



Appeal Decision

Site visit made on 12 September 2017

by **R Norman BA (Hons) MA MRTPI**

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

Decision date: 6th October 2017

Appeal Ref: APP/C1570/W/17/3175499

Brocking Farm, Langley Road, Clavering CB11 4SH

- 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 Mrs Jane Gingell against the decision of Uttlesford District Council.
 - The application Ref UTT/16/1415/FUL, dated 17 May 2016, was refused by notice dated 11 January 2017.
 - The development proposed is the change of use of agricultural buildings to residential (C3) and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of agricultural buildings to residential (C3) and associated works at Brocking Farm, Langley Road, Clavering CB11 4SH in accordance with the terms of the application, Ref UTT/16/1415/FUL, dated 17 May 2016, subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The two existing agricultural barns are located adjacent to one another within an existing yard. Both buildings are of steel construction comprising a barn with sliding doors and lean to and an open fronted barn, which is set back slightly. The barns are large in scale. Adjacent to the site are existing dwellings consisting of a farm house and a timber clad building which appears to be used as a holiday let. The surrounding area is rural in character with sporadic dwellings of varying designs and scales and open agricultural land. The site is detached from the main settlement.
4. Policy S7 of the Uttlesford Local Plan (2005) states that in the countryside, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area, or has special justification. In addition, it requires the appearance of development to protect or enhance the character of the countryside. Furthermore, Policy H6 of the Local Plan requires the conversion of rural buildings to dwellings to meet a variety of criteria including demonstrating there is no need for business or community uses, being in sound structural condition, having a traditional or vernacular appearance and the

works should respect and conserve the characteristics of the building. Policy GEN2 requires development to be compatible with its surroundings in terms of scale, form, layout, appearance and materials.

5. The conversion of the two barns would involve the retention of the existing frames and the re-walling of the buildings. The conversion would utilise large areas of glazing, as well as external cladding which would reflect the adjacent building. The buildings themselves are not of particular note in terms of their appearance nor their contribution to the character of the surrounding area. They are both large, corrugated steel, agricultural sheds, however they appear to be in a sound condition. The resultant dwellings would be large and the character of the existing buildings would be significantly altered however, the overall designs would visually enhance the area as the existing buildings make little contribution to the area. There have been no special circumstances put forward to support the need for their conversion to dwellings. However, a previous application determined that prior approval for their conversion under the provisions of Class 3, Part Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 was not required (Ref: UTT/15/0437/P3MPA).
6. Whilst the proposed development would not wholly comply with all of the criteria within Policies S7, H6 and GEN2, I have had regard to the 'fall-back' position resulting from the extant approval. The previous consent would result in both barns being converted with their designs, scales and level of works proposed to be the same as this current appeal proposal. Therefore, whilst applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise, I have given the fall-back position significant weight, given that the resulting development would be the same as what has been approved. As such, the proposed development would not be significantly more harmful than the approved scheme. Furthermore, there is no evidence that the fall-back position could not be implemented and I am confident that should this appeal fail it would be likely that the works would be carried out under the extant consent.
7. Given the above considerations, whilst the development does not comply wholly with the provisions of Policies S7, H6 and GEN2 of the Uttlesford Local Plan, I have given significant weight to the fall-back position given that the effects of the development on the character and appearance of the area would remain the same. Despite the conflict with the policies of the Development Plan, the material consideration of the fall-back position indicates that the appeal should be allowed.

Other Matters

8. The development would provide suitable garden space for future occupants and there is ample space for parking and turning vehicles within the site due to the existing area of hardstanding. I note that as a result of this application being a full application rather than a Class 3 Part Q consent, this would allow permitted development rights for each property, however I consider that this would not be likely to result in undue harm to the development or the area.

Conditions

9. In addition to the standard time limit condition, I have included a condition listing the approved plans for the purposes of clarity. The Council have

requested a number of conditions which I have considered against the Planning Practice Guidance. As a result I have amended or omitted these where necessary.

10. A condition for external materials is required in the interests of the visual character of the area. A condition requiring the provision of parking spaces is necessary in the interests of highway safety. Conditions in relation to contamination are necessary to ensure a safe development for workers and occupiers however I have consolidated the suggested conditions for clarity. Condition 5 is required to be a pre-commencement condition as it is fundamental to have the information prior to any works being carried out on site.
11. Removal of permitted development is only required in exceptional circumstances. None have been identified in this instance to warrant the inclusion of a condition in that regard.

Conclusion

12. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

R Norman

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 216137DWG001 Rev A; 216137DWG002 and 216137DWG003.
- 3) Prior to any construction beyond the finished floor level of the development, samples of materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be implemented using the approved materials. Subsequently the approved materials shall not be changed without the prior written consent of the local planning authority.
- 4) Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.
- 5) No development shall take place until an assessment of the nature and extent of contamination on the site has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a competent person and shall assess any contamination on the site and whether or not it originates on the site. Moreover, it must include:
 - (i) A survey of the extent, scale and nature of contamination;
 - (ii) An assessment of the potential risks to human health, property (existing and proposed), including buildings, crops, livestock, pets, woodland, service lines and pipes, adjoining land, ground and surface waters, ecological systems, archaeological sites and ancient monuments.

Following the assessment of the site a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and criteria, an appraisal of remediation options, and a proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The remediation scheme shall be implemented in accordance with the approved timetable of works. Within 2 months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to the local planning authority for written approval.

- 6) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing within 7 days to the local planning authority and once the local planning authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part

of the site. An assessment must be undertaken in accordance with the requirement of condition 5 above including remediation measures. The remediation measures must be implemented in accordance with the approved timetable and following their completion a validation report must be submitted to and approved in writing by the local planning authority.