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## Appeal Decision

Site visit made on 9 January 2012

**by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)**

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

Decision date: 23 January 2012

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**Appeal Ref: APP/J1915/A/11/2162758**

**Sucklings Yard, Church Street, Ware, SG12 9EN**

- 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 F M Suckling Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/11/0628/FP, dated 11 April 2011, was refused by notice dated 3 June 2011.
  - The development proposed is a change of use of 1 no. office unit to 1 no. 2 bedroom dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the proposal would conflict with local plan policy that is designed to retain land for employment purposes; whether the proposal would be compatible with the surrounding uses; and whether the proposal would provide appropriate living conditions for future occupiers.

### Reasoning

3. Sucklings Yard is a complex of buildings and converted warehouses/workshops with open parking areas and the proposal relates to a completed extension to a two storey office building granted planning permission in 2010<sup>1</sup>. At the time the application for the change of use was made, it would appear that the Appellant failed to provide any evidence that retention of the employment use had been fully explored as required by Policy EDE2 of the East Herts Local Plan Second Review 2007.
4. However, with the appeal the Appellant provided a letter from Estate Agents dated 16 September 2011 stating, among other things, that the building has been marketed since March 2011 but that no interest has been shown. In addition, the Appellant provided advertisements for the building dated May, June and September 2011. From the evidence I note that the application for the change of use was made, at most, six weeks or so after the building was marketed and it is therefore not surprising that, at that time, there was no evidence in accordance with Policy EDE2 of the Local Plan. However, I have to consider the circumstances as they are now and it seems to me that, in the current economic climate, a period of less than a year with no apparent consideration of the amount of rent being asked for the building does not

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<sup>1</sup> Ref 3/10/1957/FP

amount to fully exploring the retention of the site for employment purposes as required by Local Plan policy.

5. At the time of my visit the other units in Suckling Yard appeared to be occupied by uses such as a nursery, a builder's office and a chiropractor. The site was congested with parked cars and other vehicles and there were a number of vehicles and people coming and going. It was also quite noisy, largely because of work being done to the adjacent supermarket car park. I appreciate that these works are temporary, but when the car park is in use there would be a certain level of noise emanating from it which could have an adverse effect on the occupiers of the building. In addition, the Yard is a commercial one and would, in my opinion be relatively busy and noisy at all times it was open, given the type of uses in the Yard, which would have an adverse impact on future occupiers' peaceful enjoyment of the building. I accept that the residential occupiers may not be in during the working day, but there can be no guarantee that this would be the case.
6. The building is located in the far corner of the site. Access to it is across what can be described as a car park for the various units and as I have noted above, this area is congested. There would be a small courtyard in front of the building, some 2m deep at the front door, but cars would be parked immediately adjacent to this courtyard and people would be coming and going all day to the units. The garden for the nursery is immediately opposite the building and would be likely to be a further source of noise and disturbance for the occupiers of the building when it was being used by the children. I consider that the courtyard would not provide a sufficient barrier for privacy and noise and disturbance so as to render the residential use appropriate.
7. The lounge window would look out onto the boundary of the site separated from the building by a grassed area about 2m wide and bedroom one would have a view over the supermarket car park. I do not consider that the outlook from these two windows would be inappropriate for residential use but the outlook from the kitchen window and bedroom two towards the Yard would be restricted and unattractive.
8. I do not know whether the Yard is open at weekends or at what time it closes and appreciate that when it is closed it could be quiet, but the location of the building in the corner of the site would be cramped and oppressive for residential use.
9. I appreciate that the Appellant considers that the residential use of the site would aid security at the Yard but, even if this was a planning consideration I could take into account, given the location of the building in the corner of site where it cannot be seen from outside the front gates and from which views of the gates are oblique at best, I do not see how residential occupation would achieve the required results.
10. The Appellant has suggested that the dwelling could form part of a live-work unit, however, this is not what has been applied for in this appeal and the letters from the two Estate Agents indicate that a residential letting on the open market is envisaged. Even if a live-work unit was proposed, the inappropriateness of the residential use I have found above would remain.
11. For the reasons given above and taking all other matters into account I conclude that the proposal would conflict with Local Plan Policy EDE2 that is

designed to retain land for employment purposes; that the proposal would not be compatible with the surrounding uses; that the proposal would not provide appropriate living conditions for future occupiers; and that the proposal would not comply with Local Plan Policy ENV1(d) which seeks to respect the amenities of future occupiers. I therefore conclude that the appeal should be dismissed.

