



Appeal Decision

Site visit made on 24 September 2014

by **K E Down MA(Oxon) MSc MRTPI MBS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date 23 December 2014

Appeal Ref: APP/J1915/A/14/2222126

The Barn, Green Lane Farm, Levens Green, Ware, Hertfordshire, SG11 1HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)
 - The appeal is made by Mrs Lorna Jones against the decision of East Hertfordshire District Council
 - The application Ref 3/14/0811/PR, dated 6 May 2014, was refused by notice dated 20 June 2014
 - The development proposed is a change of use from an agricultural building to Class C3 (dwellinghouse)
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Decision

- 1 The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for a change of use from an agricultural building to Class C3 (dwellinghouse) at The Barn, Green Lane Farm, Levens Green, Ware, Hertfordshire, SG11 1HD in accordance with the details submitted and subject to the following conditions
 - 1) The development hereby permitted shall begin within a period of three years beginning with the date of this grant of prior approval
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans Plan 1 Proposed elevations/layout, Plan 2 Current elevations/layout, Plan 3 (block plan), Plan 4 (location plan)

Procedural matter

- 2 The provisions of the Town and Country Planning (General Permitted Development) Order 1995 (GPD) (as amended) require the local planning authority to assess the proposed development against the criteria set out in Paragraph MB 2, taking into account any representations received and having regard to the National Planning Policy Framework (NPPF) as if the application were a planning application. Considerations under the NPPF are limited to those relevant to the subject matter of the prior approval, as set out in the criteria in Paragraph MB 2 My determination of this appeal has been made in the same manner

Main issue

- 3 There is one main issue which is whether the proposal satisfies the prior approval requirements of the GPDO, as amended, with regard to being permitted development under Schedule 2, Part 3, Class MB, for change of use from an agricultural building to a dwelling (Class C3)

Reasons

- 4 The appeal site is a short distance along a private track from the hamlet of Levens Green. It is within an area of land used by the appellant for a horticultural business. Planning permission was granted on appeal for the barn in January 2011. The barn has been erected and is currently used in connection with the horticultural business for storage of goods and machinery and as an office. Very limited alterations to the external appearance of the barn would be required to convert it to a dwelling, which the appellant wishes to do upon her impending retirement.
- 5 There is no dispute between the parties that the appeal proposal would be permitted development under Class MB of the GPDO, as amended. I have no reason to take a contrary view. However, Paragraph MB 2 of the GPDO sets out that the prior notification determination as to whether prior approval is needed must be assessed against five criteria. Criterion (e) requires the consideration of whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling.
- 6 The Council refused prior approval on the grounds that the proposal would create a single isolated dwelling in the countryside, away from key services and infrastructure, and hence its location would make it undesirable for the proposed change of use to take place since it would amount to unsustainable development, contrary to the NPPF.
- 7 The appellant argues that the proposed change of use would be neither unsustainable nor contrary to the NPPF. Firstly, Paragraph 17 sets out under the core principles of the Framework encouragement for the reuse of existing resources, including the conversion of existing buildings. Secondly, the Council accepts that it cannot show a five year supply of deliverable housing sites and paragraph 49 of the NPPF states that where this is the case, relevant policies for the supply of housing should not be considered up to date. Under these circumstances paragraph 14 advises that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate development should be restricted. The conversion of the building is therefore consistent with the NPPF in the context of the reuse of an existing building and would make a modest but worthy contribution towards boosting housing supply which, in the absence of a five year supply carries significant weight.
- 8 With regard to the rural location of the appeal site, paragraph 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Although The Barn is on the edge of a hamlet with no services it is some two miles along quiet rural roads from Dene End which, the appellant argues, has a range of services including a shop, post office, pub, primary school, church and a bus service. The larger villages of Puckeridge and Standon, which offer a wider range of services, are a little further away in the opposite direction. The

appellant states that she frequently uses services and facilities in local villages and in view of the noticeably longer distance to any major centre I consider it highly likely that occupiers of a dwelling at the appeal site would also use local shops and services and would thus help to maintain the vitality of the nearby villages, albeit to a modest extent

