Framework directs must be given substantial weight. I have identified no specific considerations that would amount to the very

special circumstances required to justify the proposal. Taking these issues cumulatively, I conclude that the adverse impacts of approving the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

35. Turning to Appeal B, and the harm arising from this proposal is limited to its location, with specific regard to access to services and sustainable transport. While this does conflict with the development plan, I give significant weight to the benefits of the proposal set out above. Moreover, using the building for its lawful purpose or a similar alternative use would likely face similar challenges in terms of accessibility and sustainable transport. Therefore, I find that the adverse impacts of the Appeal B proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, I conclude that the proposal can be supported as sustainable development under paragraph 11 d) of the Framework.

Conditions

36. The Council has provided a list of suggested conditions that I have considered against the tests set out in the Framework and the Planning Practice Guidance (the PPG). To ensure compliance with the tests I have amended, and in some cases omitted, certain conditions.
37. Conditions relating to the standard time limit for the commencement of development and to specify approved plans are necessary in the interests of certainty. It is not necessary to add a separate condition relating to the construction of the external areas, as these details are secured through the plans condition.
38. A condition requiring the submission and approval of a scheme of landscaping is necessary in the interests of biodiversity and the character and appearance of the area. Given the building subject to the development is already in situ and limited physical changes are proposed, it is not necessary for this to be a pre-commencement condition. These details can therefore be secured prior to occupation.
39. A condition requiring the installation of an electric vehicle charging point prior to the occupation of the development is necessary in the interests of promoting sustainable transport and technology.
40. The appellant considers that the Council's suggested condition relating to water consumption is not necessary because this matter can adequately be dealt with under the Building Regulations. However, Policy WAT4 of the DP specifically requires residential development to be designed so that mains water consumption meets a target of 110 litres or less per head per day. As this is a requirement of the adopted development plan, it is not appropriate to rely on its requirements being delivered through Building Regulations. Subject to some minor revisions, I therefore find the suggested condition reasonable and necessary in the interests of minimising water consumption.

Conclusions

41. In the case of Appeal A, I have identified conflict with the development plan and there are no other considerations that would lead me to a decision other

than in accordance with the development plan. I therefore conclude that Appeal A should be dismissed.

42. In the case of Appeal B, although there is conflict with the development plan, the material considerations I have identified are sufficient to lead me to a decision other than in accordance with the development plan. Therefore, having regard to all matters, including the provisions of the Framework, I conclude that Appeal B should be allowed subject to the conditions listed in the attached schedule.

P Storey

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
PHF5/OS Rev C – Location Plan Building 5
PHF5/P/31 Rev A – Proposed Plans Building 5
PHF5/P/32 Rev B – Proposed Elevations Building 5
- 3) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted to and approved in writing by the local planning authority. This shall include full details of soft and hard landscape proposals, planting plans, schedules of plants, species, planting sizes, density of planting, and a timetable for implementation and maintenance. The scheme shall thereafter be implemented and maintained in accordance with the approved details.
- 4) Prior to first occupation of the development hereby approved, a scheme of measures to ensure the development meets a mains water consumption target of 110 litres or less per person per day shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development and retained as such thereafter.
- 5) Prior to first occupation of the development hereby approved, one electric vehicle charging point shall be provided and thereafter retained for the use of occupiers.

**** End of conditions ****