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## Appeal Decision

Site visit made on 6<sup>th</sup> February 2025

**by Jonathan Price BA(Hons) DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27 February 2025**

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**Appeal Ref: APP/Z1510/W/24/3352290**

**Large barn at Cripple Corner, Pebmarsh, Essex CO9 2NX**

- 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 M Penfold against the decision of Braintree District Council.
  - The application Ref is 24/00329/FUL.
  - The development proposed is change of use of outbuilding to self-contained dwelling, single storey rear extension and 3No. roof lights.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use of outbuilding to self-contained dwelling, single storey rear extension and 3No. roof lights at the large barn at Cripple Corner, Pebmarsh, Essex CO9 2NX in accordance with the terms of the application, Ref 24/00329/FUL, subject to the conditions set out in the attached Schedule.

### Main Issues

2. Whether the proposal would
  - comprise acceptable development in the countryside,
  - provide occupiers adequate living conditions, with regard to outlook and car parking, and
  - safeguard the nearby mature oak tree.

### Reasons

#### *Development in the countryside*

3. The proposal relates to a detached building providing garaging and domestic storage for Hope Cottage, on the opposite side of an intervening road. This location falls outside the development boundaries defined by the Braintree District Local Plan 2013-2033 (LP), where Policy LPP 1 confines such uses to those appropriate to the countryside. These include the residential conversion of rural buildings, permitted under LP Policy LPP 40 subject to various criteria.
4. Referred to as a large barn in the application, the building has the appearance of a traditional farm building, with a timber frame supported on a brickwork plinth, black timber boarded sides and plain tiled roof. It was approved in 1995 as a garage, garden store and home office for Hope Cottage. Nevertheless, it comprises a

- building in the countryside. LP Policy LPP 40 applies as this is not exclusive to redundant farm buildings.
5. LP Policy LPP 40 requires proposals such as this to be accompanied by both a frame and structural survey. The proposal is to remove the loft accommodation and use the main body of the existing building as an open plan living/dining/kitchen area. A new extension connected by a glazed link is proposed to the side away from the road, providing two bedrooms and a bathroom.
  6. The plans show no alteration to the main structural elements of this quite recently built barn, which I am satisfied is of permanent and substantial construction. As such, the lack of the structural survey required by LP Policy LPP 40 does not amount to a determinative matter in this case. I am content that the existing barn could be re-used for the proposed residential accommodation without a complete rebuild. The entirely new extension would not constitute rebuild and LP Policy LPP 40 does not say a conversion should be without further addition to the original building.
  7. The Council finds conflict with criterion *a* of LP Policy LPP 40, over a lack of prior marketing for commercial use. I share the view of the Inspector in the appeal at Pony Acres<sup>1</sup>, that LP Policy LPP 40 is not directed solely at commercial buildings and is relevant to those with a previous domestic use. The requirement that the site is 'no longer' suitable for a commercial use, infers that criterion *a* relates to where this had previously been the case. As this building has never had a commercial use, being built for purposes ancillary to the residential use of Hope Cottage, I do not find this criterion applicable in this case.
  8. Cognisant of the concerns of interested parties, the other criteria are also considered. In respect of criterion *b*, and as confirmed by the Council's Ecology and Natural Environment Officer<sup>2</sup>, the proposal provided sufficient information to show there to be no unacceptable impact on protected species, subject to mitigation measures. Along with biodiversity enhancement, such mitigation might be secured through a planning condition.
  9. The existing barn falls within the setting of the Grade II listed Hope Cottage, which is a seventeenth-century, timber framed dwelling. I agree with the Council's Historic Buildings Consultant<sup>3</sup> that the small degree of change to the existing barn, the choice of materials and rooflights and the position of the new-build addition to the far side, all serve to preserve the traditional appearance of the barn and the setting of the listed Hope Cottage. There would thus be no unacceptable impact upon this heritage asset and its setting, in further compliance with criterion *b*. Furthermore, such factors would amount to a generally satisfactory design which would avoid any unacceptable impact on the character of the site and the landscape value of the surrounding area, in accordance with criterion *e*.
  10. The site has entrances onto the road to either side of the barn, which provide suitable existing access to satisfy criterion *c* of LP Policy LPP 40. Regarding residential amenity, there would be no windows or increase in scale to the elevation facing Hope Cottage, such as to result in any harm through loss of privacy, outlook

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<sup>1</sup> APP/Z1510/W/22/3308484 appeal allowed on 5 April 2023 for change of use to a self-contained independent dwellinghouse at Unit 1 at land adjacent to Pony Acres, Rotten End, Wethersfield, Braintree CM7 4AL.