- 9 The Council highlights the lack of sustainable transport near the site and I accept that most journeys are likely to be made by private car. Nevertheless, cycling would be a practical alternative, especially during good weather, and the NPPF, whilst promoting sustainable transport, recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Moreover, transport is only one aspect of sustainable development and in this case should be balanced against other objectives
- 10 Paragraph 55 goes on to say that new isolated homes in the countryside should be avoided. The appellant argues that The Barn is not isolated because it is a short distance from the scattered hamlet of Levens Green. The term "isolated" is not defined in the NPPF and in my view isolation is a matter of fact and degree. Physically, The Barn is separated from other dwellings but its access emerges onto a small green which is faced by a number of dwellings. Moreover, it is not materially further from this focal point in the hamlet than other scattered dwellings. On balance I therefore conclude that the appeal site is not isolated for the purposes of paragraph 55. This view is supported by the conclusion reached in appeal ref APP/J1915/C/13/2190207 which related to the change of use of a barn to a dwelling elsewhere on the edge of Levens Green and is a material consideration to which I afford due weight. It is therefore not necessary for me to consider whether any of the special circumstances set out under paragraph 55 apply in this case
- 11 Overall I find that the appeal proposal would not, as a result of its location or siting, amount to undesirable development and that it would therefore comply with the five criteria set out under paragraph MB 2 of the GPDO, taking into account the NPPF so far as it is relevant to the subject matter of the prior approval

Conclusion

12. I conclude on the main issue that the proposal satisfies the prior approval requirements of the GPDO, as amended, with regard to being permitted development under Schedule 2, Part 3, Class MB, for change of use from an agricultural building to a dwelling (Class C3)
- 13 The appeal should therefore be allowed and approval granted. In granting approval the Appellant should note that prior approval under Class MB is granted subject to a commencement condition set out in paragraph MB 2 (3) of the GPDO and repeated in my decision above. In addition, prior approval may be granted subject to conditions reasonably related to the subject matter and I agree with the Council that, for the avoidance of doubt and in the interests of proper planning, a condition should be applied requiring the development to be carried out in accordance with the submitted plans

KE Down
INSPECTOR



Appeal Decision

Site visit made on 18 November 2014

by **D J Board BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 December 2014

Appeal Ref: APP/J1915/A/14/2224947

Land Adj Tesco Store, Havers Lane, Bishops Stortford, CM23 3PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Pinehurst Construction Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/0923/FP, dated 20 May 2014, was refused by notice dated 15 July 2014.
 - The development proposed is revised detailed application for one dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for revised detailed application for one dwelling at Land Adj Tesco Store, Havers Lane, Bishops Stortford, CM23 3PD in accordance with the terms of the application, Ref 3/14/0923/FP, dated 20 May 2014, subject to the conditions in Annex A.

Main Issue

2. The main issue is the effect of the dwelling on the street scene.

Reasons

3. The site would be formed from an irregularly shaped piece of land located to the east of a former public house, now in use as a retail store. To the rear of the site a dwelling has already been approved. Its access would be along the side of the appeal site. Beyond this would be No 104 Havers Lane which is a two storey house. The wider street contains a variety of dwelling types and design.
4. The dwelling would be located at the front of the site. Its front and rear elevations would be broadly in line with those of No 104. It would be a two storey dwelling with a pitch roof creating gable ends. A dormer window feature would sit within the roof. Materials would be brick and tile. Overall the design and appearance of the dwelling would not be out of place. I note that the Council suggest that the design is not high quality. However, the submissions do not articulate why this is the case. The design is simple in approach and I am conscious that the National Planning Policy Framework (the Framework) is clear that planning decisions should not attempt to impose architectural styles or particular tastes.
5. There is a change in levels along Havers Lane with the land rising from north to south. Whilst in line with No 104 the dwelling would be located forward of the building containing the Tesco express store. Approaching from the north the side elevation of the new dwelling would be visible. This elevation would be

broken up by the use of the dormer feature. Further it would sit below No 104 and be viewed in combination with the flank elevation of this dwelling, which would serve to limit its impact. Approaching from the south the views of the dwelling would be very limited as No 104 would be picked up first in the street scene. When viewed from opposite the site the dwelling would not look out of place having an appropriate scale, design and material finish. This is reinforced by the appellant's street scene drawing.