*Gloria McFarlane*

Inspector



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# Appeal Decision

Site visit made on 13 January 2012

**by Philip Willmer BSc Dip Arch RIBA**

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

**Decision date: 3 February 2012**

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**Appeal Ref: APP/J1915/A/11/2162221**

**Ridgeons Ltd, West Road, Sawbridgeworth, Hertfordshire, CM21 0BP.**

- 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 Ridgeons Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/11/0886/FP, dated 22 May 2011, was refused by notice dated 25 July 2011.
  - The development proposed is described as the erection of a new single storey Portacabin (sic) office in the yard area.
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## Decision

1. I dismiss the appeal.

## Procedural Matters

2. The appellant suggests in the grounds of appeal that the application is for a temporary building. The proposed building would have the appearance of a temporary building and be of a prefabricated design. It would not, as suggested by the appellant, be attached to any existing building, has been designed to be removable, would sit on an existing concrete surface and has no foundations (although from the application drawings it appears it would be bolted to the ground) or drainage. However, there is no indication on either the original application form or within the design and access statement (DAS) that accompanied the application that the building is only required for a temporary period. Indeed I note from the DAS that the building is required to relocate staff from the present office at the rear of the yard. Furthermore, the appellant advances no evidence as to the period of time that the building, if permitted, would be required.
3. Accordingly, I would agree with the Council's findings that the proposed office would appear to be for a permanent and necessary part of the business. I shall therefore consider this appeal, as the Council did the original application, on the basis that its use is permanent.

## Main Issues

4. I consider that the main issues in this case are:
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- 1) firstly, whether the proposal would constitute inappropriate development harmful to the function and purpose of the Green Belt;
- 2) secondly, the effect of the proposed 'Portakabin' on the setting of the adjacent building, listed grade II; and
- 3) thirdly, if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, and if so whether very special circumstances exist necessary to justify the development.

## **Reasons**

### *Development in the Green Belt*

5. The appeal site comprises a range of barns, the largest of which is listed grade II, laid out around three sides of an inner courtyard, a two storey building (formerly a farmhouse) and a compound area set out with a number of tall storage racks. The whole site is in use as a builder's merchants, Ridgeons Ltd. The appellant wishes to site a Portakabin just inside the inner courtyard, in close proximity to the barns, to provide office accommodation.
6. Planning Policy Guidance 2: *Green Belts* (PPG2) contains a presumption against inappropriate development within the Green Belt. The construction of new buildings inside the Green Belt is inappropriate unless it is for one of the purposes set out in paragraphs 3.4 of PPG2, which, along with other things, includes for the purpose of agriculture or forestry, essential facilities for outdoor sport and recreation and the limited extension, alteration or replacement of existing dwellings. These provisions are reflected in Policy GBC1 of the East Hertfordshire Local Plan Second Review April 2007 (LP). The proposed office for use in connection with a builder's merchants does not fall to be considered under any of the stated purposes and therefore would constitute inappropriate development within the Green Belt.
7. Paragraph 3.2 of PPG2 advises that inappropriate development is, by definition, harmful to the Green Belt. I give substantial weight to the harm by reason of inappropriateness.
8. The most important attribute of Green Belts is their openness. The proposed Portakabin would, notwithstanding its size and location in relation to that of the existing buildings and storage racking on the site and limited views of it from outside the compound, nevertheless result in the introduction of an additional building that would reduce the openness. I therefore consider that the development would impact in a small but material way on the openness of the Green Belt. I give significant weight to the loss of openness.
9. The Council considers that the siting of the proposed Portakabin would result in substantive harm to the locality due to the potential for further operational development on the site. I appreciate that the appellant has given no indication as to the future use to which the vacated office space would be put. However, as the new floorspace would only amount to some 35.8 square metres, I anticipate that this would be unlikely to result in the significant increase in activity feared by the Council. I therefore give this consideration little weight.

