



Appeal Decision

Site visit made on 29 July 2025

by **H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

Appeal Ref: APP/J1535/W/25/3364015

Barn & Stable adj Upshire Hall, Southend Lane, Essex EN9 3QS

- 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 Mr Alan Barter against the decision of Epping Forest District Council.
 - The application Ref is EPF/2054/24.
 - The application sought planning permission for the conversion of barns and stables for a three-unit C1 (holiday let) use without complying with a condition attached to planning permission Ref EPF/0184/23, dated 21 July 2023.
 - The condition in dispute is No 13 which states that: *'The proposed conversion of the barn and stables to holiday lets accommodation hereby permitted shall only be used as an integral part of the main dwellinghouse known as Upshire Hall. The accommodation shall not at any time be sold, let or occupied as a separate unit of residential accommodation. The owners/operators shall maintain an up to date register of the names of all occupiers of the holiday let and their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.'*
 - The reason given for the condition is: *'The site is situated in the Metropolitan Green Belt and the buildings are curtilage listed. In addition, the proposal is situated in very close proximity to the main residential dwelling at Upshire Hall, therefore any permanent fragmentation of the curtilage or creation of permanent residential accommodation is undesirable in accordance with the guidance contained within the National Planning Policy Framework and policies DM4, DM7 and DM9(H) of the adopted Local Plan.'*
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of barns and stables for a three-unit C1 (holiday let) use at Barn & Stable adj to Upshire Hall, Southend Lane, Essex EN9 3QS in accordance with the application Ref EPF/2054/24, without compliance with condition number 13 previously imposed on planning permission Ref EPF/0184/23 dated 21 July 2023 and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Alan Barter against Epping Forest District Council. This is the subject of a separate decision.

Preliminary Matters

3. The appeal site is a barn and stables which the Council states are curtilage listed in association with Upshire Hall, a Grade II listed building which lies to the west. This has not been disputed by the appellant, and I see no reason to take a different view on this matter. In considering whether to grant planning permission, I have been mindful of my statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires special regard to be given to the desirability of

preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

4. During my site visit I observed that works to facilitate the conversion of the barn and stables had commenced on site as authorised.

Background and Main Issues

5. Planning permission was granted in 2023 for the conversion of an existing barn and stables to a “three-unit C1 (holiday let) use”, subject to a condition (No. 13) which requires that the accommodation is only to be used as an integral part of the main dwellinghouse known as Upshire Hall, that the accommodation shall not at any time be sold, let or occupied as a separate unit of residential accommodation and that the owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday let and their main home addresses.
6. The Council’s reason for attaching this condition was to prevent any permanent fragmentation of the curtilage or creation of permanent residential accommodation. This was due to the site’s location in the Metropolitan Green Belt and the scheme relating to curtilage listed buildings situated in close proximity to the main residential dwelling at Upshire Hall.
7. The appellant contends that parts of the condition are unnecessarily restrictive, unreasonable and unnecessary in that they are not relevant to the development permitted. The appeal scheme therefore seeks to vary the condition as follows:

The proposed conversion of the barn and stables to holiday lets accommodation hereby permitted shall at no time be used for a permanent residence or dwellinghouse. The owners/operators shall maintain an up-to-date register of the names of all occupiers of the holiday let and their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

8. The difference would be the removal of the requirement for the holiday lets to only be used as an integral part of the main dwellinghouse known as Upshire Hall and that the accommodation cannot be sold, let or occupied as a separate unit of residential accommodation.
9. However, whilst holiday lets would typically be considered as a C3 use, the description of development grants permission for C1 use which is a distinctly separate use class to a dwellinghouse. There is no permitted change of use between C1 and C3 use without first obtaining planning permission. Consequently, as a C1 use, the units could not be occupied as separate dwellinghouses without planning permission. Any reference I make to holidays lets in this decision should therefore be understood in the context of a C1 use, rather than C3.
10. Whilst the original officer report¹ sets out that the holiday let use would be ancillary to the main house, the planning submission did not set out the intention for the holiday lets to be ran as one entity with the Hall. The approved Site Location Plan also shows the holiday lets separately from the main house.
11. The holiday lets are self-contained units with kitchen, living, dining, sleeping and bathing facilities. Occupiers of the holiday let would have no physical or functional dependency on occupiers of Upshire Hall. Therefore, having been granted permission