6. I note that the Council are concerned about the impact of the dwelling on what they consider to be the open nature of the street in this location. In particular its relationship with the adjacent Tesco site. Whilst I appreciate that the change of use of the public house to a shop did not require planning permission the outcome is that the frontage of the site is in use as a car park. The pattern of development along this section of Havers Road is varied development that is suburban in appearance. There are not regular or particularly large gaps between dwellings and the site does not function as a specific 'gap' in the street. Therefore for these reasons the introduction of a dwelling on this site would not appear out of character or erode an established open character.
7. I therefore conclude that the dwelling would not have a harmful effect on the street scene. It would not conflict with policies ENV1 and HSG7 of the East Herts Local Plan Second Review which amongst other things require new housing development to complement the character of the area and relate well to its surroundings. Paragraph 7 of the Framework sets out the three dimensions to sustainable development. The environmental dimension encompasses issues of character and appearance as it requires development to protect and enhance the built environment. In this case I have found that the dwelling would not harm the street scene. As such it would not conflict with the Framework.

Other matters

8. The Council has drawn my attention to a previous application on the site that was refused¹. I do not have all the detail of this proposal. I have in any event come to my own conclusions regarding the appeal scheme based on the evidence before me.
9. I note that the Town Council objected to the proposal. It raised further issues regarding parking and over intensification of the site. The Council has not refused the proposal on these issues. Nevertheless I am satisfied that the parking and garden areas would be commensurate with the provision of a two bed dwelling.

Conditions and Conclusion

10. The Council and Highway Authority have suggested a number of conditions which it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the Framework and Planning Practice Guidance and for clarity some of the Council's proposed wording is amended. Conditions are necessary that relate to the standard time limits and the identification of the approved plans is required for the avoidance of doubt.
11. In the interests of the character and appearance of the area a condition is necessary regarding the materials of the dwelling, hard and soft landscaping,

¹ 3/14/0139/OP

including the finished levels of the development. In the interests of highway safety conditions are necessary regarding the access layout, parking spaces and surfacing. The dwelling would be a sensitive end use. As such a condition regarding development to be undertaken in accordance with the submitted contaminated land report would be both necessary and reasonable.

12. The Council propose conditions to control hours of construction, construction management and matters of foundation design. These matters are primarily controlled by other legislation. Their inclusion would not be reasonable, necessary or relevant for a development of this scale.

Conclusion

13. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

D J Board

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plan: 551 4.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include existing and proposed finished levels or contours relative to the adjoining land together with the slab levels and ridge heights of the dwelling; means of enclosure; car parking layouts; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc).
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 6) 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, unless the local planning authority gives written approval to any variation.
- 7) No development shall take place until details of the construction of the access and car parking spaces, including levels, drainage and details of the finished surface have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to occupation and the car parking spaces shall remain available for their designated use for as long as the development hereby permitted remains in existence.
- 8) The dwelling shall not be occupied until a means of vehicular access, including visibility splays, has been constructed in accordance with the approved plans to the specification of the Local Highway Authority.
- 9) Prior to the commencement of construction works reclamation of the site shall be carried out in accordance with document reference 3/14/0923/FP Phase 1 (Desk Study) Investigation Report. Any amendments to the report shall be submitted to and agreed in writing by the Local Planning Authority. On completion of reclamation works the developer shall provide a validation report confirming that the works have been completed in accordance with the approved documents and plans.