



Alison Stuart
Head of Legal and
Democratic Services

MEETING : DEVELOPMENT MANAGEMENT COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 24 MAY 2017
TIME : 7.00 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE COMMITTEE

Councillor T Page (Chairman)
Councillors M Allen, D Andrews, R Brunton, M Casey, B Deering,
M Freeman, J Goodeve, J Jones, R Standley and K Warnell, Vacancy

Substitutes

Conservative Group: Councillors P Ballam, P Boylan, S Bull,
S Cousins, D Oldridge and P Ruffles

(Note: Substitution arrangements must be notified by the absent Member to the Committee Chairman or the Executive Member for Development Management and Council Support, who, in turn, will notify the Committee service at least 7 hours before commencement of the meeting.)

CONTACT OFFICER: PETER MANNINGS
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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:
 - fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
 - fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
 - participate in any discussion or vote on a matter in which a Member has a DPI;
 - knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

Public Attendance

East Herts Council welcomes public attendance at its meetings and will provide a reasonable number of agendas for viewing at the meeting. Please note that there is seating for 27 members of the public and space for a further 30 standing in the Council Chamber on a “first come first served” basis. When the Council anticipates a large attendance, an additional 30 members of the public can be accommodated in Room 27 (standing room only), again on a “first come, first served” basis, to view the meeting via webcast.

If you think a meeting you plan to attend could be very busy, you can check if the extra space will be available by emailing committee.services@eastherts.gov.uk or calling the Council on 01279 655261 and asking to speak to Democratic Services.

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AGENDA

1. Appointment of Vice-Chairman

2. Apologies

To receive apologies for absence.

3. Chairman's Announcements

4. Declarations of Interest

5. Minutes – 26 April 2017 – 'To Follow'

To confirm the Minutes of the meeting of the Committee held on Wednesday 26 April 2017 – 'To Follow'

6. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 7 – 10)

(A) 3/16/2847/FUL – Demolition of existing Assembly and Worship Hall and erection of replacement Assembly and Worship Hall, with enhanced vehicular access and associated parking, drainage, landscaping and compensatory grassland habitat at The Bungalow, Ermine Street, Colliers End for Mr D Stay_(Pages 11 – 28)

Recommended for Refusal.

(B) 3/17/0041/FUL – Erection of two new agricultural buildings at Tile Kiln Farm, Standon Road, Little Hadham, SG11 2HP for Mr R Barclay (Pages 29 – 40)

Recommended for Approval.

(C) 3/17/0387/OUT – Outline application for residential development comprising 15 dwellings (including 6 starter homes) with associated access at Land adjacent to The Old Rectory, Baldock Road, Cottered, Herts, SG9 9QP for Mr and Mrs Robert Taussig_(Pages 41 – 58)

Recommended for Refusal.

- (D) 3/17/0407/FUL and 3/17/0408/LBC – Change of use of barn from agriculture to B1 (Office) and the erection of 1 no. B1 (Office) building and one A3 (Cafe/Restaurant) to include parking at Wickham Hall, Hadham Road, Bishops Stortford for Mr David Harvey – 'To Follow'

'Report to follow'

7. Items for Reporting and Noting (Pages 59 – 88)

- (A) Appeals against refusal of Planning Permission/ non-determination.
- (B) Planning Appeals Lodged.
- (C) Planning Appeals: Inquiry and Informal Hearing Dates.
- (D) Planning Statistics.

8. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

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EAST HERTS COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE – 24 MAY 2017

REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

PLANNING APPLICATIONS AND UNAUTHORISED DEVELOPMENT FOR CONSIDERATION BY THE COMMITTEE

WARD(S) AFFECTED: As identified separately for each application and unauthorised development matter.

Purpose/Summary of Report:

- To enable planning and related applications and unauthorised development matters to be considered and determined by the Committee, as appropriate, or as set out for each agenda item.

RECOMMENDATION FOR DEVELOPMENT MANGEMENT COMMITTEE

That:

(A)	A recommendation is detailed separately for each application and unauthorised development matter.
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1.0 Background

1.1 The background in relation to each planning application and enforcement matter included in this agenda is set out in the individual reports.

2.0 Report

2.1 Display of Plans

2.2 Plans for consideration at this meeting will be displayed outside the Council Chamber from 5.00 pm on the day of the meeting. An Officer will be present from 6.30 pm to advise on plans if required. A selection of plans will be displayed electronically at the meeting. Members are reminded that those displayed do not constitute the full range of plans submitted for each matter and they should ensure they inspect those displayed outside the room prior to the meeting.

- 2.3 All of the plans and associated documents on any of the planning applications included in the agenda can be viewed at:
<http://online.eastherts.gov.uk/swiftlg/apas/run/wphappcriteria.display>
- 2.4 Members will need to input the planning lpa reference then click on that application reference. Members can then use the media items tab to view the associated documents, such as the plans and other documents relating to an application.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

The papers which comprise each application/ unauthorised development file. In addition, the East of England Plan, Hertfordshire County Council's Minerals and Waste documents, the East Hertfordshire Local Plan and, where appropriate, the saved policies from the Hertfordshire County Structure Plan, comprise background papers where the provisions of the Development Plan are material planning issues.

Contact Member: Councillor Suzanne Rutland-Barsby – Executive Member for Development Management and Councillor Support.

Contact Officers: Kevin Steptoe – Head of Planning and Building Control, Extn: 1407.
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Report Author: Kevin Steptoe, Head of Planning and Building Control, Extn: 1407.
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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate)</i> :	Priority 1 – Improve the health and wellbeing of our communities. Priority 2 – Enhance the quality of people's lives. Priority 3 – Enable a flourishing local economy.
Consultation:	As detailed separately in relation to each matter if any are appropriate.
Legal:	As detailed separately in relation to each matter if any are appropriate.
Financial:	As detailed separately in relation to each matter if any are appropriate.
Human Resource:	As detailed separately in relation to each matter if any are appropriate.
Risk Management:	As detailed separately in relation to each matter if any are appropriate.
Health and wellbeing – issues and impacts:	As detailed separately in relation to each matter if any are appropriate.

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DEVELOPMENT MANAGEMENT COMMITTEE – 24 MAY 2017

Application Number	3/16/2847/FUL
Proposal	Demolition of existing Assembly and Worship Hall and erection of replacement Assembly and Worship Hall, with enhanced vehicular access and associated parking, drainage, landscaping and compensatory grassland habitat.
Location	The Bungalow, Ermine Street, Colliers End
Applicant	Mr D Stay
Parish	Standon
Ward	Thundridge and Standon

Date of Registration of Application	06 January 2017
Target Determination Date	18 April 2017
Reason for Committee Report	Major application
Case Officer	Martin Plummer

RECOMMENDATION

That planning permission be **REFUSED** for the reasons set out at the end of this report.

