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## Appeal Decisions

Site visit made on 25 November 2014

**by R J Marshall LLB DipTP MRTPI**

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

**Decision date: 23 January 2015**

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### **Appeal A: APP/B1930/A/14/2214701**

#### **Three Horseshoes, East Common, Harpenden, Hertfordshire, AL5 1AW**

- 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 Darren Goes and Mr Patrick Stell against the decision of St Albans City & District Council.
  - The application Ref 5/13/1492, dated 7 June 2013, was refused by notice dated 29 October 2013.
  - The development proposed is conversion to residential use, rear and side extension, repair and refurbishment (comprising internal and external alterations) and associated landscape and infrastructure works.
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### **Appeal B: APP/B1930/E/14/2214704**

#### **Three Horseshoes, East Common, Harpenden, Hertfordshire, AL5 1AW**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Darren Goes and Mr Patrick Stell against the decision of St Albans City & District Council.
  - The application Ref 5/13/1497LB, dated 7 June 2013, was refused by notice dated 29 October 2013.
  - The works proposed are conversion to residential use, rear and side extension, repair and refurbishment (comprising internal and external alterations) and associated landscape and infrastructure works.
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### **Decision**

1. The appeals are dismissed.

### **Procedural matters**

2. Following my site visit I have received, following my request, the parties' observations on any potential implication for their cases of the High Court decision *Redhill Aerodrome Ltd. v SSCLG and others*. However, that case has since been overturned so the observations of the parties on this decision are no longer relevant in the determination of this appeal.
3. An application for costs was made by Mr Darren Goes and Mr Patrick Stell against St Albans City & District Council. This application is the subject of a separate Decision.

## Main Issues

4. The main issues in appeal A are: **first**, Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and the development plan; **second** the effect of the proposed development on the openness of the Green Belt and the purposes of including land in it; **third**, the effect of the proposed development on the character and appearance of the appeal property which is a Listed Building; **fourth**, the effect of the proposed development on the character and appearance of the surrounding area, which includes the Harpenden Conservation Area; and **fifth**, if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
5. The main issue an appeal B is limited to the third issue set out above for appeal A.

## Reasons (Appeal A)

### Background

6. The appeal building is the Three Horseshoes, a public house. It ceased trading as a pub in 2011 and is now vacant. The appeal building is grade II listed. At the time of listing it was a public house. However, it was built in the early or mid 18<sup>th</sup> Century as a semi-detached pair of cottages. It is 2 storeys high and contains an attic. Internally there are large inglenooks at each end. There are extensive single storey extensions dating from the 1970s.
7. The public house is at the north-eastern end of a lengthy curtilage that to the south-west is now largely open, albeit it had in the middle of the last century contained a range of buildings including a terrace of houses. The site is towards the southern end of Harpenden Conservation Area which in the vicinity of the site is common land which is partly open and partly well wooded.
8. It is proposed to convert the appeal premises to a house. Allied to this would be substantial extensions to the rear and to the side. Existing extensions, dating from the 1970's, and a detached garage would be demolished.

### Inappropriateness

9. The Council has no objection to the loss of the public house. However, it says that the scale of the proposed development is such that it would be a disproportionate addition to the appeal building as it existed in 1948 and thus inappropriate development in the Green Belt.
10. In arriving at this view the Council says that the original building, as existing in 1948 had a floorspace of 138.6 m<sup>2</sup>. By contrast the property as extended would have a floorspace of 273.5m<sup>2</sup>. The appellant queries where some of the figures are obtained from. However, from the application plans it is clear that there would be a substantial percentage increase in floorspace.
11. The proposed development is both for the change of use of the appeal building from public house to residential and for extensions to the property. The only development plan Policy strictly relevant to the proposal is Policy 1 of the St Albans District Local Plan Review (1994). This says that within the Green Belt,

other than in very special circumstances, permission will not be given for purposes other than that required, amongst other things, for the conversion of existing buildings for appropriate new uses, where this can be achieved without substantial rebuilding works or harm to the character and appearance of the countryside. By implication development not complying with these criteria would be inappropriate development in the Green Belt. The proposed development would clearly comprise substantial building works so this Policy would be contravened.

