

**Report to District Development  
Management Committee**

**Report Reference: DEV-020-2015/16**  
**Date of meeting: 24 February 2016**



**Subject: EPF/2701/15 Land at Brownings Farmhouse, Gravel Lane, Chigwell –  
Erection of a two-bedroom dwelling house.**

**Responsible Officer: Stephan Solon (01992 564018)**

**Democratic Services: Gary Woodhall (01992 564470)**

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**Recommendation(s):**

**(1) That planning permission be refused for the following reasons:**

- 1. The proposed building would be materially larger than the building it replaces. It therefore represents inappropriate development which would cause harm to the openness of the Green Belt. The proposal is therefore contrary to the National Planning Policy Framework and contrary to policy and GB2A of the Adopted Local Plan and Alterations, which is consistent with the NPPF.**
- 2. The proposed building, by reason of its size, form and appearance, including a low angled roof over a wide building span, constitutes an excessively large annex building which also has an untraditional form and design inconsistent with its setting. This size and profile, together with a poor porch design and inappropriate roof slate, would result in a building of poor design that would detract from the appearance and setting of the listed farmhouse on the site as well as the character and appearance of the locality. The proposal is therefore contrary to policies CP2(i), DBE1, DBE4 and HC12 of the Adopted Local Plan and Alterations, and contrary to the National Planning Policy Framework.**
- 3. By reason of its siting within the root protection zone of adjacent trees the proposal is likely to cause significant harm to them that would be likely to adversely impact on the visual amenities of the locality. Such harm is not assessed in any arboricultural impact assessment and, furthermore, no justified mitigation that may be required is proposed. It is therefore concluded the proposal does not make adequate provision for the retention of trees, contrary to Local Plan and Alterations policy LL10, which is consistent with the National Planning Policy Framework.**

**Report:**

- 1. This application was reported to the Area Plans South Sub-Committee on 3 February together with a corresponding application for listed building consent, ref EPF/2702/15. The application for listed building consent was withdrawn by the Applicant on the day of the Committee therefore only the planning application that is the subject of this report was considered.**

2. The Committee decided to refuse planning permission in accordance with the Officer's recommendation. The vote was tied and the decision was made on the Chairman's casting vote. After a pause, four Members of the Committee stood up to refer this application to District Development Management Committee. The Chairman agreed the application was referred.

3. There are a number of factual matters concerning the application that the District Development Management Committee would find helpful to be aware of when considering this application. They concern the description of the development and the consequence of the withdrawal of the corresponding application for listed building consent. It is also helpful to clarify the floor area of the demolished barn, proposed new building and potential floor area of the existing partially constructed building.

#### Description of Development

4. The proposed development was reported to the Committee using the description of development given by the Applicant on the application forms:

*"Part conversion and part extension of barn, and use as residential two bedroom accommodation which is ancillary to the main farmhouse."*

5. However, when considering the application the Committee were aware that that the barn at the site for application EPF/2701/15 was demolished prior to the application being submitted and substantial works to erect a building in its place similar to the proposal building had also been carried out. That was made clear in the Officer's report and the presentation to the Committee.

6. Consequently, it is clear the description of the proposed development as a conversion and extension of an existing building is incorrect. That is because there is no longer an original building at the application site to convert and extend.

7. Furthermore, the original description maintains the proposal is for accommodation ancillary to the main farm house. However, the application does not include information explaining how the use of the building would be ancillary to the use of Brownings Farmhouse as a dwelling house, plus the submitted plans do not show it is oriented to face the existing house, but its entrance and principal elevation are on the eastern site boundary looking to a former paddock area enclosed by hedgerow such that it relates to that land rather than Brownings Farmhouse. In addition, there is a field access to the former paddock immediately adjacent to the proposed building that would be a more natural access for it than the access to Brownings Farmhouse.

8. In the circumstances, following the Committee meeting Officers wrote to the Applicant on 8 February advising that the description given in the heading of this report is more accurate: *"Erection of two bedroom dwelling house."*

#### Withdrawal of Application for Listed Building Consent

9. Application EPF/2702/15 sought listed building consent for the development described on the application form: *"Part conversion and part extension of barn, and use as residential two bedroom accommodation which is ancillary to the main farmhouse."*

10. It was submitted on the understanding that the demolished barn at the application site was a curtilage listed building. Buildings or other structures within the curtilage of a listed building that existed before 1 July 1948 are treated as being part of the main listed building under the Planning (Listed Buildings and Conservation Areas) Act 1990. However, the

Applicant's heritage statement states its materials of construction indicate it dates from after World War Two. Aerial photographs and historic Ordnance Survey maps held by the Council have been examined to verify this. Aerial photographs taken in the 1940's are not sufficiently clear to demonstrate whether or not there was a building at the site before 1948. The next oldest aerial photographs held by the Council were taken in 1960, and they clearly show the barn that was recently demolished. Ordnance Survey maps do not show the barn until much more recently.

11. On the available evidence, therefore, it is concluded the demolished barn was not a curtilage listed building and its demolition did not require listed building consent. The recommended second reason for refusal has been modified to reflect the understanding that the former barn was not a curtilage listed building.

#### Floor Space

12. The original Officer report to the Area Plans South Sub-Committee is appended to this report. It includes dimensions of the former barn based on Officer inspections of it and reference to Ordnance Survey plans and former application drawings submitted by the Applicant. It also includes dimensions of the proposed building as indicated on the submitted plans. To further assist Members, the floor area of each building based on those dimensions is set out below:

Demolished Barn:	56m <sup>2</sup>
Proposed building:	275m <sup>2</sup> (based on the proposal having two floors)

13. Officers have also measured the existing partially completed building on site. Excluding a projection to the southern elevation the Applicant says he intends to demolish, and also excluding a central projection to the eastern elevation corresponding to the proposed central gable feature, it measures 15.9m in length and 9.1m in width. That gives a floor area of 289m<sup>2</sup>. Details of the existing building are provided since it is likely that any consent given would be implemented by way of modification to it rather than demolition and erection of a new building.

#### Other Matters

14. Photographs of the barn taken by Officers in August 2013 will be included in the Officer presentation of this item in order that Members can better gauge the degree of change on the application site. Such photographs were not used in the original presentation to Committee. The Applicant has verbally stated the barn was enlarged between 2013 and its subsequent demolition. He says that additional floorspace and built volume should be taken into account. Officers advise that if the barn had been extended it was without planning permission and the Applicant ought not to benefit from carrying out unauthorised additions.

15. Notwithstanding the above advice, it seems odd that the barn would have been extended after August 2013 and then demolished to make way for the existing unauthorised building, works for which were reported to the Planning Enforcement Team by Building Control in March 2015.

16. The Officers original report to the Area Plans South Sub-Committee is reproduced below.

## **OFFICER'S ORIGINAL REPORT TO COMMITTEE**

*These applications are before this Committee since a) the recommendations differ from the views of the local council (pursuant to section P4, schedule A (g) of the Councils delegated functions), and b) because Councillor Knapman has requested that the applications be referred to Committee if the recommendation is to refuse planning and listed building consent.*

### **Description of Site:**

A mainly two storey listed farmhouse stands on the site. The site also contains a converted barn used as a residential annexe to the main building. To the immediate south west of the site lies extensive buildings known as Brownings Farm, some of which are occupied by commercial businesses. The site lies in a rural Green Belt locality.

This application relates to the eastern part of the site, which comprises the garden of the listed farmhouse. A barn was located in that part of the site amongst significant trees that generally screened it from view. The barn has recently been demolished without permission. The demolition was in connection with further unauthorised works carried out to erect a building in a similar position.

Information included with both applications the subject of this report indicates the barn was a curtilage listed building. As such, in law it is treated as part of the main listed building [section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990] and consequently was a designated heritage asset.

### **Description of Proposal:**

A planning application (EPF/2701/15), and listed building application EPF/2702/15), for the extension of a barn sited within the curtilage of Brownings farmhouse, and its reuse as residential two bedroom accommodation which is ancillary to the main farmhouse on the site. The applications for listed building consent and planning permission are assessed and must be decided separately but since they are so closely related they are dealt with in this single report.

Notwithstanding the description of the development, as indicated above, inspections of the site by Officers found the annexe building is partially constructed and the construction process has resulted in the demolition of the barn.

The applications are made on the basis that the demolished barn was a curtilage listed building. Whether it was is unclear and this matter is discussed in this report.

### **Relevant History:**

EPF/1426/02 - planning permission granted for a conversion of barn to form a granny annexe. This approval relates to a building on the western site boundary and has been implemented.

EPF/2613/14 – a prior approval application for conversion of an agricultural building to a dwelling house – was withdrawn. This agricultural building was the same barn that has been demolished. The application was withdrawn since there was considerable doubt that the building had in fact been used for agricultural purposes and consequently could not benefit from Permitted Development rights to change its use to a dwellinghouse.

### **Policies Applied:**

CP2	Protecting the quality of the rural and built environment.
GB2A	Development in the Green Belt
HC11	Demolition of Listed Buildings
HC12	Development affecting the setting of listed buildings
DBE1	Design of new buildings
DBE4	Design in the Green Belt
DBE9	Loss of amenity.
LL10	Adequacy of Provision for Landscape Retention

The National Planning Policy Framework (NPPF) has been adopted as national policy since March 2012. Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

### **Summary of Representations:**

NEIGHBOURS – 10 properties consulted and no replies received.

CHIGWELL PARISH COUNCIL – Support

The Council supports this application as the intended development would be complimentary to the existing listed building. The proposal would also allow for an independency and increased quality of life for the disabled resident. The structural alterations are in excess of 30 metres from the main farmhouse and therefore would have no visual impact.

### **Issues and Considerations:**

Officer's assessment of the merits of the applications for listed building consent and planning permission is set out below.

Application for listed building consent: EPF/2702/15

The main issue raised by the works proposed in the application for listed building consent is whether the extension and conversion works described in the application preserve the special architectural or historic interest of the curtilage listed barn.

The submitted plans appear to show that the only parts of the barn to be retained are partial sections of the north and west facing walls. The proposal therefore amounts to the substantial loss of the barn and clearly little of its special interest would be preserved.

Furthermore, it is clear that the submitted drawings do not clearly show the barn and certainly not any of its detail. It is also clear that they significantly exaggerate the size of the barn that existed on the site. On the basis that they do show the proposed building accurately, it is clear that the proposal would achieve the total loss of the barn since the proposed building would be sited over the footprint of the barn. Inspections of the site confirm that is indeed what has actually happened.

Having regard to the fact that the actual works that have taken place include demolition of the barn, it is necessary to consider whether the loss of the barn is justifiable. Detailed policy guidance is set out in paragraph 133 of the National Planning Policy Framework, which states:

*“Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- the nature of the heritage asset prevents all reasonable uses of the site; and*
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- the harm or loss is outweighed by the benefit of bringing the site back into use.”*

Very limited information has been submitted to demonstrate the particular special interest of the barn. A submitted heritage statement gives limited information and does not include a survey of the barn to inform decision making. The statement describes its location as separated from the farmhouse by significant trees and large bushes but maintains it is within the curtilage of the listed building. In relation to the building itself the statement says:

*“It was a timber building which had been rebuilt on various occasions and so has a mixture of different types of wood. The roof (both pitched and flat), consisted of corrugated iron which tends towards placing it in the Post World War Two period or much later. Windows were wooden or metal framed. There is no significant history to the building but it appears to have been used for storage during the last twenty years and prior to that as a chicken barn. The southern end was rebuilt in 2015 after it has listed due to tree growth in, around and over the barn itself.”*

Section 1(5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states any object or structure within the curtilage of a listed building that existed before 1 July 1948 forms part of the listed building. Advice of the Conservation Officer is that there are no public records of the building and having regard to the Council’s mapping data it seems the building did not appear on Ordnance Survey maps of the locality until after 1987. If that is accurate, it may well be the case that the building is not actually curtilage listed since it would not have existed until after 1948. However, since the building was well screened by trees it is possible that the Ordnance Survey simply missed the building until relatively recently.

Notwithstanding the limited information about the building and the possibility that it may not have been a curtilage listed building at all, since an application for listed building consent has been submitted the Council must decide the application. Having regard to paragraph 133 of the NPPF, it is clear that no substantial public benefit would be secured by the loss or substantial demolition of the barn and none of the 4 criteria for justifying the loss of a designated heritage asset referred to in the paragraph are applicable. In the circumstances it is concluded that the proposed substantial demolition of the barn and the actual complete demolition of it do not meet the policy tests set out in the NPPF. Local Plan and Alterations policies HC10 and HC11 are consistent with the policies of the NPPF therefore the proposal is also contrary to those policies.

In the circumstances it is recommended that listed building consent is refused on the basis that there is no proper justification for its substantial or complete demolition, contrary to the provisions of the NPPF and Local Plan and Alterations policies HC10 and HC11. A way forward for the Applicant would be to investigate the history of the building in much more detail since it appears possible the building was not curtilage listed.

Members are advised that works to a listed building, especially its substantial or complete demolition, without listed building consent is an offence under section 9 of the Planning

(Listed Buildings and Conservation Areas) Act 1990. Whether it is in the public interest to prosecute any person for the offence that on the face of it appears to have taken place and, indeed, whether it is expedient to issue a listed building enforcement notice securing the reinstatement of the building, is a matter that will be considered by the Council's Planning Enforcement Team. As indicated in the suggested way forward for the Applicant, evidence of the history of the building should be submitted to inform that assessment since if it demonstrates the building is post 1948 then listed building consent is not required for the works carried out and there is no offence to investigate.

#### Application for planning permission: EPF/2701/15

Building work on this new residential annex began last year and much of the outer walls to first floor level and its basic structure has been built. Work has ceased in recent months pending the consideration of these two applications. Although the description of development on the application forms refers to part conversion of a barn the proposed development is a new building. The main issues to consider when assessing the merits of the planning application are the consequences of the new building for the Green Belt, its design and its consequence for the setting of Brownings Farmhouse. A further issue is impact of the new building on adjacent trees.

#### Green Belt:

The 2012 NPPF allows for some more flexibility for new replacement buildings to be built in the Green Belt than was hitherto the case. The relevant section at para 89 states that the replacement of a building can be acceptable provided the new building is in the same use and is not materially larger than the one it replaces.

In terms of use it is accepted that this barn outbuilding stood in the residential curtilage of the main house and that its use would have been for purposes ancillary to the main dwelling. The proposed development is described as two bedroom accommodation which is ancillary to the main farm house - so in terms of use the proposal is acceptable.

However the size of the replacement building is large. The submitted plans show that the footprint size of the proposed building is not much greater than the footprint of the original barn. However officers feel that the footprint of the previous barn is not accurately portrayed, and having regard to Ordnance Survey maps, aerial photographs available on web sites, and the case officer's visit to the site in connection with last year's application EPF/2613/15, it is considered that the barn building measured some 7.5m in length by 7.5m in width. The proposed new building measures 15.8m by 8.7m which is 2.44 times the footprint size of the original barn. In terms of height the proposed building has a first floor in a roof form with gabled ends where the height to eaves is 3.2m, with the height to the roof being 5.05m. Elevations of the original barn have been submitted which shows the barn had an eaves height of 2.85m and a ridge height of 4.85m. Unfortunately, it is again felt that these heights of the barn are not accurately portrayed, and more realistic heights are considered to be 2.5m to eaves, and 3.7m to ridge.

Having regard to the dimensions referred to above it is clear that the proposed building will be at least two and a half times the size of the original barn that stood on the site. It will therefore be materially larger, by some margin, than the building it replaces, and consequently it will be inappropriate development in the Green Belt as set out in paragraph 89 of the NPPF. Its size and height will therefore detract from the openness of the Green Belt, contrary to Local Plan and Alterations Policy GB2A.

### Design and Setting of Listed Building:

When considering this matter the advice of the Council's Conservation Officer was sought and it is reproduced below:

*"The amended plans submitted do not overcome the concerns I previously had and therefore do not meet our expectations on heritage and design grounds. This material change to the barn, including its residential appearance, its larger scale, and poor design, will irreversibly alter and diminish the appearance of this listed property and its setting. The following elements of the design still raise concern as they result in a building with an untraditional and unsympathetic appearance which will appear incongruous within the setting:*

- (i) the roof slope is very slack and this combined with the width of the span, creates a squat appearance;*
- (ii) the dwelling is badly proportioned as the ratio of roof to wall is wrong;*
- (iii) the porch is too wide and features inappropriate details (brick and a large expanse of glazing) and this, along with the fact that its eaves are lower than the eaves of the building makes it visually over dominant; and*
- (iv) the use of slate is not appropriate as barns are more traditionally roofed with red plain clay tiles.*

*Reference is also made to page 81 of the Essex Design Guide where the narrower widths of rectangular buildings to be spanned with pitched roofs should not be greater than 6.5m, and are usually of the order of 5m. Roofs should normally be pitched at about 50 degrees. Buildings with a span of more than 5m will result in wide gable ends uncharacteristic of traditional building in Essex.*