1.0 Summary

1.1 The development represents inappropriate development in the rural area beyond the green belt and will result in a harmful impact on the rural character and appearance of the site and surroundings. Positive weight can be attached to the provision of a form of development which will provide an expanded place of worship for the existing and expanding congregation and some other limited employment creation. However, the site is not located in a sustainable location and will rely on the use of private vehicles to access the site. The development is not therefore considered to be sustainable.

2.0 Site Description

2.1 The site is located to the north of the village of Colliers End. It is accessed from Ermine Street. The site currently contains a detached building which is used as a place of worship by the Brethren. The building is set around 90 metres from the main road and is of fairly modest proportions with two large gable projections on the flank elevation. The building is surrounded by open land which forms mainly meadow land. There are two car park areas to the south and east of

the building which are enclosed with post and rail fencing and are externally illuminated. The site forms a Local Wildlife Site (LWS) which is recorded as being significant in terms of grassland.

- 2.2 There is a byway to the south of the site (Standon 032) which leads to a PRow (Public Right of Way), Standon 033, which is located around 50 metres to the west of the application site.

3.0 Background to Proposal

- 3.1 The site and building was originally a detached residential dwelling and associated garden and meadow space. In 2012 a planning application was submitted and granted by the Development Management Committee for the change of use of the dwelling into a place of worship. Various amendments to that original planning permission have been granted and the site has been used as a place of worship by the Brethren for approximately four years. The existing building on the site has a floor area of approximately 165 square metres.
- 3.2 The applicant has set out that their needs as a Brethren Church are exceeding the capacity of the existing hall and parking facilities. Brethren Churches from outside the immediate area of the application site meet collectively from time to time and to enable this they currently use a building in Turnford (located in Broxbourne District Council area). The applicant has submitted that site as being one suitable for housing development through the Broxbourne Local Plan process.
- 3.3 The size of the building as currently exists on the application site is unable to accommodate large gatherings of Brethren Churches outside the congregation that normally meets here and the proposals in this application will accommodate the increased size of the immediate congregation and allow larger gatherings.
- 3.4 The proposed development for a replacement building has a floor area of 1,769 square metres and incorporates a parking area for 177 cars. The building is located on the north east part of the site with various areas of hard standing for parking to the south and west of the building. The existing access to the site is to be widened and a short pedestrian pavement/footpath proposed on the western side of the main road to enable pedestrians walk safely along and then to cross the road to the east side to access Colliers End and the nearby bus stops (around 400-500 metres from the site).

- 3.5 The proposed building comprises mainly of a large assembly/worship hall and foyer with several smaller rooms including kitchens, toilets, storage and plant rooms and various circulation spaces.
- 3.6 The applicant sets out that building will be used throughout the week but particularly during mornings on Saturday and Sunday and evenings during weekdays.

4.0 Key Policy Issues

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the pre-submission East Herts District Plan 2016 and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy	Pre-submission District Plan policy
The principle of development		GBC3	GBR2
Whether the development is located in a sustainable location			
Impact on the character and appearance of the site and surroundings		ENV1, ENV2, ENV14	DES1-3
Impact on ecology		ENV16	NE1, NE3
Highway safety			

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 Emerging District Plan

- 5.1 The District Plan has been submitted to the Secretary of State for examination. The view of the Council is that the Plan has been positively prepared, seeking to ensure significantly increased housing development during the plan period. The weight that can be assigned to the policies in the emerging plan can now be increased, given it has reached a further stage in preparation. There does remain a need to qualify that weight somewhat, given that the Plan has yet to be examined.

6.0 Summary of Consultee Responses

- 6.1 HCC Highway Authority comment that they do not wish to restrict the grant of planning permission.

The proposed vehicle access is considered to be acceptable in terms of visibility and the plans show the provision of a 2 metre footway on the southern side of the access to provide a crossing point to the opposite side of the road.

The proposed development represents a large intensification of how the site is used with the new building able to accommodate a far greater number of people and activities compared to the existing development. The Highway Authority comments that it is content to accept such an increase in the intensification given that most events/services will occur outside of peak hours (particularly at weekends).

An outline travel plan has been submitted but this requires further work and consideration, particularly in respect of the provision of increased provision of a mini-bus service between key settlements and the application site and review of changes to bus timetables that are anticipated to be implemented as a result of Section 106 contributions of other residential development in the District.

- 6.2 Lead Local Flood Authority raise no objection in principle in flood risk terms – the applicant has provided sufficient information to demonstrate that there is a feasible drainage scheme for the site based on attenuation features and final controlled discharge to ordinary watercourse running inside the northern boundary. The proposed development will only meet the requirements of the National Planning Policy Framework if planning conditions requiring implementation of the detailed drainage strategy as set out in the flood risk assessment are applied.
- 6.3 EHDC Engineering Advisor comments that the site is located with flood zone 2 and is partially within surface water inundation zones. The site flood risk assessment provides information regarding permeable paving, a swale and a SuDS (Sustainable Drainage System) pond. The proposals are considered to be a high quality form of SuDS that will help reduce flood risk, create amenity and biodiversity and potentially improve water quality at the site.
- 6.4 EHDC Landscape Advisor recommends the refusal of planning permission. The site is in a countryside location and the village of Colliers End is characterised by small clusters of dwellings which

indicate the historic growth of the village. This and the separation between built form is one of the defining features of the local distinctiveness. The site is visible from the open countryside to the west along a public right of way. The proposals result in a manifest change to the landscape character and setting of the site and existing local built environment. The development, in terms of the size of the car park and size and massing of the building will be detrimental to the rural character of the site and surroundings area and exceeds the landscape capacity of the site and appear as incongruous forms of development.

- 6.5 Herts Ecology originally objected to the planning application based upon the impact on the LWS (Local Wildlife Site). During the process of the application additional information has been submitted which includes the provision of a dedicated site to the north of the proposed building for wildlife 'offsetting'. Herts Ecology have since removed their objection, commenting that there will be no net loss of biodiversity if the proposals for offsetting the loss of Local Wildlife Site (LWS) grassland are successfully achieved on the adjacent field. The calculations provided indicate a slight biodiversity gain, which is commendable.

The success of the off-setting will be dependent on the successful harvesting of seeds from the existing LWS grassland area; the establishment of species-rich grassland at the adjacent site; and implementation of appropriate measures to manage, maintain and enhance the new grassland habitat (through a conservation hay cutting regime). In addition, any remaining habitats and enhanced habitats within the application site will also need to be suitably managed for their wildlife interest. Herts Ecology recommend that such matters are controlled through planning conditions.

- 6.6 EHDC Environmental Health Advisor advises that planning conditions relating to construction hours of working, piling and lighting are attached with any grant of planning permission.
- 6.7 Herts and Middlesex Wildlife Trust (HMWT) originally objected to the planning application based upon the impact on the LWS – they have since removed their objection on the basis of the proposed offsetting which can be secured by planning condition.
- 6.8 Natural England have no comments to make on the application.

7.0 Parish Council Representations

- 7.1 Standon Parish Council object to the planning application on the following grounds:

- Inappropriate form of development in the rural area;
- Size, scale, form and design of the proposed building will be intrusive in the street scene and wider countryside setting;
- Overdevelopment of the site;
- The overall quantum of parking is significant and will result in overreliance of private vehicles which is contrary to the NPPF;
- The site is not a sustainable location for the quantum of development proposed with very limited bus service for the indicated hours of use.

8.0 Summary of Other Representations

- 8.1 Ten representations in support of the planning application have been received commenting that the development will provide an enhanced space for faith meetings and gatherings.
- 8.2 The Campaign to Protect Rural (CPRE) writes in objection to the proposals, urging the Council to refuse the proposals on the basis of conflict with the current and emerging Local Plans particularly with regard to the visual and landscape impact, loss of habitat, inherent lack of sustainability and as a result of the major increase in the scale of the building and visitors to the site.

9.0 Planning History

- 9.1 The following planning history is of relevance to this proposal:

Ref	Proposal	Decision	Date
3/12/0145/FP	Change of use from residential to D1 (use as Meeting Hall) temporary consent only for 3 years	Approved with conditions	21.08.2012
3/12/1789/FP	Change of use from residential to D1 (use as meeting hall) and new raised pitched roof, alterations to fenestration and replacement	Approved with conditions	20.12.2012

3/13/0122/FP	Change of use from residential to D1 (use as meeting hall) and new raised pitched roof, alterations to fenestration, replacement windows and doors	Approved with conditions	14.03.2013
3/15/0464/FUL	Continued use of building as a meeting hall (D1) following expiry of 2 year consent (3/12/1789)	Approved with conditions	14.05.2015

10.0 Consideration of Relevant Issues

The principle of development

- 10.1 The site is within the Rural Area wherein Local Plan policy places a constraint against development. Policy GBC2 sets out that, within the northern part of the District a Rural Area beyond the Green Belt will be maintained wherein inappropriate development will not be permitted. Policy GBC3 does set out some exceptions to this – criterion h) does allow for ‘other essential small scale facilities, services or uses of land which meet a local need, are appropriate to a rural area and which assist rural diversification’.
- 10.2 The proposed development is a substantially sized building and the plans indicate that almost the entire site will be occupied by development and parking. The proposal does not represent a small scale facility and, in this respect, represents a departure to Rural Area policy and the Development Plan.
- 10.3 Policy GBR2 of the draft District Plan sets out the emerging policy approach for the Rural Area. That policy does allow for a replacement building provided the building is in the same use and not *materially* larger than the building it replaces. Having regard to the small proportions of the existing building (approximately 165 square metres) compared to the very significant proportions of that proposed (over 1700 square metres), Officers consider that the proposal would be significantly materially larger than the building it replaces. The development would also therefore be contrary to the draft District Plan. Given the stage of preparation of the District Plan some reasonable weight can be attached to this emerging policy and the conflict with it.

- 10.4 Paragraph 14 of the NPPF sets out that there is a presumption in favour of sustainable development and it should be considered whether the development would accord with this requirement. There are three roles in achieving sustainable development and paragraph 8 of the NPPF states that these roles should not be undertaken in isolation because they are mutually dependent.

Economic dimension

- 10.5 There is weight to be attached to the short term building works associated with the construction phase. However, as this is only for a short period only limited positive weight should, in Officers opinion, be attached to this consideration. Some weight may also be attached to potential employment associated with the operation and maintenance of the building, if constructed – the likely level of employment is not however considered to be high and only very limited weight is attached to this matter.

Social dimension

- 10.6 Section 8 of the NPPF sets out the national policy position in respect of creating healthy, inclusive communities. Paragraph 70 of the NPPF requires planning decisions to plan positively for the provision of places of worship to ‘enhance the sustainability of communities and residential environments’.
- 10.7 The Council have previously attached weight to this policy position in the approval of planning permission for the use of the existing building on the site. From the submissions made with the planning application, it is understood that the local congregation of the place of worship has increased over the passage of time since the original planning permission and the applicant indicates that there is a higher demand for space for the enlarged congregation.
- 10.8 Officers understand that the proposed building, particularly its large size and parking area is required to accommodate visitor groups from other places of worship outside of the existing congregation. The applicant also sets out that the building will be used for the storage of materials and equipment used by local community groups, including FAST (Footpaths at Standon and Puckeridge Team) and Rapid Relief Team. These organisations provide support to the County Council in repairing rights of way and provide volunteer based assistance for charities involved in a range of social issues.

- 10.9 The applicant refers the Council to appeal decisions made by the Secretary of State where it was noted that it is not the role of Local Planning Authorities to suggest how faith groups should organise themselves and that the way in which a faith group functions or operates should therefore be taken at face value. This is acknowledged and no harmful weight is assigned as a result of the way the faith group is operated, instead it is appropriate to consider the impact that the development proposals has in planning terms, because of the scale at which it is proposed.
- 10.10 Officers consider that weight should be attached to paragraph 70 of the NPPF and the provision of enlarged accommodation to serve the growing congregation who currently use the building. The proportions of the building are however very significant and because it is designed to serve larger congregations of Brethren Church, rather than those of the immediate community/congregation who use the building, its impact is also significant. This does not, in Officers opinion, mean the development is unsustainable in social terms, but does mean that consideration should be given to the location of the site in sustainability terms, which is discussed below:

Environmental dimension

- 10.11 There are a number of aspects relevant to the environmental role of sustainable development:
- Whether the site is sustainable in transport terms;
 - The impact on the character and appearance of the site and surroundings;
 - Ecological impact;
 - Drainage matters;
 - Highway safety;
 - The impact on heritage assets of archaeological significance.

Access to sustainable modes of transport

- 10.12 The site is not located within any of the main settlements in the District and is located outside of the village of Colliers End – a category 3 village in the District Plan and a group 2 village in the emerging District Plan.
- 10.13 The site is a short walk and cycle from the main part of that village but other villages are further away and Officers understand that wider congregation of the place of worship live within the wider setting of the

District and therefore outside of normal cycle/walking distances of the site.

- 10.14 There is a bus stop within walking distance from the entrance to the site in Colliers End. Members will be aware of the limitations of the rural bus services in the district. The applicant has indicated that the main use of the building will be at weekends and early morning/evenings when the frequency of buses is generally further reduced. The site, in this respect, cannot reasonably be considered to be well served by local buses. The Highway Authority, indicates that bus frequency may be increasing as a result of Section 106 contributions secured through housing development in the District however the full impact of this is not yet fully understood.
- 10.15 The applicant has submitted a Green Travel plan which refers to the reliance on car sharing, mini-buses and coach hire. It is clear given the very significant size of the parking area that the vast majority of users of the building will travel to the site via private vehicle. This is specifically contrary to paragraph of 29 and 30 of the NPPF. The site is not considered to represent a sustainable location and there is very limited access to sustainable modes of transport. There is likely to be an over-reliance on the use of private vehicles and this must therefore weigh against the development proposal.

Character and appearance

- 10.16 The core principles of the NPPF set out that planning should take account of the different roles and character of different areas, by recognising the intrinsic character and beauty of the countryside (para 17). Section 7 of the NPPF requires good design and sets out that developments should respond to local character, history and reflect the identity of local surroundings.
- 10.17 Local Plan policy GBC14 sets out that a Landscape Character Assessment will be used to assess development proposals and will seek to improve and conserve local landscape character by conserving, enhancing or creating desirable landscape features; contribute to the strategy for managing change with reference to the Landscape Character Assessment, and enhance or conserve key characteristics and distinctive features.
- 10.18 Policies ENV1, 2 and 3 of the Local Plan set out a need for development to demonstrate compatibility with the structure and layout of the surrounding area, consider the impact of any loss of open land on the character and appearance of the locality, retain and enhance

existing landscaping. Policy SD1 requires development to be physically well integrated and respond to local character.

- 10.19 In the emerging District Plan policies DES1 and DES2 deal with landscaping with the additional requirement (over the current Local Plan) for a Landscape and Visual Impact Assessment and/or Landscape Sensitivity and Capacity policy. Policy DES3 set out a range of detailed design and layout requirements.
- 10.20 A landscape and visual impact assessment (LVIA) has been submitted in support of the application. That assessment sets out that there will be views from the east of the site but the dark materials of construction and design will be sympathetic to the agricultural landscape and the height of the building will mean that it does not rise above the existing woodland backdrop. Given the scale of the building, it will remain visible in certain views but this is not considered to be out of keeping with the pattern of development and does not result in significant adverse landscape or visual effects.
- 10.21 The Landscape Officer takes a differing position, as summarised above, and concludes that the development represents an inappropriate size, scale and form of development for the location and will result in a harmful impact on the landscape character of the site and surroundings.
- 10.22 The existing building is relatively modest and sits 'quietly' on the plot, maintaining the rural and open aspect of the countryside location. There is some reasonably significant landscaping to the boundaries of the site which does obscure views into the site from the surroundings. Public Rights of Way (Standon 032 and 033) link between Ermine Street passing to the south of the site and then running in a north westerly direction passing around 50 metres to the west of the application site and linking to Hill Farm to the north west of the application site. Views from that public right of way of the application site are limited by the extent of landscaping and the modest proportions of the existing building.
- 10.23 The proposed development replicates a series of barns with gable pitched roofs and a mixture of brick plinth and boarding. Officers acknowledge the design approach and that it seeks to follow a rural building type design approach for which there are examples in the District. The design in itself is considered to be an appropriate approach and the character of built form in the rural setting.
- 10.24 However, the overall quantum and nature of the development proposal will see a very substantial and material change to the character and

appearance of the site, surroundings and views from public vantage points, particularly the main road to the east of the site and, to a lesser extent the PRow to the west of the site. The proposed building is very significant in terms of its overall footprint and height and the proposed parking and outside space around the proposed building will see a mixture of buildings and hard landscaping occupying almost the entire site.

- 10.25 The plans submitted do show the retention and provision of an area of ecological amenity land and a small margin between the built form and the eastern boundary of the site. In addition, the plans also indicate the provision of planting to the boundaries of some parts of the site. Those elements all seek to reduce the impact of the development but do not, in Officers opinion, adequately mitigate the impact that the development will have on the open rural character and appearance of the site, a concern which is echoed by the Landscape Officer. This is a matter which Officers consider weighs substantially against the development proposal.

Ecological impact

- 10.26 The site forms a Wildlife Site and policy ENV14 sets out the Development Plan position in respect of development proposals on such an area. Development which would likely have an adverse impact on such an area will not be permitted unless it can clearly be demonstrated that there are reasons for the proposal which outweigh the need to safeguard the substantive nature conservation value of the site.
- 10.27 Various ecological surveys and work has been undertaken and has been considered by Herts Ecology and the Herts and Middlesex Wildlife Trust. Those consultees have, as summarised above, confirmed that there is appropriate levels of ecological offsetting in the form of provision of additional areas of land to be allocated for wildlife protection and management, all of which can be secured through a planning condition. Having regard to the information and consultation received the application is considered to comply with the above mentioned Local Plan policy, emerging policy and the NPPF. Whilst the development does result in the development of the Wildlife site this is adequately mitigated by the allocation and proposed management of a parcel of land to the north of the building, which can be controlled through a planning condition. This is a matter which is considered to be neutral, in the balance of considerations.

Drainage impact

- 10.28 Having regard to the Environment Agency flood risk mapping the site is not in an area of flood risk in respect of fluvial flooding and is not in an area identified at risk of surface water flooding. The development nonetheless results in a significant reduction in permeable areas and a substantial increase in areas of hard surfacing which has the potential to increase surface water flood risk.
- 10.29 The applicant has responded positively to the provision of a sustainable drainage strategy within the site and both the LLFA and Councils Drainage Engineer have commented that an appropriate drainage scheme can be secured via a planning condition. The scheme introduces various sustainable drainage systems (including permeable hard surfaced areas and a detention/infiltration basin) which will adequately mitigate the impact in terms of flood risk and provide other enhancements to improving water quality and biodiversity.

Highway impact and parking

- 10.30 The plans submitted show various engineering operations to widen the existing access to allow two-way traffic and improve visibility at the access to the site. The proposed alterations to the entrance will, having regard to the advice from the Highway Authority, result in an acceptable impact on highway safety.
- 10.31 The Highway Authority raises no objection in respect of increased traffic movement associated with the intensification of the development and comment that the majority of traffic movements will be outside of peak hours. Some commentary is made in respect of the deficiencies of the Green Travel Plan which could be dealt with through a planning condition.
- 10.32 In overall highway safety and access terms, having regard to the advice received, the development is considered to be acceptable.

11.0 Conclusion

- 11.1 The development represents inappropriate development in the Rural Area beyond the Green Belt and conflicts therefore with existing Local Plan policy GBC3 and emerging policy GBR2.

- 11.2 Weight can be attached to the positive way in which the development will provide enhanced facilities as a place of worship for the existing and expanding congregation, together with other opportunities to support existing community groups who may use the premises. The development, in this respect is considered to be in accordance with para 70 of the NPPF which sets out that decisions should plan positively for the provision of community facilities, such as places of worship.
- 11.3 However, for the reasons set out in this report, harm is attached to the unsustainable location for the development in transport terms and the likely reliance on private vehicles to access the site (as is evident by virtue of the large car park) and the visual impact of the development on the rural character and appearance of the site. Officers consider that very significant weight can be attached to this harm and the conflict with existing and emerging local policy and the NPPF in this respect.
- 11.4 Other matters relating to highway safety and access, ecology and neighbour amenity impact are neutral.
- 11.5 Whilst there are positive aspects of this scheme such matters are, in Officers opinion, outweighed by the conflict with rural area policy, the harm to the rural character of the site and surroundings and the unsustainable location of the site for the development. Officers therefore recommend that planning permission is refused.

Reasons for Refusal

1. The development represents inappropriate development in the Rural Area beyond the Green Belt and results in harm to the rural character and appearance of the site and surroundings. The form, nature and scale of the use proposed is such that a rural location of this type the application site represents, is not sustainable in transport terms. Whilst positive weight is attached to the social benefits of the provision of an expanded place of worship, this positive weight is not considered to outweigh the harm that would result from the development. The development is therefore contrary to policies GBC3, ENV1 and LRC14 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

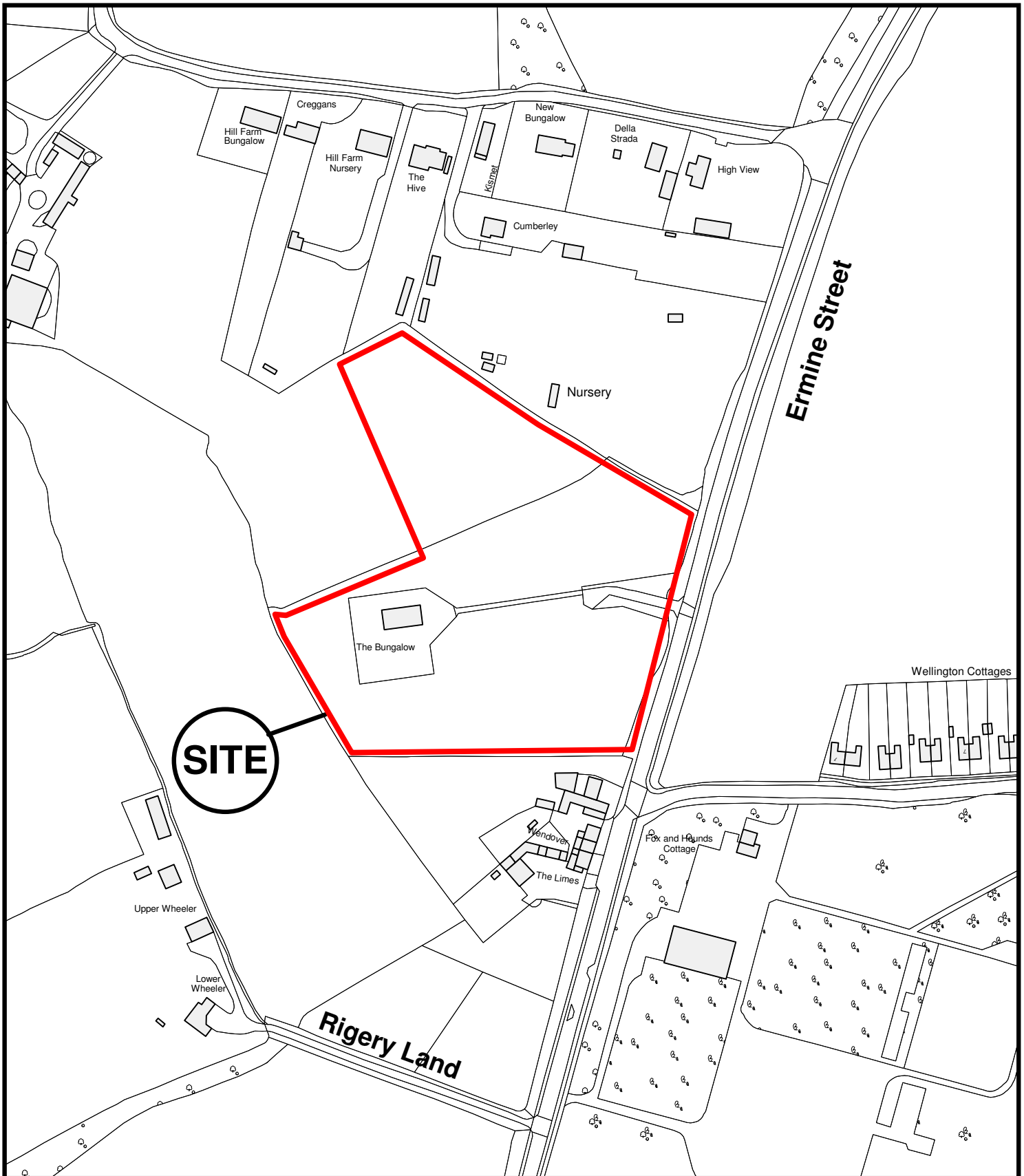
Summary of Reasons for Decision

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, East Herts Council has considered, in a positive and proactive manner, whether the planning

objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Policy Framework.

KEY DATA**Non-Residential Vehicle Parking Provision**

Use type	Standard	Spaces required
Place of worship	1 space per 10sqm	177
Total required		177
Accessibility reduction		nil
Resulting requirement		177
Proposed provision		177



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O.S Sheet: TL3721

Date of Print: 12 May 2017

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DEVELOPMENT MANAGEMENT COMMITTEE – 24 MAY 2017

Application Number	3/17/0041/FUL
Proposal	Erection of two new agricultural buildings
Location	Tile Kiln Farm, Standon Road, Little Hadham, SG11 2HP
Applicant	Mr R Barclay
Parish	Albury CP
Ward	Little Hadham

Date of Registration of Application	11 January 2017
Target Determination Date	12 April 2017
Reason for Committee Report	Major application
Case Officer	Martin Plummer

RECOMMENDATION

That planning permission be **GRANTED** subject to the conditions set out at the end of this report.

1.0 Summary

1.1 The development proposal is for agricultural buildings located in an agricultural and countryside setting where existing and emerging Rural Area policy allows for such development. The proposed buildings are of an appropriate size, scale, form and design such that there will be no significant harm to the rural setting or landscape character. The proposal will not materially increase traffic movements and is located where appropriate visibility can be provided. The development is acceptable in respect of the impact on a public right of way, drainage matters and neighbour amenity impact.

2.0 Site Description

2.1 The application site is located approximately 250 metres north of the A120 and to the north east of Tile Kiln Farmland and the A120 Veterinary Hospital. Little Hadham village lies approximately 0.5km to the east. The site comprises of an open meadow with a woodland (Alburyend Wood) to the immediate north and a ditch/hedgerow to the south. The site is surrounded by agricultural fields and is located in an agricultural setting.

2.2 There is a farm track to the west of the application site which links to Tile Kiln Farm to the south west of the site and to the north of the site to other agricultural fields. A public right of way (No21) starts from the A120 to the south and follows a northerly direction passing through the application site.

3.0 Background to Proposal

3.1 Tile Kiln Farm is located to the south west of the application site and comprises the grade II listed farm house and various agricultural buildings. Those buildings are not currently used as part of the farming enterprise by virtue of their inadequate size for modern farming practices. They have therefore become derelict and are of a very poor and dilapidated appearance.

3.2 The applicant has agricultural land surrounding Tile Kiln Farm (141 acres) and at Albury (1380 acres) to the north. The wider farm business operates from three separate farms, Beaches and Cole Green in Brent Pelham and Hixham Hall in Furneux Pelham – all of which are some distance further to the north. The combined size of buildings used as part of that operation at Brent Pelham and Furneux Pelham is 2650 square metres.

3.3 Two of these farms are rented and one is in the ownership of the applicant. The primary reason for the application is to amalgamate the farming operation to one location which will save on rent and reduce vehicular traffic movements between the site at Tile Kiln Farm and Albury and Brent Pelham/Furneux Pelham (estimated to be approximately 2000 traffic movements in one year).

3.4 The development in this application seeks planning permission for a new entrance off the A120 leading to a site for two detached agricultural buildings. The site for the proposed buildings is located approximately 250 metres to the north of the A120. One of the proposed buildings is a storage unit with a footprint of 756 square metres and a height of 9.7 metres. The other building is larger and will contain drying facilities with a footprint of 1800 square metres and a height of 11.2 metres. Both buildings have a utilitarian type design with a brick plinth, metal sheeting and a shallow pitched roof.

4.0 Key Policy Issues

4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy	Pre-submission District Plan
The principle of development	Para 28	GBC2, GBC3	GBR2
Impact on the character and appearance of the rural setting and landscape features	Section 7	GBC7, ENV1	DES1-3
Highway safety and access		TR2, TR20, LRC9	TRA1-2, CFLR3.

Other relevant issues are referred to in the ‘Consideration of Relevant Issues’ section below.

5.0 Emerging District Plan

5.1 The District Plan has been submitted to the Secretary of State for examination. The view of the Council is that the Plan has been positively prepared, seeking to ensure significantly increased housing development during the plan period. The weight that can be assigned to the policies in the emerging plan can now be increased, given it has reached a further stage in preparation. There does remain a need to qualify that weight somewhat, given that the Plan has yet to be examined.

6.0 Summary of Consultee Responses

6.1 HCC Highway Authority comment that they do not wish to restrict the grant of planning permission subject to planning conditions. The proposed access as shown in the submitted drawing is acceptable and appropriate visibility is achievable given the low volume of traffic that is proposed to use the access.

6.2 Lead Local Flood Authority recommends that planning permission be approved subject to planning conditions requiring the implementation of the approved drainage scheme. It comments that the proposed development can be adequately drained and mitigate any potential existing surface water flood risk.

- 6.3 EHDC Engineering Advisor comments that the site is situated within flood zone 1 (low risk) where there are no records of historic flood incidents. The proposals would increase the area of impermeable land at the site and he comments that the construction of the development as currently detailed is not considered as a sustainable construction and would be contrary to policy ENV21 of the Local Plan.
- 6.4 EHDC Landscape Advisor recommends approval subject to a condition requiring landscape design proposals.

The retained woodland restricts views within the undulating landscape and provides screening and containment for the development. The proposals include an indicative 'green link' by way of tree planting along the western site boundary linking the watercourse to Alburyend Wood - providing an ecological corridor in the interests of increasing biodiversity. There needs to be a management plan for the existing and proposed woodland that promotes locally indigenous species, a diverse age structure and a species rich ground flora.

There may need to be some cutting back or removal of scrub to provide sight lines for the access but this will not result in an unacceptable adverse impact on the landscape character of this section of the A120 as sufficient vegetation will be retained.

- 6.5 Countryside Access Officer comments that there are concerns in respect of users of the public right of way and vehicles using the access to the buildings. If vehicle movements are likely to be significant, the public footpath should be surfaced and fenced off to a width of 3 metres.

7.0 Parish Council Representations

- 7.1 No representations received.

8.0 Summary of Other Representations

- 8.1 None received.

9.0 Planning History

- 9.1 There is no relevant planning history for the site.

10.0 Consideration of Relevant Issues

Principle of development

- 10.1 The site is located within the Rural Area Beyond the Green Belt wherein policy GBC3a) allows for the erection of development for agricultural purposes. The principle of the proposed development is therefore acceptable.
- 10.2 That is supported by national planning policy and, in addition, paragraph 28 of the NPPF sets out that planning policy should support economic growth to create jobs and prosperity by taking a positive approach to sustainable development through the provision of well-designed new buildings.
- 10.3 In accordance with those policy considerations, there is no objection in principle to the provision of an agricultural building in this location, subject to the building having an acceptable visual impact and having regard to all other relevant planning considerations.

Character and appearance

- 10.4 Policy GBC7 of the Local Plan sets out the criteria to be considered in relation to proposed agricultural development in the District. This policy sets out that agricultural development should be located within or adjacent to an existing group of buildings. A landscape scheme should be submitted with the application and the building should be of a design which is appropriate for its use and sympathetic to its surroundings in terms of scale, materials, colour and architectural detail.
- 10.5 The proposed development is not consolidated with other built form and is located in open rural countryside. A Landscape and Visual Impact Assessment (LVIA) is submitted in support of the application which concludes that the proposed development will have a slight adverse effect on the landscape and various mitigation measures are proposed to help reduce the impact further. The mitigation measures include the creation of additional woodland planting, hedgerows to the south and along field boundaries together with enhancement of Alburyend wood to the north. Once those mitigation measures have been implemented, the LVIA concludes that there will be a moderate adverse to negligible effect.

- 10.6 The Councils Landscape Officer recommends approval and comments that the undulating landscape and existing landscape features will ensure that the development is contained in the landscape. Opportunities for mitigation as set out in the LVIA are recommended to be included as conditions. The Landscape Officer does not consider that the provision of an access onto the A120 and the associated landscape works will result in harm to the character of the A120, where there are various openings.
- 10.7 In the short term the proposed buildings will have some impact in views from the A120 and more significantly, the public right of way which runs through the site. Views from the A120 will be limited by the distance to that road, the undulating landscape and existing landscape features including woodland and hedgerow which can be reinforced as set out above. Agricultural buildings are a form of development which is expected to be seen in rural countryside settings such as the application site and the detailed design, materials of construction and height of the buildings will, having regard to the advice from the Landscape Officer and considering the LVIA, not result in significant harm to landscape character, countryside setting or views of the site from public vantage points.