12. However, I consider this Policy to be out of date and not strictly in accord with the National Planning Policy Framework (the Framework) to which I therefore attach greater weight. The Framework says that the re-use of buildings, provided they are of permanent and substantial construction, as is the case here, would not be inappropriate development provided the openness of the Green Belt is preserved and there is no conflict with the purposes of including land in Green Belts. For reasons I deal with later the openness of the Green Belt would not be preserved so the proposal would be contrary this Policy.
13. Moreover, the Framework says that the construction of new buildings in the countryside is inappropriate in the Green Belt with the exception of the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The Framework defines the original building as that which existed in 1948 or, if constructed after 1948, as it was built originally. I am in no doubt that the substantial degree to which the property would be extended from its 1948 base would constitute disproportionate additions and thus be inappropriate development in the Green Belt.
14. The appellants say that the Council's approach is flawed. They suggest that the proposal should be looked at in 2 ways. First that in 1948 there was substantial development on the appeal site including structures attached to the appeal building and other substantial detached buildings. Assessed against the amount of development then on the site the current proposal would be a reduction in size. I do not accept this approach. First of all many of the buildings were too far removed from the appeal building to be considered as comprising part of the original building. Second, they have long been removed. This opened a new chapter in the planning history of the site and as such their existence should not be used to justify this proposal.
15. An alternative approach suggested by the appellant is that extensions and outbuildings constructed post 1948 should in this case be taken into account. The reason being for this being, it is said, that they represented the partial substitution and replacement of the previous development present on site. It is said that the demolition and construction occurred concurrently as part of a single re-development project. However, there is no substantial evidence to support this contention. And even if there were I do not consider that this would justify these structures as being part of the original building as it existed in 1948 for plainly they are not.
16. It is concluded that the proposal is inappropriate development in the Green Belt the purposes of the National Planning Policy Framework (the Framework).

### ***Openness and purposes of including land in the Green Belt***

17. There is no suggestion by the Council that any of the purposes of including land in the Green Belt would be adversely affected. However, account needs to be taken of the impact on the openness of the Green Belt. The Framework says that openness is one of the essential characteristics of the Green Belt. The appellant says that there would be a minimal impact on openness given the location of the proposed extensions to the rear of the existing building and the fact that it would have a ridge height no greater than the existing building. Various other minor design considerations are also referred to.
18. However, I take openness to be an absence of visible development. Thus the relevant matters to be taken into account are scale, bulk and site coverage rather than the visual impact of the proposed development on its surroundings. On this the appellant gives the current footprint and floorspace of development on the site to be 223 square metres (sqm) and 292 sqm respectively. By contrast it is said that the extent of the proposed development would be a footprint of 182 sqm and floorspace of 360 sqm. Whilst the site coverage would be less the floorspace figure is most likely to reflect the scale and bulk of the development. On this basis I consider that there would be, albeit limited, harm to the openness of the Green Belt.
19. It is concluded that there would be, albeit limited, harm to the openness of the Green Belt.

### ***Effect on Listed Building***

20. The Framework requires that in determining planning applications account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
21. As a listed building the appeal building is a designated heritage asset. The appellant sees its significance as being the last remaining structure of a group of mid 18<sup>th</sup> century buildings, with the main structural elements retaining some significance but also requiring considerable works of renovation or repair.
22. I do not see it in quite the same way. I have no date for the listing of the appeal building. However, the listed building description refers to the "extensive single storey additions circa 1970s" so it must have been post that date. The property was at that time a public house. It is described as having been built as a semi-detached pair of cottages dating from the early or mid 18<sup>th</sup> Century.
23. In my view its significance lies in its last use as a public house and as early or mid 18<sup>th</sup> Century cottages with extensions. No reference is made in the listed building description to other buildings on site. Thus they may not then have existed or if they did exist were of no relevance to the listing. As a listed building, and given its listing post dating extensive additions, I consider the appeal building as it stands to be a heritage asset of considerable significance.
24. Part of its significance lies in it having on the past been a public house. This use formed part of the interest of the building. However, the Council accepts that the building is not viable in this use. I note that not all agree with this. However, the Council's stance is based in the receipt of detailed valuation evidence that, in the absence of similar evidence to the contrary, I find

- decisive. Thus the loss of the public house use should not stand against the proposal.
25. With the loss of the public house use I see some benefit in a proposal that would take the appeal premises back to its 18<sup>th</sup> Century form. However, the proposed development, though restoring the appearance of the front elevation, would not do this. It would remove some less than attractive extensions. However, in its stead it would result in the creation of a substantial extension which, though looking like a separate structure, would be of a size and layout that would detract from the modest and simple design of the property as it is likely to have appeared in the 18<sup>th</sup> Century. This would outweigh any advantages in the loss of the existing extensions and the removal of some unattractive vents.
26. The appellant says that there would be benefit in making the appeal building appear as part of a collection of interrelated structures as it is claimed was so in the past. However, as indicated above, these structures are of no relevance to the listing. The appellant does not say how far back in the past he is looking. However, the proposed extension would have little relationship in size and location to buildings on site in 1898 and 1948 having regard to the appellants' plans. Nor would it have much relation to the situation as in 1976 and as currently on site.
27. It is clearly beneficial to bring the building back to a viable use. However, I am not convinced that development of the scale proposed is required to achieve this. The appellant has provided a valuation report which I take it to show that if the scheme as proposed was reduced in scale the development would not be viable. However, I see limited relevance in this report. Other schemes could potentially be viable. In this attractive location with good communication links and an attractive nearby town I would be most surprised if that were not the case here.
28. Internally the proposed development would retain features such as the inglenook fireplaces. However, there is no substantial evidence that the proposed development would have other than a neutral effect internally and nothing I saw suggested otherwise.
29. Turning to the degree of harm externally the Planning Policy Guidance (PPG) on "Conserving and Enhancing the historic environment" says that substantial harm is a high test that may not arise in many cases. Against such a high bar I consider that in PPG terms the harm would be less than substantial. In such circumstances this harm should be weighed against the public benefits of the proposal.
30. I conclude that there would be harm to the character and appearance of the appeal property, albeit in PPG terms less than substantial harm. The proposed development would provide additional housing. However, the limited nature of the development means this would be a minor benefit. There is no proof, as referred to above, that the proposed development is necessary to provide a viable use for the building. I thus find no factors sufficient to outweigh the harm to the listed building.