<sup>2</sup> Response dated 8 March 2024.

<sup>3</sup> Letter from Essex County Council Place Services dated 5 March 2024.

or light. I agree with the Council that the proposal would be far enough away from other dwellings not to cause any material harm to living conditions elsewhere. Through having no unacceptable impact on residential amenity, the scheme satisfies criterion d of LP Policy LPP 40.

11. Notwithstanding the intervening road, the existing building is close to and within the curtilage of Hope Cottage, where a separate commercial use would be less appropriate than residential. Even if it were the case that criterion a applied, and was failed through a lack of marketing for a commercial use, I do not consider this sufficient to give rise to conflict with LP Policy LPP 40, when considered as a whole.

*Living conditions/car parking*

12. There is no plan marking out parking spaces and garden. However, the remaining drive provides ample space to park cars, with a large area of land available as garden. Were future occupiers to look out from the living area to their parked cars, this would not amount to unacceptable living conditions. In these regards, I find no conflict with LP policies LPP 43 and 54, in respect of parking provision, layout and design.

*Safeguarding the mature oak tree*

13. There is a mature oak tree on the adjacent roadside and its canopy extends over the appeal site. However, building works would take place a sufficient distance from this not to cause harm, subject to applying appropriate tree protection measures. Subject to these, the proposal would satisfy LP Policy LPP 65 with respect to tree protection.

**Other Matters**

14. The County fire service<sup>4</sup> provided comments on the planning application. There are informative points made over various matters, such as water supply, but nothing that would constitute a valid planning objection to the proposal.
15. Policy LPP 40 allows the conversion of buildings as an exception to the general restraint provided by LP policies SP7, LPP1 and LPP42 on development in the countryside, where a relatively high dependence upon private car travel would be inevitable.

**Conditions and conclusion**

16. In addition to the standard three-year time limit for commencement, a condition is necessary to establish the plans approved. In the interests of character and appearance, conditions govern facing materials, joinery detail and permitted development rights. To safeguard the adjacent mature oak tree, a condition requires that construction adheres to an agreed tree protection scheme and arboricultural method statement. In the interests of the natural environment, conditions apply the details contained in the Preliminary Bat Roost Assessment and require biodiversity enhancement.
17. For the reasons given, the proposal would comprise acceptable development in the countryside based on policy for the conversion of buildings, provide occupiers

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<sup>4</sup> Letter of 19 February 2024, reference 170227 from Essex County Fire and Rescue Service

adequate living conditions, with regard to outlook and car parking, and safeguard the nearby mature oak tree. The proposal would comply with the LP considered as a whole, and with the National Planning Policy Framework. Subject to the following conditions, I conclude the appeal be allowed.

*Jonathan Price*

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: 23-087-AS-1 (existing plans and elevations); 23-087-AS-2 (proposed plans and elevations); 23-087-AS-3 (frame survey internal south and west elevations); 23-087-AS-4 (frame survey internal north and east elevations); 23-087-AS-5 (site block plan).
- 3) The development hereby permitted shall not commence beyond site clearance and preparatory work until an illustrated schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 4) The development hereby permitted shall not commence beyond site clearance and preparatory work until additional drawings that show proposed new windows, doors, fascia and sills to be used by section and elevation at scales between 1:1 and 1:20 as appropriate have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 5) No site clearance, preparatory work or development shall take place until a tree protection scheme and arboricultural method statement, in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced), have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall thereafter be implemented in accordance with the approved tree protection scheme and arboricultural method statement.
- 6) The development hereby permitted shall be carried out in accordance with the details contained in the Preliminary Bat Roost Assessment (Robson Ecology Limited January 2024).
- 7) The development hereby permitted shall not be occupied until biodiversity enhancement measures have been implemented in accordance with details that shall have had the prior written approval of the local planning authority.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Class A, AA, B, D and E of Part 1 of Schedule 2 of that Order shall be undertaken.

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