



Appeal Decision

Site visit made on 1 April 2025

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 May 2025.

Appeal Ref: APP/T3725/W/25/3359865

Hammonds Barn, Purlieu Lane, Kenilworth CV8 1PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Dr Alan Malik against the decision of Warwick District Council.
 - The application Ref is W/24/0848.
 - The application sought planning permission for conversion and reconstruction of existing agricultural barn and walled courtyard to form stable and fodder without complying with condition 2 attached to planning permission Ref W/21/0397, dated 6 July 2021.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out strictly in accordance with the details shown on the site location plan and approved drawings 'Block/Site Plan, 1:500' and 'Proposed Plans and Elevations Jan '06' submitted on 3rd March 2021 and 'Promap Site Plan' submitted on 19th May 2021, and specification contained therein.'
 - The reason given for the condition is: For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies BE1 and BE3 of the Warwick District Local Plan 2011-2029.
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Decision

1. The appeal is allowed and planning permission is granted for conversion and reconstruction of existing agricultural barn and walled courtyard to form stable and fodder at Hammonds Barn, Purlieu Lane, Kenilworth CV8 1PQ in accordance with the application Ref W/24/0848, without compliance with condition number 2 previously imposed on planning permission Ref W/21/0397 6 July 2021 and subject to the conditions in the attached schedule.

Preliminary Matters

2. The agent acting for the appellant has declared that they are a non-salaried planning inspector. I can confirm that I do not know the person as an agent or inspector. My determination of this appeal has been made without prejudice to all parties.

Background and Main Issue

3. Originally planning permission¹ was granted for the restoration and conversion of an agricultural building, which previously existed on the site, to a stable. However, the building collapsed, and permissions² have subsequently been granted for the reconstruction of the building to form a stable, with the most recent being W/21/0397 (the approved scheme).

¹ Ref. W/07/0144.

² Ref. W13/0298 and W/16/0769.

4. The appellant seeks to vary condition 2 of the approved scheme to allow for an increase in the depth of the approved building to accommodate a second stable. The Council indicates that the appeal proposal represents inappropriate development in the Green Belt that would cause harm to its openness.
5. Given this background, the main issue is whether the proposal would be inappropriate development in the Green Belt, including its effect on the openness of the Green Belt and the purposes of including land within it, having regard to the Framework and the development plan.

Reasons

6. The appeal site comprises the remains of a part timber framed, part stone, part brick barn within an enclosed yard. The majority of the original building has collapsed leaving just the stone plinth walls surrounding the site and a short section of brickwork and timber framing. The appellant confirms that work on the approved scheme has started but has not been completed, and I could see this was so during my site visit. The site is surrounded by open fields and sits close to a ridge running south of the site. There is public footpath which rises from Purlieu Lane to the south and traverses in a north west direction close to the site.
7. Policy DS18 of the Warwick District Local Plan 2011-2029 (September 2017) (LP) indicates that the Council will apply national planning policy to proposals within the Green Belt. As such, Policy DS18 is consistent with the National Planning Policy Framework (Framework) in terms of Green Belt policy.
8. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to establish that development in the Green Belt is inappropriate unless one of the specified exceptions applies. This includes, under part (b) of paragraph 154, the provision of appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor sport and recreation.
9. The approved scheme is a stable building for equestrian purposes, which the Council considered was not inappropriate development in the Green Belt. The main parties agree that the proposal would provide a facility for outdoor sport, and I have no reason to disagree.
10. Notwithstanding this, paragraph 154 (b) of the Framework requires that such facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it, to be regarded as not inappropriate. Openness is an essential characteristic of the Green Belt which has both spatial and visual aspects.
11. While the Council considers that limited weight should be given to the approved scheme, it has been commenced and therefore there is every likelihood that it would be built in the absence of an alternative permission. I have not seen any evidence to the contrary. Therefore, I give the fallback position, that is the approved scheme, considerable weight.
12. The proposal seeks to increase the depth of the approved stable building by 2 metres to accommodate a second stable within the building. There would be no change to the width or the overall height of the building. Given that the proposed

increase in depth of the approved building is relatively minor, the development would not result in significant visual or spatial intrusion and would therefore continue to preserve the openness of the Green Belt.

13. For the same reasons given above, the visual effect that the proposal would have on the surrounding landscape would not significantly differ to that of the approved scheme.
14. The Council asserts that additional paraphernalia associated with the proposal such as more food, equipment and horse boxes would not preserve the openness of the Green Belt. However, there is no substantive evidence before me to indicate that food and equipment could not be accommodated within the building or that horse boxes would be a permanent feature at the site.
15. Given the scale and location of the proposed development, it would not conflict with the other purposes of the Green Belt as set out in paragraph 143 of the Framework.
16. For the reasons given, the proposal would not be inappropriate development in the Green Belt. Accordingly, it complies with Policy DS18 of the LP and the Framework.

Other Matters

17. The appeal site is located proximate to a number of designated heritage assets including the Grade I listed Kenilworth Castle, the Grade II* listed Kenilworth Castle Registered Park and Garden and Kenilworth Conservation Area (CA). While not forming a reason for refusal, I must consider this matter in light of my duties under section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation areas) Act 1990 (as amended).
18. The appeal site lies outside of Kenilworth Conservation Area (CA) but can be seen against the backdrop of the CA. The CA derives its significance from its notable historical evolution and architectural diversity exemplified by landmarks such as Kenilworth Castle, highlighting the town's medieval heritage. Given the separation distance of the appeal site to the CA and the design, form and scale of the appeal scheme, the character and appearance of CA as a whole would be preserved.
19. The appeal site is proximate to Kenilworth Castle, a Grade I listed building with origins dating back to the 12th Century, and Kenilworth Castle Park and Garden which is Grade II* listed and renowned for its Elizabethan Garden. Due to the location and design of the appeal scheme, it would preserve the setting of the listed building, park and garden, the significance of which would not be harmed.
20. Furthermore, the Council raised no concerns regarding the CA, any listed buildings or the registered park and garden, and I see no grounds to find otherwise.

Conditions

21. Where planning permission is granted under section 73, it is not automatically subject to the conditions which were attached to the original permission. Planning Practice Guidance therefore advises that the conditions which continue to have effect should be restated in the interests of clarity. I have considered the conditions suggested by the Council and shall impose those conditions from the original

planning permission that remain relevant, taking account of those where details have been discharged, alongside replacing condition 2.

Conclusion

22. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed. I will grant a new planning permission but substituting condition 2 with a replacement and restating those undisputed conditions that are still subsisting and capable of taking effect.

U P Han

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 details shown on the: Site Map (unreferenced); Site Map Showing Curtilage (unreferenced); Block Site Plan 1:500 (unreferenced) and 'Hammonds Barn – changes Purlieu Lane, Kenilworth 1:100' (Plan and Elevational Changes Updated) dated January 2024.
- 3) The development hereby permitted shall be carried out in accordance with the details of sample materials submitted to the Local Planning Authority on 16 February 2023 in pursuance of Condition 3 of planning permission W/21/0397. The development shall be carried out in accordance with these approved details or any details subsequently approved in writing by the Local Planning Authority.
- 4) No site security fencing may be erected on or within 1 metre of any public footpath.
- 5) Prior to commencement of any works involving disturbance of the surface of any public footpath the developer must contact Warwickshire County Council's Rights of Way team Highway Authority to obtain any necessary consents and make any necessary arrangements for the protection of the public footpath and its users. The agreed protection measures must be implemented during the course of the works and the applicant must make good any damage to the surface of any public footpath caused during works, as agreed by the Warwickshire County Council's Rights of Way team Highway Authority.

End of Conditions