***Effect on the Conservation Area.***

31. The Harpenden Conservation Area extends over much of the centre of the town and over much of Harpenden Common to the south. The appeal site lies towards the southern end of the Common. It is an attractive area comprised of open grassland, woodland, some ribbon development and some isolated housing. As a designated heritage asset, and one with many fine features, it is a heritage asset of substantial significance.
32. The appeal building is in an attractive open area well screened by vegetation from other development. Whilst I note the observations of the Council's Conservation Officer I consider that the appeal building, now standing in relative isolation, adds to the attractively undeveloped appearance of much of the Common. Far from improving the character and appearance of the Conservation Area the proposal, by adding to the extent of development, would detract from it. In arriving at this view, I consider that the depth of the extension back from the road, and its width across the plot, would make it more noticeable seen within the Conservation Area than alleged by the appellant.
33. I conclude that the proposed development would detract from the character and appearance of the surrounding area, which includes the Harpenden Conservation Area. Given the high bar set in the PPG this would amount to less than substantial harm. However, the advantage of additional housing would not outweigh that harm. This is especially so given that the "less than substantial harm" would still conflict with the Statutory duty, also reflected in the development plan, that in such areas new development should preserve or enhance their character or appearance. My view on this is not altered by the Council's concession that trees would not be harmed by the proposal.

***Very special circumstances***

34. The appellants' case is based on the proposal being not inappropriate development in the Green Belt. Other material planning considerations that, taken together may constitute very special circumstances sufficient to justify harm though inappropriateness and any other harm have not been specifically addressed.
35. The appellants have referred to some factors being in favour of the proposal. They say that the proposed development would improve the appearance of the listed building and the Conservation Area. However, I have found the opposite. The appellant contests that the proposal would ensure a re-use for the building. However, as I have stated I see no reason why such a benefit requires this scheme and thus attach little weight to this point.
36. There are some matters raised by the appellant that are in favour of the proposal. It would provide a building constructed to Sustainable Homes standards. However, given that an alternative proposal for a lesser scheme could potentially do the same I attach this point limited weight.
37. The proposal would provide a new house in an attractive location reasonably well placed in relation to a nearby town and its facilities and transport links. This is in its favour. However, I attach only limited weight to this given the small increase in housing that would arise. Late in the day the Council stated that it has only a 4.05 years supply of housing land compared to the 5 year

supply required by the Framework, though no point on this had been made by the appellant. Thus relevant Policies for the supply of housing should not be considered up to date. However, the location of the site in the Green Belt means that the imperative to grant permission in paragraph 14 of the Framework does not apply.

38. A local resident supports the proposal on the basis of it appearing run down and being a focal point for drug activities. However, there is no evidence to support the last contention and a smaller scheme, more in keeping with Green Belt Policy could potentially meet the first point.

### **Final balancing**

39. The proposed development is inappropriate development which is by definition harmful to the Green Belt. The Framework requires that substantial weight must be attached to that harm. I have also found that there would be harm, albeit it limited, to the openness of the Green Belt. In addition I have found harm to the character and appearance of the Listed Building, albeit in PPG terms less than substantial harm. In addition there would be harm to the character and appearance of the Conservation Area. And although less than substantial harm in PPG terms this would conflict with the statutory duty on the preservation or enhancement of the character or appearance of such areas.
40. In favour of the proposed development is the provision of additional housing in a relatively sustainable location and the sustainability of the proposed construction. However, I have attached only limited weight to these matters. They do not outweigh the substantial harm through inappropriateness and the extent of the other harm found.

### **Conclusion (Appeal A)**

41. For the reasons given above it is concluded that the appeal should be dismissed.

### **Appeal B**

42. There is a statutory duty that in considering whether to grant listed building consent special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Given my findings in appeal A there would be a failure to preserve the building and its setting.
43. It is concluded that the proposed development would have a detrimental effect on the character and appearance of the listed building.

### **Conclusion (Appeal B)**

44. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR