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## Appeal Decision

Site visit made on 5 February 2020

**by D Peppitt BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2020

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### Appeal Ref: APP/X1925/W/19/3241593

### Land Off Burge End Lane, Pirton SG5 3QN

- 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 Rodney Marshall against the decision of North Hertfordshire District Council.
  - The application Ref 19/01175/FP, dated 16 May 2019, was refused by notice dated 16 July 2019.
  - The development proposed is the erection of a detached dwelling house adjacent to 1 Burge End Lane, Pirton.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Reference has been made by the Council to the emerging North Hertfordshire Local Plan 2011-2031. The Plan is currently going through Examination and it is not clear when the exact date of adoption will be. Therefore, I have only given the emerging policies limited weight in the determination of this appeal.

### Main Issue

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Pirton Conservation Area and the setting of the nearby Grade II and II\* listed buildings.

### Reasons

4. The appeal site is a grassed field located on a narrow rural lane outside the village boundary of Pirton, within one of the *Rural Areas Beyond the Green Belt* identified by Policy 6 of the North Hertfordshire District Local Plan (NHDLP). The site sits within the Pirton Conservation Area (CA) and the setting of seven listed buildings, two of which are Grade II\* listed. The nearest listed buildings to the site are Ashburn and Hammond's Farmhouse. The site is bounded by hedges and there is a public right of way (PRoW), which runs along the northern boundary, where there is an existing gated access. Although there are residential properties to the north and south of the site, the area is largely rural in character. Overall the site has an open, verdant and spacious character.
5. The CA derives its significance from the architectural and historic interest of its associated listed buildings and other historic buildings. There are numerous

- listed buildings within the CA, including Grade I and Scheduled Ancient Monuments.
6. Burge End is formed by a group of seven listed buildings at the end of Burge End Lane which are a mixture of Grade II and Grade II\*. The grouping contributes positively to the character and appearance of the CA. Their setting is that of garden land, paddocks and the wider agricultural landscape. Apart from 1 Burge End Lane (No 1), the approach to this group remains largely undeveloped.
  7. The proposed development would be a 1.5 storey 5-bedroom dwelling, which the appellant states would be in a converted barn style. The proposal would be located in the central part of the site, with the access positioned towards the middle part of the eastern boundary. The proposal would separate and screen the PRow by installing a post and rail fence, and planting a hedge between the footpath and the garden.
  8. Policy PNP1 of the Pirton Neighbourhood Plan (PNP) (2018) supports residential development within the development boundary of the village, subject to several criteria including the size and nature of housing. Policy 6 of the NHDLP states that in Rural Areas beyond the Green Belt, the Council will maintain the existing countryside and villages, apart from when the proposal meets the listed exceptions. The proposal is located outside the built core of Pirton, would not be meeting a proven local need in terms of a service or housing and is to be market housing. Therefore, as the appeal scheme is outside the development boundary and is for a 5-bedroom property which does not meet the exceptions listed in Policy 6, it would not be supported by these policies.
  9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the listed building and its setting.
  10. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Substantial harm to or loss of a Grade II listed building should be exceptional, and assets of the highest significance, such as Grade II\* listed buildings, should be wholly exceptional.
  11. The proposed development would urbanise the site and would be a visually prominent structure when travelling along Burge End Lane. It would erode the verdant character of the site and alter the approach to the listed buildings by detracting from their historic groups at the end of the lane. The alterations to the PRow would significantly alter the views and experience of those using the PRow along this section, making it feel enclosed, rather than open, spacious and free of development. The proposal would neither preserve nor enhance the character or appearance of the CA, and would be detrimental to the wider setting of the Grade II and Grade II\* listed buildings.

12. The appellant has suggested that the design and layout of the proposal has been influenced by the rural character of the area, and is in keeping with the adjacent farmland and associated structures, as well as the building line of No 1. Whilst I acknowledge the appellant has sought to use a design and materials to fit in with the rural character, elements of the design, including the protruding extensions and extensive glazing, would nevertheless give this building an overtly contrived domesticated appearance, rather than a barn conversion.
13. The appellant has also highlighted that a planning application for residential development has been submitted near to the appeal site. However, I have not been presented with information to suggest that it has been determined. Therefore, this does not give any weight towards the current proposal and is a neutral consideration. In any case, I have considered the appeal proposal on its individual merits and immediate context.
14. The proposal would have a negative effect on the significance of designated heritage assets and having regard to the scale of the development in relation to the wider conservation area, would result in "less than substantial" harm. In accordance with paragraph 196 of the Framework I must weigh this harm against the public benefits of the scheme.
15. In the context of paragraphs 59 and 68 of the Framework, I note the contribution that would be made to the supply of housing by this small site, particularly as it could be built-out relatively quickly. Furthermore, the appeal before me would deliver a 5-bedroom dwelling, which would contribute to the overall housing mix in the District. However, as the contribution to the supply of housing would be minor in its extent, it would only be afforded limited weight.
16. There would be social and economic benefits from the proposed dwelling in the district that could support the rural economy through expenditure from occupants. Benefits would also arise from short-term employment and procurement of materials during the construction of the development and the application of the New Homes Bonus. Nonetheless, the proposals would provide only one additional dwelling, such that these benefits would be limited in scale and consequently carry only limited weight
17. The proposed development would not preserve or enhance the character or appearance of the Pirton Conservation Area and the setting of the nearby Grade II and II\* listed buildings. Therefore, the proposed development would be contrary to Policy 57 of the NHDLP, policies PNP 2 and PNP 8 of the PNP and Paragraph 196 of the Framework. These policies, amongst other things, seek development to take special account of the site's location and to conserve or enhance the area's character and heritage assets.

### **Other Matters**

18. The site would not be isolated in the context of Paragraph 79 of the Framework or the Court of Appeal judgement<sup>1</sup>, and the proposed development would be accessible to the services and facilities available within the village.
19. I note that there is an interested party who supports the proposal, stating that the road is not regularly used, the path access is overgrown, and the site has

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<sup>1</sup> Braintree DC v SSCLG Greyread Ltd. & Granville Developments Ltd. [2018] EWCA Civ. 610

limited public visibility. Whilst I have had regard to these factors, they do not overcome the harm that I have identified above.

### **Planning Balance and Conclusion**

20. The Council has stated that it cannot demonstrate a 5 year supply of housing land as required by paragraph 73 of the Framework. Therefore, the relevant policies of the development plan are considered to be out-of-date. As a consequence, the presumption in favour of sustainable development as outlined in Paragraph 11 of the Framework is engaged. This indicates that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. However, Footnote 6 to paragraph 11(b) of the Framework gives criteria for protected areas under 11(d) i, when the presumption in favour of sustainable development is not applied. This includes designated heritage assets, or archaeological heritage assets. As I have found that policies in the Framework that protect areas and assets of particular importance provide a clear reason for refusal, the tilted balance is not engaged.
22. Therefore, in line with Section 38(6) of the Planning and Compulsory Purchase Act (2004), I must determine the appeal in accordance with the development plan, unless material considerations indicate otherwise.
23. In the context of the development plan, the proposed development would be contrary to Policy 6 of the NHDLP and Policy PNP 1 of the PNP. Policy 6 of the NHDLP, a settlement boundary policy, in isolation of other considerations, would not be wholly aligned with the more flexible and balanced approach implicit in the objectives outlined in the Framework.
24. However, these policies do not fundamentally undermine the continued relevance of this approach. Moreover, the approach in Policy 6 of the NHDLP to maintain the character of the countryside, differs only slightly from the aim in the Framework to recognise the intrinsic character and beauty of the countryside.
25. Therefore, there is still a clear rationale for development boundaries in order to protect the countryside and the character of the area while focusing growth within designated settlements supported by local facilities and services. Accordingly, the conflict with the policies of the NHDLP, relevant to the consideration of this appeal, should be afforded moderate weight.
26. I have also found that the proposed development would cause less than substantial harm to the significance of heritage assets and would be contrary to Policy 57 of the NHDLP and policies PNP 2 and PNP 8 of the PNP.
27. The proposal would not accord with the development plan when considered as a whole. No other material considerations before me indicate the scheme should be determined other than in accordance with the development plan. Consequently, having had regard to all other matters raised, I conclude that the appeal is dismissed.

*D Peppitt*

INSPECTOR