

**3/09/0053/SV – Variation to Section 52 Agreement to allow the annexe to be used as a separate dwelling at Channoeks Farm, Channoeks Lane, Gilston for Mr A Bickmore**

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**Date of Receipt:** 14.01.2009

**Type:** Full

**Parish:** GILSTON

**Ward:** HUNSDON

**RECOMMENDATION**

That Planning permission be **REFUSED** for the following reason:

1. The Section 52 agreement states that the outbuilding in question cannot be sold, leased or otherwise disposed of as a separate dwelling from the property known as Channoeks Farm. The Council considers that removal of this Section 52 agreement will result in a separate residential dwelling in the designated Green Belt area. Within such areas, permission will not be given except in very special circumstances for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. No such special circumstances are apparent in this case, and the proposal would therefore be contrary to Policy GBC1 of the East Herts Local Plan Second Review April 2007, and detrimental to the character and appearance of the surrounding rural area.

\_\_\_\_\_ (005309SV.MP)

**1.0 Background**

- 1.1 The application site is located within a rural location and within a small hamlet of dwellings and buildings of agricultural appearance. The dwelling itself, Channoeks Farm, is an attractive grade II Listed building with a double gable frontage featuring red bricks and white fenestration. Within the plot is an outbuilding which is sited approximately 8 metres to the north east of the dwelling, and is sited adjacent to the road leading to the property and falls within a driveway space with the dwelling. The outbuilding itself is of a significant size, in terms of its height and, given the materials of construction and relationship with the dwelling, would seem to have some form of historical relationship with the dwellinghouse. The application site is shown on the attached OS extract.

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- 1.2 The existing outbuilding currently benefits from planning permission within LPA reference 3/0053-90FP, for the residential use of the outbuilding. A section 52 agreement does however require that the outbuilding cannot be '*sold, leased or otherwise disposed of as a separate dwelling.*' This restriction continues to apply to the building, however, does allow a dependent relative to occupy it.
- 1.3 This application seeks consent for a variation of that Section 52 agreement to use the outbuilding as a separate residential unit. The applicant has commented in their submission that they have a close elderly relative who they would like to provide a suitable dwelling for. To do this they comment, the building requires considerable investment and they need to be able to secure funding for these works. Therefore they need to have the building capable of being a separate dwelling which could either be leased out by the applicant at a future date or sold as a freestanding unit to recover the capital cost.

## **2.0 Site History**

- 2.1 Planning permission was granted within LPA reference 3/0053-90FP and 3/0054-90LB for the change of use of the domestic outbuilding to residential.
- 2.2 Listed Building consent was granted within LPA reference 3/1918-84LB for the re-slating of the south face of the roof slope and insertion of four velux rooflights.

## **3.0 Consultation Responses**

- 3.1 No comments have been received from consultees.

## **4.0 Parish Council Representations**

- 4.1 Eastwick and Gilston Parish Council do not raise any objections to the application.

## **5.0 Other Representations**

- 5.1 The application was advertised by way of press and site notices and neighbour notification. No comments have been received.

## **6.0 Policy**

6.1 Policies relevant to the consideration of this application are:

- GBC1      Appropriate Development in the Green Belt

## **7.0 Considerations**

7.1 The main planning considerations of this application relate to Green Belt Policy. The property is sited within the Green Belt wherein there is a presumption against inappropriate development, unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. Policy GBC1 outlines some exceptions to this, which relate to mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area.

7.2 The applicant suggests within a letter attached with the planning application, personal and financial reasons and requirements for the outbuilding to be a separate dwelling. However, this is not considered to represent 'very special circumstances', which would outweigh Green Belt Policy in this case. Furthermore, the proposal does not relate to any of the exceptions as outlined above. Accordingly, it is considered that the proposed use of the outbuilding as a separate residential dwelling would represent a departure from the requirements of the Local Plan. This, in itself warrants the refusal of the application, in my opinion. However, the inappropriateness or harm to the Green Belt (as identified in Policy GBC1), must also be considered.

7.3 Taking into account the physical and historic relationship between the outbuilding and the dwellinghouse, I do not consider that the use of the annexe as a separate dwelling would allow for a congruous relationship with the dwellinghouse. The existing appearance of the site is that of a dwellinghouse with a garage (with additional living storage space over) with a sizeable garden amenity space. The creation of a new dwelling would significantly alter this physical appearance, with the subdivision of the plot, increased parking and driveway space and an intensification of the residential use. These factors in my opinion impact detrimentally with the openness and character of the locality and Green Belt.

7.4 Whilst I do consider the Section 52 to be unusual, insofar as current planning practice would usually attach a suitably worded condition to restrict the use, I consider the Section 52 agreement to be salient in this case, as it restricts the use of the outbuilding and follows Green Belt policy. The

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removal of the S52 agreement would thus allow the dwelling to be utilised as a separate dwelling, contrary to Green Belt policy which, for the reasons outlined above would impact on the openness of the Green Belt.

## **8.0 Conclusion**

- 8.1 In this case therefore, no 'very special circumstances' exist to outweigh Green Belt policy and no other material considerations have been presented to outweigh the requirements of the Development Plan. Accordingly, the relevant policy criteria for Members to consider the proposal against, relates to Policy GBC1. The proposed variation of the Section 52 would not, for the reasons outlined above, be in accordance with that Policy which, in Officers opinion would result in a significant and detrimental impact on the openness and appearance of the Green Belt. For these reasons it is therefore recommend that planning permission is refused.