Highways access matters

- 10.8 The application is supported by a Transport Statement which has been reviewed by the Highway Authority. The existing site at Tile Kiln Farm is not used for agricultural purposes but the access is used to access the farm's three other sites for drying/storage of crops referred to above (understood to be via agricultural tracks, farm access and other rural roads to the north of the site). Existing traffic generation as a result of this operation are a total of five two-way HGV (Heavy Goods Vehicle) movements and an additional 5 two-way traffic movements of tractors with trailers. Traffic movements are evenly distributed amongst the day and likely to occur outside of peak hours.
- 10.9 The development will ensure provision of storage and drying facilities on site and will require no additional traffic movements to that outlined above. The Transport Statement sets out that, the development will result in the a reduction of traffic movements to the other farms in Furneux Pelham and Brent Pelham as a result of the new storage and drying facilities at the application site.

- 10.10 Having regard to the comments from the Highway Authority, Officers consider that there will be no material increase in traffic movements accessing the site onto the A120 and there will be a reduction of traffic movements along rural roads to the north of the District. Appropriate visibility is provided at the proposed junction and the development is therefore considered to be acceptable in terms of highway safety and traffic generation.
- 10.11 The comments from the Rights of Way Officer are noted – the proposed access will follow the route of the public right of way. However, such an arrangement is not dissimilar to that as currently exists where traffic movements are not generally significant. It is not uncommon for public rights of way to share a track or farm access used by agricultural traffic and Officers do not consider that there will be any significant harm to users of the public right of way in accordance with policy LRC9 of the Local Plan.

Neighbour amenity impact

- 10.12 The nearest neighbouring property is Tile Kiln Farmhouse itself which is approximately 200 metres to the south west with various landscape features, hedgerows and trees between that dwelling and the application site. Other residential dwellings are located further away from the application. Having regard to the siting and nature of the development proposal in relation to residential properties there will be no significant or harmful impact on the living conditions of neighbouring properties.

Drainage and flood risk

- 10.13 The site is located within an area of low risk in terms of fluvial flooding and partially within a low risk area in terms of surface water flooding. A drainage ditch is located to the immediate south and just outside of the application site – the plans submitted show that surface water will be directed into that water course through a mixture of drains and a swale. The LLFA comment that such an arrangement is acceptable in flood risk terms subject to the submission of more detailed information which can be secured by a planning condition. Having regard to the advice received, Officers are of the opinion that the site will not result in significant or harmful flood risk and can be appropriately drained through provision of sustainable drainage systems.

11.0 Conclusion

- 11.1 The proposal represents an appropriate form of development in the Rural Area and will provide an economic form of development which is encouraged in the NPPF. Although the proposed buildings are not consolidated with existing development, the overall siting, size, scale, form and design will not result in significant harm to the character and appearance of the surrounding area and its visual impact can be mitigated by appropriate landscaping. Officers are also satisfied that there would be no loss of amenity to neighbouring residential properties, the associated traffic movements will not be detrimental to highway safety and that there will be no significant harm in flood risk terms.
- 11.2 Officers therefore recommend that planning permission be granted, subject to conditions.

Conditions

1. Three Year Time Limit (1T12)
2. Approved plans (2E103)
3. Materials of construction (2E11)
4. Landscape design proposals (4P12)(a, b, c, e, l, j, k, l)
5. Landscape works implementation (4P13)
6. Lighting details (2E27)
7. The development permitted by this planning permission shall be carried out in accordance with the approved drainage scheme and drainage scheme layout produced by Sworders, dated January 2016 with drawing no. 215407DWG002, the following mitigation measures detailed within the FRA:
 1. Providing discharge to the ditch on the development site.
 2. Implementing appropriate SuDS measures as shown on the drainage plan, drawing no. 215407DWG002, based on discharge to the ditch.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements

embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

8. No development shall take place until a management and maintenance plan for the lifetime of the development has been provided and approved by the LPA. It shall include ownership evidence and other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding, both on and off site in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

9. Visibility splays of 2.4 metres x 160 metres shall be provided and permanently retained in each direction within which there shall be no obstruction to visibility between 0.6 metres and 2 metres above the carriageway level.

Reason: To provide adequate visibility for vehicles leaving the site.

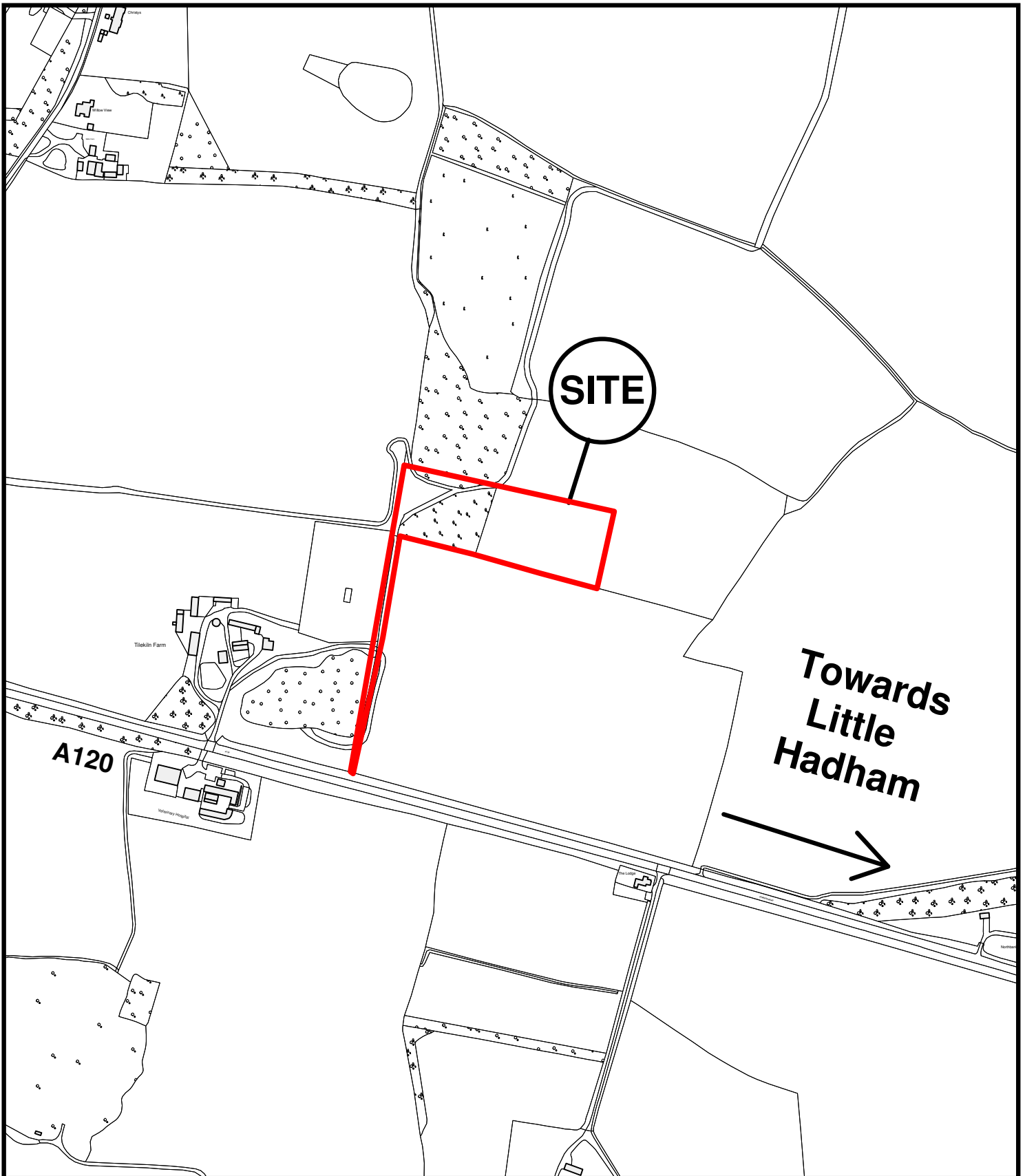
10. Wheel washing (3V251)
11. The existing public right of way crossing the site shall remain undisturbed and unobstructed at all times unless otherwise stopped up or diverted prior to the commencement of the development hereby granted. The alignment of any public right of way shall be protected by temporary fencing/signing which shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and access.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The balance of the considerations having regard to those policies is that permission should be granted.

