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## Appeal Decision

Site visit made on 28 February 2025

by **A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11<sup>th</sup> March 2025

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- **Appeal Reference: APP/J1915/W/24/3354470**
- **Land at Borley Green Barn Conduit Lane Brent Pelham Hertfordshire SG9 0AJ**
- 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 and Mrs M Benjamin against the decision of East Hertfordshire District Council.
- The application Ref is 3/24/0894/FUL.
- The development proposed is Construction of carbon neutral, self-build dwelling, together with erection of a detached garage building, creation of a new vehicular access, provision of a new driveway and associated landscaping works.

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### Decision

1. The appeal is allowed and planning permission is granted for Construction of carbon neutral, self-build dwelling, together with erection of a detached garage building, creation of a new vehicular access, provision of a new driveway and associated landscaping works at Borley Green Barn Conduit Lane Brent Pelham Hertfordshire SG9 0AJ in accordance with the terms of the application, Ref 3/24/0894/FUL, and the plans submitted with it, subject to the 13 conditions appearing on the schedule attached.

### Preliminary Matter

2. The Council's decision notice provides a comprehensive, and more precise description of development than that on the application form. I have therefore determined this appeal on the basis of the Council's description.

### Main Issues

3. The Main Issues are;
  - whether the proposed dwelling would be suitably located having regard to the locational policies of the development plan, and
  - the effect of the proposal on rural character.

### Reasons

#### *Development Strategy*

4. The appellant intends to construct a four-bedroom carbon-neutral dwelling on land associated with Borley Green Barn, a single-storey house which lies adjacent to the two-storey Borley Green Cottage. Thereby within a small group

of buildings accessed from the B1038 at a point between (but not within) the small villages of Brent Pelham and Great Hormstead which are, respectively, approximately 1 Km and 2 Km distant. The East Herts District Plan 2018 (EHDP) classifies villages having regard to services and facilities available, accessibility and public transport. These two villages are defined as Group 3 Villages which are regarded as unsuitable for new housing except where provided for in a neighbourhood plan.

5. The appeal site is located outside of any recognised settlement boundary where Policy GBR2 of the EHDP allows certain types of development including 'limited infilling or...redevelopment of previously developed land ' with further qualifications as to sustainability of the location and character and appearance. Although the appellant suggests that the site would be previously developed land being part of the mown curtilage of the host dwelling, this is not supported by further justification. The proposed dwelling would be within a small group of buildings but would be isolated in the sense of not being adjacent to, or within, an established settlement.
6. Policy TRA1 of the EHDP requires development should '*Primarily be located in places which enable sustainable journeys to be made to key services and facilities to help aid carbon emission reduction*' and at (c) to '*provide occupiers of new development with a range of sustainable transport options*', a language<sup>1</sup> which concedes that not all development can be so located. The appellant points to the availability of some local facilities, a timetabled bus service, the County's on-demand 'Lynx' bus together with the availability of delivery services which together reduce the need for the use of the private car and assist those who are unable to drive. There are facilities such as public house and a primary school within a one or two kilometre distance, including a primary school, however there is no pavement and the B1038 is an unlit rural road subject to the national speed limit. Overall, whilst there are amenities and facilities which might be accessed by cycling or walking in favourable conditions, occupiers would likely rely significantly on use of private cars and this guides towards a conflict with the policies which set out the spatial strategy for the adopted development plan.

### *Character and Appearance*

7. I have been referred to a previous application for a similar dwelling on land adjacent to (west of) the appeal site which was refused and appeal dismissed (APP/J1915/W/22/3313458) in August 2023. The Inspector concluded that the dwelling would harm the character and appearance of valued countryside by reference to a number of factors including the 'domestication' of the site. Neither party has commented on the 1996 permission<sup>2</sup> for 'change of use to residential garden land and paddock' appearing in the planning history, nevertheless it is evident that the site is not in agricultural use at the present time.
8. The current proposal differs in important respects from the previous proposal. Although a new access would breach the boundary hedge, the plot would be adjacent (and therefore grouped with) Borley Green Barn which was not the case with the previous proposal. Whilst it is of a similar size (floor plan) to the

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<sup>1</sup> 'Primarily'

<sup>2</sup> 3/96/0227/FP

previous scheme it would sit less prominently due to a lower profile. The design would have a form akin to an agricultural building, including green roofs which, in the round, would significantly reduce its visual impact if combined with suitably worded conditions and a landscaping scheme as the submission suggests. The proposal would incorporate a number of 'green' measures in its ambition to be carbon neutral. Although, of itself, such an approach cannot overcome policy objections as to location or other impacts, it would stand as a positive feature of the scheme to be weighed in its favour. Nevertheless, even if harm to the character and appearance of the countryside were substantially mitigated, the proposal would conflict with the with the locational policies of the adopted development plan.

