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## Appeal Decisions

Site visit made on 6 December 2016

**by Paul Jackson B Arch (Hons) RIBA**

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

**Decision date: 21 December 2016**

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### **Appeal A: APP/X1925/W/16/3156092 & Appeal B: APP/X1925/Y/16/3156098**

#### **Former garage at land to the south of West Lane, Offley, Herts SG5 3AN**

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission and under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) against a refusal to grant listed building consent.
  - The appeals are made by Mrs Yulia Sincock against the decisions of North Hertfordshire District Council.
  - The applications Ref 15/01519/1 and 15/01520/LB, dated 29 May 2015, were refused by notices dated 27 April 2016.
  - The development proposed is conversion and extension to garage to form one dwelling house together with associated parking, landscaping and access via existing private lane.
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#### **Decisions**

1. The appeals are allowed and planning permission and listed building consent are granted for conversion and extension to garage to form one dwelling house together with associated parking, landscaping and access via existing private lane at land to the south of West Lane, Offley, Herts SG5 3AN in accordance with the terms of the applications, Ref 15/01519/1 and 15/01520/LB, dated 29 May 2015, and the plans submitted with them, subject to the conditions in the schedules at the end of these decisions.

#### **Main Issues**

2. The main issues in Appeal A are:
    - The effect of the proposed development on the setting of The Lawns, which is a listed building at Grade II;
    - Whether the proposed development would preserve or enhance the character or appearance of the Great Offley Conservation Area;
    - Whether the access would be acceptable in terms of highway safety;
    - The effect on the living conditions of neighbouring occupiers, in terms of privacy; and
    - Whether the provision made for refuse disposal would be acceptable.
  3. And in Appeal B;
    - The effect of the proposed works on the architectural character and historic interest of The Lawns, which is a listed building at Grade II.
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## **Reasons**

### *The site and surroundings*

4. The appeal property consists of a large timber framed garage in the corner of a large plot, formerly an orchard. The plot falls within the curtilage of The Lawns, an 18<sup>th</sup> century house with other outbuildings within its curtilage including glasshouses and brick walls. Since 2009, the grounds of the listed property have been owned separately from the house. The proposed development consists of the extension and conversion of the garage to form a modest 3 bedroom dwelling.

### *Planning policy*

5. The development plan for the area includes saved policies of the North East Hertfordshire District Local Plan with Alterations, adopted in April 1996 (LP). The LP is of considerable age and only one LP policy is referred to in the reasons for refusal. That is policy 57, which provides residential development guidelines and standards. It is mentioned in connection with privacy. Having said that, the Council's policies, although now more than 20 years old, remain broadly consistent with the aims of the National Planning Policy Framework (NPPF) of 2012 which is an important material consideration. National guidance is relied upon by the Council.
6. In accordance with the statutory duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard must be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. The preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance. As required by section 72(1) of the LBCA, special attention must also be given, with respect to any buildings or other land in a conservation area, to the desirability of preserving or enhancing the character or appearance of that area. The application site lies within the Great Offley Conservation Area. Paragraph 132 of the NPPF indicates that significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting.

### *The effect on the listed building*

7. The Lawns is visible from the appeal building across the old orchard site over hedging and fencing around the old glasshouses. There is a reasonable connection between the appeal site and the host property and it contributes to the heritage significance of The Lawns. Four new large houses have been constructed to the south of the Lawns in a cul-de-sac off Kings Walden Road known as Manor Gardens. This has very significantly diminished the amount of surrounding open space that once would have defined the setting of the Lawns and makes it more desirable to retain the space that is left. The garage itself, which is of lightweight construction, also contributes to some extent to its setting and heritage significance. I note that the Council's heritage advisor considers that removal of the garage, which is clad with roofing felt and dilapidated, would cause no harm as it would leave the site free of building. However it remains as a reminder of the extensive previous use of the whole site.

8. The essential point now is that if the land is left unmaintained, it will deteriorate and in all likelihood return to unkempt scrub, which would be quite out of keeping and undesirable. The proposed conversion to a very modest dwelling is likely to lead to a degree of maintenance of the land without obviously detracting from the larger building's setting. On balance, that is likely to lead to the best outcome for the heritage significance of the listed building.