*Setting of listed building*

10. The appeal site has the appearance of a former historic farmstead, with a range of barns and detached farmhouse, located alongside West Road that leads away from the settlement. Although there is a public house almost opposite the site, it is otherwise surrounded by open countryside. In addition to the use of the buildings in connection with the builder's merchants, the yard has been racked for the external storage of building materials. These storage racks are both numerous and tall and from some directions visually compete with the heritage asset which still retains a traditional agricultural appearance.
11. Although designed as a temporary structure, permission has been sought for the permanent siting of a Portakabin partially within the courtyard formed by the main and two projecting side barns. The proposed building is of an uncompromising modern utilitarian industrialised design and finish. In these respects it would, having regard to its permanence and location adjacent to the barn, cause significant harm to the setting of the heritage asset.
12. The use of the site, in particular the erection of storage racking, has had a pronounced effect on the original setting of the asset. Nevertheless, the addition of a Portakabin here would, in my judgement, further denude its significance.
13. I consider, therefore, that the proposed development would be harmful to the setting of the adjacent grade II listed building contrary to the objectives Planning Policy Statement 5: *Planning and the Historic Environment* (PPS5). I therefore assign substantial weight to this consideration.

*Other Considerations*

14. I shall now consider whether there are other considerations which, in this case, are sufficient to outweigh the harm from the development.
15. The appellant states that the new office is required in order to enhance customer service, security and safety as the present office is considered to be too remotely located. The Portakabin would be closer to the access from West Road and, because of the way the site is currently laid out, possibly more readily visible than the present office to visitors arriving. Nevertheless, the existing office is adjacent to the parking area, relatively close to the main entrance and although to my mind both identifiable and accessible, there are clearly, in my judgement, other ways in which these necessary attributes could be enhanced. Although the proposal relates to an established business, providing continued employment that has traded on the site for a number of years, I am not persuaded by the operational need for the new office and I therefore give this consideration little weight.
16. I conclude on this final issue that no other considerations have been put forward that clearly outweigh the harm by reason of inappropriateness, reduction in openness, and harm to the setting of the listed building that amount to very special circumstances necessary to justify inappropriate development as required by PPG2 and LP Policy GBC1.

**Conclusions**

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Philip Willmer*

INSPECTOR



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## Appeal Decision

Site visit made on 12 January 2012

by **J A B Gresty MA MRICS**

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

Decision date: 19 January 2012

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### Appeal Ref: **APP/J1915/D/11/2165363**

### **164 Cozens Road, Ware, Hertfordshire SG12 7HX**

- 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 Mr Mark Rudd against the decision of East Herts Council.
  - The application Ref 3/11/1275/FP, dated 15 July 2011, was refused by notice dated 8 September 2011.
  - The development proposed is a loft conversion, first floor side extension and part garage conversion.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the locality.

### Reasons

3. The appeal property is a two-storey semi-detached house of conventional appearance with a pitched tile roof and external brick cladding. It is situated in a mainly residential area; the immediate locality around the appeal property is characterised by two-storey semi-detached houses of broadly similar style and character.
  4. The development proposal includes conversion of the existing and the proposed side extension roof spaces, to create new bedroom and bathroom. To enable this, a flat-roofed dormer would be built on the back elevation of the roof. The dormer would extend along most of the length of the roof and would reach to just under the ridge of the roof. Consequently the dormer would appear very large in relation to the rest of the roof of the house. Its size and design would give rear elevation of the roof a box-like appearance which would stand out as a large and incongruous feature which would be at odds with the appearance of the host building and the other houses nearby, contrary to the design aims outlined in Policies ENV1 and ENV6 of the East Herts Local Plan, Second Review 2007 (LP)
  5. The main body of the proposed side extension would be of similar design to the existing building and its size would not dominate the appearance of the property. The development would maintain a visual gap between the appeal
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property and the neighbouring dwelling. Consequently, apart from the proposed rear dormer, the extension would be in keeping with the character and appearance of the host property and the locality as a whole. In this respect the proposed development would accord with the general thrust of LP Policies ENV1, ENV5 and ENV6.

6. There are other flat-roofed dormers in the area, including a prominent structure on the front elevation of the roof of 93 Cozens Road. However, the planning history of these other dormers is unclear and I can attach little weight to them in deciding this case. Each proposal must be considered on its own merits and the presence of a few large flat-roof dormers in the area near to the appeal property does not justify replication of this type of development if it would be harmful to the character and appearance of the area.

### **Conclusion**

7. Although not in a prominent location at the back of the No 164, the proposed dormer would be visible from nearby houses and from the cul-de-sac to the south. Therefore, whilst I find that there are elements of the proposed development that would be acceptable, for the reasons given above, I conclude that the proposed dormer would be harmful to the character and appearance of the locality and that the appeal should be dismissed.

*J A B Gresty*

INSPECTOR