¹ Council Ref. EPF/0184/23

for use as holiday lets, it is implicit that the barn and stables are separate units of accommodation to Upshire Hall, and the Council has found that their occupation by people unrelated to Upshire Hall to be appropriate.

12. For the above reasons, a condition restricting use and occupancy, and a requirement to keep a record of the occupants of the holiday lets is irrelevant and unnecessary. I shall therefore assess the appeal on the basis that Condition 13 should be deleted.
13. The main issue is therefore whether deleting the condition would:
 - result in inappropriate development in the Green Belt, taking into account the effect on the openness and purposes of the Green Belt;
 - preserve the setting of Upshire Hall, which are grade II listed building; and
 - have an acceptable effect on the living conditions of the occupants of Upshire Hall, having particular regard to privacy and noise.

Reasons

Green Belt

14. The appeal site is located within the Metropolitan Green Belt. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the Framework indicates that development in the Green Belt is inappropriate unless one of the listed exceptions applies. One such exception listed under paragraph 154(h)(iv) is the re-use of buildings provided that the buildings are of permanent and substantial construction, preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This exception also features at paragraph D(iv) of Policy DM4 of the Epping Forest District Local Plan 2011-2033 (the LP). Therefore, the general aims of this policy are broadly consistent with that of the Framework.
15. In granting permission for the re-use of the barn and stables as holiday lets, the Council concluded that as the proposal did not involve additional extensions or the fragmentation of the site, which in a physical and visual sense would've involved subdividing boundary treatments, it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. The Council therefore found the proposal would not be inappropriate development in the Green Belt in accordance with the requirements of Policy DM4 D(iv) and the Framework.
16. The Council considers that if ownership of the units changed, this would fragment the residential curtilage of the site, require additional parking and refuse areas and increase boundary treatments. They also consider operating the holiday lets separately from Upshire Hall would mean activity would not be kept to a minimum and this would collectively have a greater impact on the openness of the Green Belt.
17. However, as I have established above, consent was granted for three separate units of accommodation for C1 use, which severs their use from Upshire Hall in principle, and it was clearly always intended that the holiday lets would be occupied separately to Upshire Hall. It was not intrinsic that the holiday lets would be ran as one entity with the Hall in the planning submission, just possibly ran from it.

18. Moreover, the level of activity that could take place within the holiday lets is self-governing by their sizes. The Council suggests that if the holiday lets were not owned or ran by the occupants of Upshire Hall that the intensity of occupation would increase. However, there is no condition that restricts how often the holiday lets can be occupied. As such, they could be let year-round and the maximum potential occupation, and therefore the intensity of use, including the number of associated vehicular movements, would not change irrespective of ownership. The physical and visual effects would be the same. Thus, there would be no greater effect on the openness of the Green Belt or the purposes of including land within it.
19. No additional development is proposed as part of this appeal. I also note that the erection of means of enclosure is not permitted under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 if it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building. Thus, the Council would continue to retain control of the construction of any boundary treatments within the curtilage of Upshire Hall. The approved Proposed Site Layout plan also shows separate parking areas for Upshire Hall and guests, as well as a refuse store, and this would not change with the deletion of Condition 13. The physical and visual effects would again be the same. Thus, there would be no greater effect on the openness of the Green Belt or the purposes of including land within it in this regard either.
20. Drawing the above together, whilst separate ownership might result in less coordinated management, the Council has not demonstrated how tangible harm to the openness and purposes of the Green Belt would result from the barn and stables being within a different ownership to Upshire Hall or how this would result in any harm.
21. For the above reasons, I therefore conclude that with the deletion of Condition 13 the development would continue to meet the exceptions listed under paragraph 154(h)(iv) of the Framework and paragraph D(iv) of Policy DM4 of the LP and therefore would not be inappropriate development in the Green Belt. The development would therefore comply with Policy DM4 of the LP and Chapter 13 of the Framework which require that, amongst other things, the Green Belt and its openness to be protected from inappropriate development.

Listed buildings

22. Upshire Hall is an 18th century, grade II listed two-storey building with polite architecture. The Hall is set within landscaped grounds and to the east are associated farm buildings which are the subject of this appeal.
23. The significance and special interest of the principal listed building, Upshire Hall, insofar as it relates to this appeal, is derived from its age, architectural and historic interest and historic function. Its outbuildings, including the timber and brick barns, are visible from its principal elevation and provide evidence of important physical and functional connections to the operation of the farmstead. The significance and special interest of the stables and barn and the contribution they make to that of the principal listed building derives from their agrarian architecture, and their historic functional relationship with Upshire Hall, together with their location and historic use, giving understanding to the wider farmstead. The appeal buildings therefore make a positive contribution to the setting of Upshire Hall, by virtue of being part of the wider farm complex.
24. The Council contends that permanent fragmentation of the historic curtilage of Upshire Hall would fail to preserve the setting of the listed building. However, as set out above,

the occupation of the barn and stables by people that are not associated with Upshire Hall is implicit from the granting of permission for C1 use. The original permission has therefore approved a use that would sever any historic functional relationship between the barn, stables and Upshire Hall and this would be unchanged.

25. Moreover, as previously stated, though separate ownerships might result in less coordinated management, the Council would retain control over the erection or construction of means of enclosure within the curtilage of the listed building, thereby preventing the physical fragmentation of the historic curtilage, irrespective of whether the barn and stables are in the same ownership as Upshire Hall.
26. The buildings would remain listed and I am satisfied that the deletion of the condition would not result in any difference in effect to the listed building and its setting, and its special interest would therefore be preserved.
27. For the above reasons, I therefore conclude that with the deletion of Condition 13 the development would continue to preserve the setting of the listed building. Accordingly, this would comply with Policy DM7 of the LP which requires, amongst other things, for heritage assets and their settings to be preserved or enhanced in a manner appropriate to their significance.

Living Conditions

28. The Council estimates that the holiday lets are a minimum of 6.35m from the side flank of Upshire Hall, which the appellant has not disputed. This distance is over a courtyard area which, at the time of my site visit, was used for parking. The private garden of Upshire Hall is predominately located to the south of the Hall, which is well separated from the barn and stable. At the time of my site visit, noise from the M25 to the south was audible, resulting in a moderate ambient noise level within the areas around the Hall.
29. Windows are present at ground and first floor in the side elevations of Upshire Hall that face onto the barn and stable, and I note the approved elevation plans² contain an annotation that all windows on the western elevation are to be obscured. Nevertheless, as fully explored above, the level of activity that could take place within the holiday lets and the physical relationship between the barns and the Hall would not change if the condition was deleted.
30. I have already identified that there are no conditions restricting how often the holiday lets can be occupied. Therefore, theoretically, the owners of Upshire Hall could currently let the holiday lets year-round. This would not result in any greater intensity of occupation, or potential for noise and disturbance, than if an independent person or management company ran the holiday lets at maximum occupancy year-round. Therefore, there would be no greater effect on the privacy of occupants of Upshire Hall, or additional noise or disturbance.
31. For the above reasons, I conclude that the deletion of Condition 13 would not result in any adverse effect on the living conditions of the occupants of Upshire Hall, having particular regard to privacy and noise. This would therefore comply with Policy DM9(I) of the LP which, amongst other things, requires developments to take account of the privacy and amenity of neighbouring occupiers.