### **Planning Balance and Conclusion.**

9. Whilst planning permission for development proposals which conflict with an up-to-date development plan should not usually be granted, the Council have conceded that they are unable to demonstrate a Framework-compliant housing land supply and that in consequence the presumption in favour of sustainable development is engaged as set out in paragraph 11(d)(ii) of the Framework. In these circumstances permission should be granted '*unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*'. The Framework adds that there should be '*particular regard to key policies for directing development to sustainable locations... (etc)*'.
10. Paragraph 84 of the Framework makes clear that the development of isolated homes in the countryside should be avoided<sup>3</sup> and I have concluded that the proposed dwelling would be located outside the nearest built-up area, the settlement of Brent Pelham and therefore isolated but not remote (as the Council suggest) being some 800m from its edge and on a main road.
11. The appellant states that the proposal would be a self-build or custom build dwelling as defined under the Self-build and Custom Housebuilding Act 2015 and the description of development makes that clear. The Council concede that there is a deficiency of self-build plots in the District and, in consequence, this weighs significantly in favour of the proposal.
12. Overall, and notwithstanding the importance of the strategic policies for development in rural areas which seek that it is placed in sustainable locations, the harm arising from the proposed development would, in this instance be significantly mitigated by the design proposed and the fact that the dwelling would be grouped with existing built form and although Borley Green is a location that has limited sustainability credentials, it lies within walking distance of some facilities. Whilst finely balanced, I conclude that the harms identified are insufficient to significantly and demonstrably outweigh the benefit of providing even one dwelling in circumstances where there is both a housing land supply shortfall and a deficiency of self-build plots. In addition, noting that the existing site is merely open grassland in non-agricultural use, the requirement to deliver Biodiversity Net Gain is also a positive feature of the scheme.

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<sup>3</sup> None of the exceptions given apply in this case

13. Consequently, taking all matters raised into account the appeal succeeds, subject to the usual timing and plans conditions. It is also necessary to ensure the development accords with the basis of my decision and some of these are addressed by conditions proposed by the Council. I have considered these and adjusted to accord with the basis of my decision and the tests set out in the Framework.

*Andrew Boughton*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: 01, 430 x 02, 430 x 03, 430 x 06, 08 and 430 x 07a.
- 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) Notwithstanding The Town and Country Planning (Use Classes) Order 1987 and The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting those orders with or without modification), the development shall not be constructed other than as a self-build or custom build dwelling as defined under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) and shall not be used for any other purpose without express planning permission
- 5) Prior to the commencement of any above ground construction works, details of the final sustainability measures to be incorporated within the development shall be submitted to and approved in writing by the Local Planning Authority. These sustainability measures shall be based on drawing number: 06 and shall include details of:
  - a. Energy Efficient Construction Techniques;
  - b. Energy Efficient Lighting and Controls;
  - c. Efficient energy supply and renewable technologies;
  - d. Predicted carbon emission reduction above Building Regulations 2010.
  - e. Predicted energy transfer to the grid; and
  - f. Measures to prevent overheating.Thereafter, the development shall be implemented in accordance with the approved details prior to first occupation and shall be maintained for the lifetime of the development.
- 6) Prior to the commencement of any above ground construction works, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Details shall include: hard & soft landscape proposals, hard surfacing materials, means of enclosure, planting plans, schedules of plants,

species, planting sizes, density of planting and an implementation timetable. Thereafter, the development shall be implemented in full accordance with the approved details and implementation timetable.

- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) Prior to the first occupation of the development hereby approved, details of the siting and design of wildlife enhancements provided on the site, including bird boxes, bat boxes, bumblebee nest box and hedgehog nesting box, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, these wildlife enhancements shall be installed prior to first occupation of the development and shall be retained for the lifetime of the development.
- 9) Prior to the first occupation of the development hereby approved, all vehicular areas, including parking spaces, driveway and garages, shall be provided in full together with the access arrangement, including visibility splays, as shown on approved drawing number: 01, shall be provided in full. Thereafter, the visibility splays shall be retained at all times free from any obstruction between 600 millimetres and 2 metres above the level of the adjacent highway carriageway.
- 10) Prior to the first occupation of the development hereby approved, two electric vehicle charging points shall be installed for the new dwelling and thereafter the charging points shall be retained for the lifetime of the development.
- 11) Prior to the first occupation of the development hereby approved, details of the siting and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the cycle parking facilities shall be installed in accordance with the approved details, prior to first occupation of the development, and shall be retained for the lifetime of the development.
- 12) The proposed dwelling hereby approved shall be constructed to comply with Building Regulations Requirement M4(2): Category 2 – Accessible and Adaptable Dwellings.
- 13) The new dwelling hereby approved shall be fitted out so that the potential consumption of wholesome water by persons occupying the dwelling shall not exceed 110 litres per person, per day, as measured in accordance with a methodology approved by the Secretary of State. The dwelling shall not be occupied unless the notice of the potential consumption of wholesome water per person, per day required by the Building Regulations 2010 has been submitted to and approved in writing by the Local Planning Authority.