

3/09/0106/FP – Retrospective application for barn/storage with proposed cladding (alteration to design & layout to that approved under 3/82/0907/FP) at Edgewood Farm, Broxbourne Common for Mr. & Mrs. Feltham.

Date of Receipt: 22.01.2009

Type: Full

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION

That planning permission be **REFUSED** for the following reasons:-

1. Within MGB – EHLP (R021)
2. The Local Planning Authority is not satisfied of the overriding agricultural necessity for the retention of this building or that it meets the provisions of PPS7 'Sustainable Development in Rural Areas'. The development would thereby be contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007.
3. The storage barn, by reason of its siting, size and scale is harmful to the openness in this part of the Metropolitan Green Belt contrary to Policy GBC1 of the East Herts Local Plan Second Review April 2007 and PPG2 'Green Belts'.

_____ (010609FP.HS)

1.0 Background

- 1.1 The application site is shown on the attached OS extract. The site currently contains the building which is the subject of this application, a smaller barn located to the east of it, and a residential dwelling known as The Bungalow.
- 1.2 The site is located in the Green Belt, set amongst scattered dwellings and farmsteads. Paradise Wildlife Park is located to the west. Land to the east of the site comes under the jurisdiction of Broxbourne Borough Council.
- 1.3 Your Officers have described these proposals as a retrospective application for a barn/storage with proposed cladding (alteration to design and layout to that approved under ref: 3/82/0907/FP). The applicant disagrees with this description. The reason for this is set out in the report below. The applicant has not permitted Officers to enter onto the land to inspect the building and site. It has been confirmed by the applicant that access will be permitted if the description of the proposals is changed to that requested by the

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applicant. However, site photographs and notes from earlier site inspections are considered to be sufficient in this case to enable adequate consideration of these proposals.

- 1.4 The building shown in the plans submitted is described as barn measuring approximately 17.5m by 19m (a total footprint of approximately 334m²), with a pitched roof to a maximum height of 7m.
- 1.5 Members will be aware that the site to which this application relates has been the subject of enforcement action. A separate report on this agenda updates Members on enforcement matters. There will be some element of duplication in the reports. Members are asked to take into account the information in both reports in their consideration of the matter.
- 1.6 The application has been referred to Committee at the request of Councillor Ashley.

2.0 Site History

- 2.1 Permission was granted in 1982 for an agricultural building in this location (3/82/0907/FP) to be used as calving pens and hay store. Permission was granted subject to a condition that the building be used solely for the purposes of agriculture.
- 2.2 In 1998 a Lawful Development Certificate application was submitted in relation to the site. The claim was that the separate residential building on the site had been in use for that purpose for a sufficient period of time, such that the conditions and legal Agreement (which imposed an agricultural occupancy restriction) applied to an earlier residential permission (3/86/1969), could not be enforced.
- 2.3 This application was refused by the Council but allowed on appeal. It was subsequently resolved by the Council that, as a result of the appeal decision, the legal Agreement should be discharged. It appears that administrative oversight resulted in no confirmation of this decision being given to the applicant at the time. As a result, a further application was submitted in 2006, to discharge the legal Agreement (3/06/2074). The applicant was advised that this further application was not required and formal confirmation of the discharge of the Agreement was then given. These applications are relevant because of the information that was submitted with them in relation to agricultural operations at the site.

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- 2.4 At the 20 December 2006 meeting of the DC Committee Members considered a report recommending that formal enforcement action be commenced with regard to the building and wall and gate structures at the site. The committee authorised that action.
- 2.5 A retrospective application for the building as it stands, was first submitted under reference 3/07/0067/FP following authorisation from Committee to undertake formal enforcement action. This application was refused on 20 March 2007. The refusal reasons were that the building represented inappropriate development in the Green Belt, there was a lack of agricultural necessity and it would result in harm to the openness of the Green Belt.
- 2.6 The enforcement notice was served on 26 March 2007. An appeal against this notice was submitted, but subsequently withdrawn. There then followed a Certificate of Lawful Development application (3/07/2062/CL). The claim set out in this application was the lawful start and subsequent completion of the building approved under the earlier 1982 permission. This was refused on the grounds that although some works had commenced on site prior to the five year expiry date (hence the permission had been implemented), the completed barn was larger, and differed so significantly in design from the 1982 permission that the resultant building was not consistent with the permission given.
- 2.7 No appeal was lodged against this decision, or the previous refusal to grant planning permission.
- 2.8 A further application for the retention of the building was submitted under reference 3/08/1248/FP. This application was subsequently withdrawn.

3.0 Consultation Responses

- 3.1 County Archaeology have no comment to make as the application is retrospective.
- 3.2 The Council's Landscape Officer comments that he has been unable to fully assess the application as access to the site was refused.
- 3.3 The Borough of Broxbourne Council make no comment in relation to the application.