² Drawing no. 2001 PL 110 A

Other Matters

32. The original officer report sets out an assessment of the potential impacts of the development on Epping Forest Special Area of Conservation (SAC) which is a European site as defined by The Conservation of Habitats and Species Regulations 2017 (as amended). The qualifying features of the SAC are its value in respect of beech trees, wet and dry heaths and population of stag beetle. The conservation objectives are to achieve the favourable conservation status of these qualifying features by maintaining and restoring the extent, distribution, structure and function of the qualifying habitats and the population and distribution of the qualifying species. The Council has identified two pathways of impact that are currently affecting the SAC; recreational pressure from people visiting the forest and atmospheric pollution, primarily cause by vehicular traffic.
33. In determining the original application, the Council concluded that the proposal had the potential to result in a net increase in traffic using the roads through the SAC and therefore could have a likely significant effect on the SAC due to an increase in atmospheric pollution. However, having undertaken an appropriate assessment, the Council concluded that subject to a planning condition securing electric vehicle charging points on site as site-specific mitigation, the proposal would not have an adverse effect on the integrity of the SAC. The information supplied with the original application to enable the Council to undertake the appropriate assessment included a Transport Statement³ and a Habitats Regulations Assessment letter⁴. Both documents consider the barn and stables as independent C1 use 'holiday lets'.
34. I have found that the deletion of Condition 13 would not have any effect on the maximum permitted occupancy or intensity of the use of the holiday lets. Therefore, when compared with the baseline of the original permission, deletion of the condition would not result in any difference in terms of recreational and transportation pressure than the extant permission. The findings of the Council's Appropriate Assessment therefore remain valid, allowing me to conclude that the appeal scheme would not have an adverse effect on the integrity of the SAC.

Conditions

35. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. The Council has provided a list of suggested conditions which it considers are still relevant, with the wording amended as necessary to reflect any changes in circumstances. However, in the event that some have in fact been discharged, that is a matter which can be addressed by the parties. Where appropriate, I have also adjusted the wording of the conditions in the interest of clarity, precision and enforceability and the appellant has had the opportunity to comment on the changes.
36. I have not imposed the timescale for commencement condition given the development has commenced. However, a condition to define the plans and documents with which the scheme should accord is attached in the interests of certainty. A condition to ensure compliance with and completion of the written scheme of investigation previously approved by the Council is also necessary due to the archaeological interest of the site. However, I have combined the Council's three suggested conditions to avoid

³ By Patrick Parsons, dated June 2022

⁴ By Air Quality Consultants, dated 16 August 2022

unnecessary duplication and referred to the specific documents approved, in the interest of clarity.

37. Conditions requiring the development is carried out in accordance with the recommendations made in the ecological reports are also necessary in the interest of protecting ecology and biodiversity and to ensure the conservation of protected species. A condition requiring compliance with the agreed contamination measures and reporting of unexpected contamination are also imposed to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised. However, I have amended the Council's suggested wording to refer to the specific approved documents in the interest of clarity.
38. A condition is also imposed to require implementation of the agreed foul and surface water drainage scheme to ensure satisfactory provision and disposal. Again, I have referred to the specific document agreed by the Council for clarity and added a timescale for implementation to ensure the condition is enforceable. Conditions requiring the installation of infrastructure to enable connection to superfast broadband and implementation of water efficiency measures are also imposed to improve digital connectivity and reduce water stress. It is also necessary to impose a condition for the installation of EV charging points in order to support the reduction of carbon emissions and reduce car-led air pollution with particular reference to the SAC. I have amended the Council's suggested wording to refer to the approved EV charging scheme and to add a timescale for compliance in the interest of clarity and enforceability.