*The effect on the conservation area*

9. Similar considerations come into play when considering the effect on the conservation area. The character of the area is defined largely by ancillary development historically associated with Offley Place, a 17<sup>th</sup> century house, now a hotel and wedding venue on the opposite side of Kings Walden Road. The Lawns was originally a secondary residence to Offley Place. Spacious grounds are a characteristic of these buildings which infuses the conservation area. The remnants of the structures and gardens around The Lawns are important in understanding the significance of The Lawns' contribution to the conservation area. This includes the appeal site and the garage, converted or not. The recent development of a housing estate just west of the appeal site outside the conservation area emphasises the importance of retaining as much as possible of the open space that is left around it. Providing that the spacious character of the land around the conversion is retained, the character and appearance of the conservation area would be preserved. I conclude that the minor and less than substantial degree of harm to the setting and conservation area would be outweighed by the public benefits of the proposal and the scheme would comply with the advice in paragraphs 132 and 134 of the NPPF. I conclude on the first 2 issues that the heritage protection aims of the NPPF would be met.

*Highway safety*

10. The Council's concern and those of local residents who look onto or use West Lane for vehicle and pedestrian purposes is that the increase in traffic accessing the new dwelling at the end of this narrow lane would be unacceptable in highway safety terms, particularly as it is also a designated public footpath. The original use as a garage would have generated traffic associated with The Lawns, a much larger building than that proposed now. The garage is used at present for vehicles associated with the building industry and vehicles also use it to reach No.14, a detached house. There would always have been traffic associated with maintaining the land. It would not be unusual in many historic settlements for vehicles to have to use long driveways to access dwellings and providing this can be done safely, no planning harm would result. The Council's concern that delivery vehicles would meet and necessitate reversing an excessive distance may not occur very frequently and even if it did, would not be a situation unfamiliar to drivers. The lane is straight and drivers would be able to see vehicles approaching and take appropriate action. West Lane is not unusually narrow with a carriageway of 3.1 metres for most of its length and there are recesses and vegetation which pedestrians could utilise as a refuge.
11. The submitted scheme follows on from proposals made at the time of a 2011 application for improvements to West Lane to allow vehicles to wait at its junction with Kings Walden Road, together with surface improvements and localised widening close to the site itself. The details of the improvements and

the surface materials chosen would need to be sympathetic to the existing semi-rural character of West Lane and this could be the subject of a condition. Providing that a turning space is provided near to the new dwelling to enable vehicles to enter and leave in forward gear (for which there is adequate space) the limited amount of additional traffic using West Lane would be very unlikely bring about an unacceptable increase in highway safety risk. Fire service vehicles commonly are permitted to use certain pedestrian routes to reach domestic premises and would undoubtedly use West Lane now to access Nos. 8-14 if necessary. I conclude that with appropriate conditions, the scheme would be acceptable having regard to the highway safety recommendations of the NPPF, the Hertfordshire Highway Design Guide 3<sup>rd</sup> edition and *Manual for Streets*.

#### *Living conditions*

12. The design of the dwelling would include 2 small 'velux' type roof windows to first floor bedrooms which could potentially allow overlooking of the rear garden of No. 4 Manor Gardens, which would be about 8 metres away. The window in bedroom 2 is the only source of natural light in that room. Many dwellings in residential areas have bedroom windows which overlook neighbouring back gardens to some extent. I do not consider that the limited size of these sloping windows, combined with their height above the floor, bedroom use and intervening vegetation, would prevent neighbouring occupiers from enjoying their outside space or present an unacceptable risk of overlooking. The development would comply in this respect with the amenity protection requirements of the NPPF and policy 57 of the LP.

#### *Refuse arrangements*

13. The dwelling would be well beyond a distance that refuse collection operatives would be prepared to travel to collect domestic waste and recycling materials. In common with many other properties in similar situations, and No. 14 and Old Cottage in West Lane, refuse would be left for collection at the end of West Lane. By such means, there would be no need for refuse vehicles to enter West Lane. The appellant proposes an additional hardstanding bin collection point on West Lane about 25 metres back from Kings Walden Road, but the emphasis in *Manual for Streets* is to improve the quality of the public realm. Such a bin collection point would in my view be an unpleasant and distracting utilitarian element close to an important listed wall and the listed building, as well as presenting an obstruction for those using the West Lane. It would also be unsupervised from day to day, and would detract from the conservation area in one of the more attractive locations for local residents.
14. The maximum recommended distance that residents of the new dwelling would be expected to carry refuse would be exceeded considerably, but those distances are recommendations for new development. Where a new dwelling is otherwise desirable for the purposes of ensuring the setting of a listed building is preserved in a historic location where the character of a conservation area must also be a high priority, the inconvenience of moving waste for a longer distance (in this case an additional 25 metres), for which wheeled containers are easily available, is a matter of balance. I consider that the other benefits of the proposal outweigh the disadvantages for future occupiers in terms of transporting refuse and recycling to the kerbside on collection days. The conflict with the recommendations in *Manual for Streets* and the Hertfordshire

Highway Design Guide are outweighed by the improvement in the character and appearance of the land at the end of West Lane and the setting of The Lawns.