4.0 Parish Council Representations

- 4.1 Brickendon Liberty Parish Council have no objection to the application.

5.0 Other Representations

5.1 The application has been advertised by way of press notice, site notice and neighbour notification. Whilst displayed, the site notice has been removed and returned to the Councils Offices by the applicant on the basis of the matter of the description of the proposals. Your Officers are of the view that sufficient publicity has been given to the proposals. No third party representations have been received.

6.0 Description

6.1 As set out above, the applicant disagrees with the description that has been applied to the application.

6.2 The wording set out by the applicant is that the application is a: “Retrospective application for a small scale alteration to the design of the barn located at Edgewood Farm, under planning reference 3/907/82.” Later correspondence from the agent requested that the words “Design – layout alteration to implemented consent 3/907/82” be used in the description.

6.3 Your Officers did not consider this description to be the most accurate one for the proposals. As indicated, whilst it has been accepted that the 1982 permission was implemented (as determined under 3/07/2062/CL) the resulting building was not completed in accordance with the 1982 permission and therefore is not considered to be lawful. It is not considered acceptable then to deal with the proposals as a design and layout modification to a building which is considered unlawful. It is noted that the most recent previous application for the building (3/08/1248/FP) was described as “Retrospective application for barn/storage”, this description was not challenged.

6.4 The current description applied is therefore “Retrospective application for barn/storage with proposed cladding (alteration to design and layout to that approved under 3/82/0907).” It has now come to the Officer’s attention that the cladding is also existing, and as such the application is considered to be fully retrospective.

6.5 Officers have implemented a description which is considered to more accurately reflect the current situation at the site. This is to enable those who are interested in the proposals to be fully informed in relation to them. There is no other purpose being sought with regard to the description being given to the proposals.

7.0 Policy

7.1 The main policy considerations relevant to this application are East Herts Local Plan Second Review April 2007 policies:

GBC1 Appropriate Development in the Green Belt

ENV1 Design and Environmental Quality

ENV2 Landscaping

7.2 Government Guidance is also provided in the following documents:

PPS1 Sustainable Development

PPG2 Green Belts

PPS7 Sustainable Development in Rural Areas

8.0 Considerations

8.1 The site lies in the Green Belt wherein permission will normally only be granted for limited forms of development. Other development is considered to be inappropriate. The main issues in this case therefore relate to the principle of the development, the use of the building, and its impact on the openness and character of the Green Belt.

8.2 The only amendment that has been made to the application since the previous refusal (3/07/0067) is the addition of vertical timber cladding to the exterior of the building. There are considered to be no material changes in planning policy since the date of that refusal.

8.3 The application form states that the building is used for 'fodder storage and farm implement plus housing livestock', indicating that it is intended for an agricultural purpose. In addition, of course, it is claimed as a small change to the 1982 building, which was permitted for agricultural purposes. Given the time that has elapsed since the 1982 permission and your Officers view that the building cannot be considered on the basis of it being a modification to the earlier permitted building, the applicant has been invited to submit additional details justifying the agricultural use.

8.4 It was also considered appropriate by your Officers to do this given that, in relation to the Lawful Development Certificate submitted in 1998, a supporting statement indicated that agricultural use on the site had been limited. In addition an Agricultural Viability Assessment dated August 2006 was submitted in support of the application to discharge the legal Agreement relating to the site (reference 3/06/2074/SV). This concluded that the site "is not viable for independent agricultural purposes".

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- 8.5 The applicant has declined to submit further information justifying an agricultural use.
- 8.6 Your Officers therefore are not satisfied that the building is intended for a genuine agricultural purpose. Given that the development is therefore considered to be inappropriate by definition as set out in policy GBC1 because it does not fall within one of the categories of development which are permissible in the Green Belt. No very special circumstances have been advanced in support of the proposals in this case.
- 8.7 In terms of the size and siting of this building, this is considered to be excessive and harmful to the openness of the Green Belt. The building has a footprint of approximately 40m² larger than that approved under the 1982 permission, and is approximately 1m higher. It is sited to the rear of an existing barn, and therefore extends the built-form of the site further west to the detriment of the openness of the Green Belt.
- 8.8 In terms of design, the addition of vertical timber cladding is considered to be acceptable in this rural location. The previous application (3/07/0067/FP) was refused partly on the grounds of design as it constituted an exposed blockwork structure. The third reason for refusal has therefore been amended to take this into account.

9.0 Conclusion

- 9.1 Overall, therefore, it is considered that the building constitutes inappropriate development in the Green Belt with no very special circumstances demonstrated. No genuine agricultural need has been identified for the building, and its size, scale and siting remain unchanged since the previous refusal, and are unacceptable in this location.
- 9.2 The application is therefore recommended for refusal for the reasons set out above.