*Taking the above factors into account I would still recommend that the amended application be refused, supported by policies HC12 and DBE1 of the Local Plan."*

In addition to its effect on the Green Belt the considerable footprint and height of the proposed building, together with its design, resembles that of a house in its own right as opposed to a smaller more typical annex or barn type of outbuilding that is occupied ancillary to a main dwelling on the site. Also, as pointed out by the Council's Conservation team in their comments above, the wide span of the proposed building, (even after amended plans were received) creates a roof slope with a low 22 degrees angle of slope which creates a squat appearance. This appearance is very different from many traditional barn conversions in the Green belt where the roof pitch is traditionally steep e.g. at 50 degrees angle. The Parish Council state that, at some 30m distance from the listed house on the site, the proposed building would have no visual impact. However Officers are of the opinion that the size of the building is excessive, its profile is not a traditional one for a converted barn/outbuilding found in the in the Green Belt, and therefore it will have an adverse effect on the appearance and setting of the listed main dwelling on the site. Other concerns relate to a poorly designed porch, and inappropriate roof slate to be used rather than clay tile.

On the basis that the proposal has resulted in the demolition of a curtilage listed building without proper justification, it has resulted in significant harm to the special historic interest of the listed farmhouse by way of the loss of an historic relationship between the barn and farmhouse. That significantly compounds the harm caused to the setting of the listed farmhouse that would be caused by the erection of the proposed annexe building.



On the above assessment it is concluded the proposal is contrary to Local Plan and Alterations policies CP2(i), DBE1, DBE4 and HC12.

### Trees

The new building and works for the construction of its foundations are within the root protection zones of a number of trees, particularly 2 silver birches. Advice of the Councils tree and Landscape Team is the works are likely to have caused extensive root damage to at least one tree such that it is potentially unstable with the consequence that the tree will have to be felled in order to protect the building. Furthermore, no arboricultural assessment is submitted with the application therefore insufficient information is available to demonstrate in detail the impact of the development on trees within its vicinity. It is therefore concluded the proposal does not make adequate provision for the retention of trees, contrary to Local Plan and Alterations policy LL10.

### **Conclusions and Way Forward**

It is to be regretted that, on the face of it, a designated historic asset has been demolished or substantially demolished without listed building consent. That is without proper justification and therefore cannot be permitted. A suggested way forward for the Applicant that would also address the matter of whether an offence has taken place, is to submit good evidence of when the barn was erected since it seems possible the barn was not actually a curtilage listed building.

It is also to be regretted the building works were well advanced on the proposed replacement annexe building before operations ceased. As described above, the building is inappropriate development in the Green Belt that would be harmful to its openness on the basis that it is significantly larger than the building it replaces. The footprint, height and appearance of the proposed building are also unacceptable in design terms and would cause harm to the setting of Brownings farmhouse. Moreover, the proposal makes inadequate provision for the retention of trees.

Resolving the question of whether the demolished barn was a curtilage listed building is critical to the way forward for the Applicant. If it was curtilage listed, then an appropriate course of action for the Council to consider is securing the reinstatement of the building. Any revised proposal therefore would need to include that as a component, which would be likely to deal with the Green Belt, design and setting issues.

If evidence demonstrates that the demolished building was not curtilage listed then there is more flexibility for the planning application and listed building consent is not required. An alternative proposed building should not be materially larger than that demolished. A new predominantly single storey annex building, somewhat but not significantly larger than the footprint of the former barn, would be likely to be more acceptable. In addition, the width or span of an alternative annex building would need to be narrower allowing for a more traditional and steeper roof to be formed.

Regardless of the status of the demolished building, any new application for planning permission should include an arboricultural impact assessment in accordance with BS 5837:2012 demonstrating consequence for trees together with a landscaping scheme demonstrating how the impact on existing trees and the visual impact of the proposed building would be mitigated by new tree planting.

### **Recommendations:**

For the reasons outlined above it is recommended that listed building consent and planning

permission be refused.

***Should you wish to discuss the contents of this report item please use the following contact details by 4pm on the day of the meeting at the latest:***

***Planning Application Case Officers: David Baker and Stephan Solon  
Direct Line Telephone Number: 01992 564514 and 01992 564018 respectively***

***Or if no direct contact can be made please email:  
[contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)***