### **Other matters**

15. I have taken into account all the other matters raised including the comments made by local occupiers. The fact that West Lane has not been used by vehicles for 25 years does not prevent such use, providing it does not present an unacceptable safety risk and does not diminish its character. The use of the lane by construction traffic would be temporary. Highway safety precautions and the means of dealing with the risk to the listed wall would have to be put in place by the contractor under his or her obligations under the Construction, Design and Management Regulations.
16. Whilst the present owners of The Lawns may well wish to purchase the site, that is not a planning consideration that I can give weight to. I have to consider the applications on their merits as they are presented. In this regard, the potential availability of a different access route through Manor Gardens is not part of the proposal. There is no evidence that use of the lane by occupiers of the converted garage would lead to increased use by the occupiers of Nos. 4, 8, 10 and 12, particularly if they have no right to do so. The use of narrow lanes in historic towns and villages by delivery vehicles is a daily occurrence in many places which cannot be 'planned for' but necessitates courtesy and caution on behalf of the parties involved. It does not necessarily mean that development cannot proceed.
17. On balance, the disadvantages of the development taking place are not so severe as to outweigh the benefit in terms of preserving the character and appearance of the area and the setting of the listed building.

### **Conditions**

18. Conditions are imposed to ensure that the external treatment of the converted garage and the surface and verge of West Lane are suitably sympathetic and approved by the Council, to protect the character and appearance of the conservation area. A restriction on permitted development is necessary to prevent further enlargement of the garage and development of the site, which should remain open to preserve as far as possible the setting of the listed building. An archaeological condition is necessary in view of the heritage interest of the area. The approved drawings need to be listed for the avoidance of doubt and in the interests of proper planning. The arrangements for storage of refuse, which shall not be in West Lane itself, need to be approved. Whilst not suggested by the Council, conditions are necessary to ensure that hard and soft landscaping and the boundary treatment of the site is sympathetic to the subservient nature of the converted garage and the listed building. The condition includes provision of a turning area for vehicles visiting the property.

### **Conclusion**

19. For all the above reasons, the appeals should succeed.

*Paul Jackson*

INSPECTOR

### Schedule of conditions Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Except as otherwise modified by other conditions, the development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and the following plans: 1446.P/04C, 1446.P/05A, 1446.P/06D, Tree protection plan ref.BGC1/WESTLABARN/TPP Rev A.
- 3) Before the development is commenced, details of the external materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, B, C, D, E and F of Part 1 of Schedule 2 to the Order (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out.
- 5) No development shall commence until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:
  - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
  - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.
- 6) The development shall not proceed otherwise than in complete accordance with the Tree Protection Method Statement dated May 2015 by Brian Crane and Associates, unless otherwise agreed in writing by the Local Planning Authority.
- 7) Details of arrangements for storage of waste and method of collection (including means of enclosure for the area concerned where necessary) shall be submitted to and approved in writing by the Local Planning Authority before any part of the development hereby permitted is commenced and the approved arrangements shall be completed before any part of the development is first occupied. The refuse arrangements shall be retained and maintained thereafter.
- 8) No bin store or refuse collection hardstanding area shall be erected at any time in West Lane.
- 9) The development hereby approved shall not commence until details of the surface finishes and verge treatment of West Lane have been submitted to and approved in writing by the Local Planning Authority. The approved surface and verge shall be retained and maintained thereafter.

- 10) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - i) a statement setting out the design objectives and how these will be delivered;
  - ii) earthworks showing existing and proposed finished levels or contours;
  - iii) means of enclosure;
  - iv) boundary treatment;
  - v) vehicle parking layouts;
  - vi) other vehicle and pedestrian access and circulation areas including the means by which vehicles shall turn and exit the site in forward gear;
  - vii) surfacing materials;
  - viii) refuse or other storage units;
  - ix) external lighting.
- 11) The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. The vehicle turning area shall be retained for that purpose.

#### Schedule of conditions Appeal B

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Except as otherwise modified by other conditions, the development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and the following plans: 1446.P/04C, 1446.P/05A, 1446.P/06D, Tree protection plan ref.BGC1/WESTLABARN/TPP Rev A.
- 3) Before the development is commenced, details of the external materials to be used on the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 4) The development hereby approved shall not commence until details of the surface finishes and verge treatment of West Lane have been submitted to and approved in writing by the Local Planning Authority. The approved surface and verge shall be retained and maintained thereafter.