Conclusion

39. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission, deleting the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

H Whitfield

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with drawing nos and documents:
 - 2001 DEM 100A Demolition Plans
 - 2001 DEM100A Demolitions Elevations (PDF title 2001_DEM_100 Col)
 - 2001 EX00 Location Plan
 - 2001 EX 100 PL Existing Floor Plan and Roof Plan
 - 2001 EX 100 PL Existing Elevations
 - 2001 PL 110 A Proposed Elevation
 - 2001 PL 100 B Proposed Plans
 - 2001 PL 200 D Proposed Site Layout
 - 2001 PL 100 B Services
 - Heritage Impact Assessment by Hylo Architects 22nd November 2022,
 - Design and Access Statement (2001 DAS Final 170123)
 - Phasing the fabric of the Barn and Stables. 24 03 2022 and Impact analysis of proposed changes. 12 12 2022 by Barry Hillman Crouch Design and Recording Services.
 - Overheating Report 3/10/22 by CBG Consultants,
 - Embodied Carbon Analysis 23/9/22 by CBG Consultants,
 - Energy Statement 26/9/22 by CBG Consultants,
 - Transport Statement reference 10160 V1.0 by Patrick Parsons 24/6/22,
 - Bat Emergence / Re-Entry Survey Report and Preliminary Ecological Appraisal by TSA. Ecology September 2022,
 - Small Sites Metric Calculation Tool,
 - Biodiversity Net Gain Report by TSA. Ecology October 2022,
 - Planning Statement,
 - Tree Survey Assessment by Indigo Surveys Ltd ref 17143_22/A1 February 2022,
 - Letter dated 8 June 2020 reference CA6181.01 from Cooper Associates,
 - Air Quality Assessment dated 16th August 2022 by Air Quality Consultants.
 - Preliminary Risk Assessment Report June 2022, reference SRS/22/1526 RPT1 by Site Remedial Services Ltd
- 2) The development hereby permitted shall be carried out in accordance with the following documents:
 - Written Scheme of Investigation for recording at Upshire Hall, Southend Lane, Waltham Abbey, Essex EN9 3QS, Description and analysis of the House, Barn and Stables completed by Barry Hillman-Crouch Design & Recording Services dated 20 October 2023

- Description and analysis of the House, Barn and Stables. 07 05 2015.
Updated 19 20 2023 Parts 1 & 2, completed by Barry Hillman-Crouch Design & Recording Services

The measures for the completion of the written scheme of investigation shall be carried out in full and prior to first occupation of the development hereby approved, a report shall be submitted detailing the result of the recording programme and confirmation shall be provided of the deposition of the archive to an appropriate depository as identified and agreed in the Written Scheme of Investigation.

- 3) The development hereby permitted shall be carried out in accordance with the recommendations made in the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection by T4 Ecology Ltd dated June 2021.
- 4) The development hereby permitted shall be carried out in accordance with the recommendations made in the Ecology Assessment and Biodiversity Impact Assessment by TSA Ecology (Sept 2022 and 6/12/22).
- 5) The development hereby permitted shall be carried out in accordance with the following documents, including the measures agreed for the assessment of the risks posed by any contamination:
 - Ground Investigation Report Reference No: SRS/23/1581 RPT1 by Site Remedial Services Ltd
 - Letter dated 2 January 2024 reference SRS/23/1581 RPT 2 by Site Remedial Services Ltd
 - Ground Investigation November SRS/23/1581/RPT1

If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme shall be submitted to and approved in writing by the local planning authority and shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

- 6) Prior to first occupation of the development hereby permitted, the measures agreed for foul and water drainage in the Letter from Ardent Consulting Engineers (Ref 2401270-01, 26th March 2024) shall be carried out and thereafter retained for the lifetime of the development.
- 7) The development hereby permitted shall not be occupied until each holiday let has been provided with the necessary infrastructure to enable its connection to a superfast broadband network or alternative equivalent service.

- 8) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 9) The development hereby permitted shall not be occupied until the Electrical Vehicle Charging points have been installed in accordance with drawing no. Proposed External Services 11047-CBG-XX-EX-DR-E-90001 Rev. 0 and thereafter retained for the lifetime of the development.

**** END OF SCHEDULE ****