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Reference: 3/17/0041/FUL

Scale: 1:5000

O.S Sheet: TL4323

Date of Print: 12 April 2017

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DEVELOPMENT MANAGEMENT COMMITTEE – 24 MAY 2017

Application Number	3/17/0387/OUT
Proposal	Outline application for residential development comprising 15 dwellings (including 6 starter homes) with associated access
Location	Land adjacent to The Old Rectory, Baldock Road, Cottered, Herts, SG9 9QP
Applicant	Mr and Mrs Robert Taussig
Parish	Cottered CP
Ward	Mundens and Cottered

Date of Registration of Application	17 February 2017
Target Determination Date	19 May 2017
Reason for Committee Report	Major application
Case Officer	David Snell

RECOMMENDATION

That planning permission be **REFUSED**, for the reasons set out at the end of this report.

1.0 Summary

- 1.1 The proposal represents an inappropriate form of development in the Rural Area beyond the Green Belt. Despite the emerging District Plan, the Council is not currently able to demonstrate a five year supply of housing land. In these circumstances the NPPF requires that planning permission be granted for sustainable development, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 1.2 The main consideration for Members, in relation to this development then, is whether it is considered to represent a sustainable form of development.
- 1.3 The contribution to housing supply of 15 dwellings is a clear benefit of the proposal and is accordingly assigned positive weight in the overall planning balance. However, other material considerations weigh against the proposal; in particular its limited access to sustainable transport, employment, shopping and other services. Additional harm is identified in terms of the impact of the proposal on the character and appearance of the surrounding area, the absence of provision of a

satisfactory form of affordable housing and lack of clarity in relation to the mitigation of its impact on local infrastructure.

2.0 Site Description

- 2.1 The site comprises 0.9ha of open rural farmland fronting the north west side of A507, the main road through the village of Cottered.
- 2.2 The site is bounded by open fields to the north; Magpie Farm to the east; The Old Rectory sited within substantial grounds to the west, and existing housing fronting the A507 to the south.
- 2.3 The site lies in the Rural Area beyond the Green Belt.

3.0 Background to Proposals

- 3.1 The application proposes the erection of up to 15 dwellings with access off A507. The application is submitted in outline with details of access, layout and scale.
- 3.2 Details relating to appearance and landscaping are reserved for subsequent consideration.
- 3.3 Proposals for residential development on a larger site (2.1ha), but including the current application site, were the subject of pre-application advice in November 2016 when Officers advised that residential development of the site was unlikely to be regarded as sustainable.

4.0 Key Policy Issues

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the adopted East Herts Local Plan 2007, the Emerging District Plan and the Buntingford Community Neighbourhood Plan (NP):

Key Issue	NPPF	Local Plan policy	Emerging District Plan policy	Emerging NP policy
The principle of the development, including sustainability and housing land supply	Paras 7-16	SD2 GBC3	GBR2 INT1	

Layout and design	Section 7	ENV1 ENV2	DES2 DES3	HD4
Housing		HSG7	HOU1, HOU2	HD1, HD7
Villages		OSV3	VILL2	
Highway implications	Section 4	TR2, TR4, TR7, TR20	TRA2 TRA3 TRA3	T1, T2, T4
Affordable housing	Section 6	HSG3	HOU3	
Heritage impact	Section 12	BH6	HA4	
Neighbour impact		ENV1	DES3	
Planning obligations and infrastructure		IMP1	DPS4 DEL1 DEL2	

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 Emerging District Plan

- 5.1 The District Plan has been submitted to the Secretary of State for examination. The view of the Council is that the Plan has been positively prepared, seeking to ensure significantly increased housing development during the plan period. The weight that can be assigned to the policies in the emerging plan can now be increased, given it has reached a further stage in preparation. There does remain a need to qualify that weight somewhat, given that the Plan has yet to be examined.

6.0 Summary of Consultee Responses

- 6.1 HCC Highway Authority sought additional information and amendments to the point of access to the site. It is understood that they now have no objection in principle to the proposal, subject to conditions. A formal response is awaited and an update will be provided for Members at the meeting.
- 6.2 Lead Local Flood Authority (LLFA) advises that that the submitted Flood Risk Assessment (FRA) does not provide a suitable basis for the flood risks arising from the proposed development. Discussions are ongoing between the LLFA and the applicant and an update will be provided for Members at the meeting.

- 6.3 EHDC Housing Development Advisor comments that the Planning Statement states that affordable housing will be delivered in accordance with Local Plan policy requirements, subject to overall viability. However, the proposed affordable housing provision currently relates to proposed Starter Homes and lots of detail has been provided on Qualifying Persons with a Local Connection to the village/parish – this is not possible with Starter Homes. Starter Homes are a Government set scheme for which the consultation regulations (which have not been enacted) only restrict ownership through age and finances. There is a need for affordable rent and shared ownership properties in the District.
- 6.4 EHDC Landscape Advisor comments that the development fails to demonstrate how it conserves, enhances or strengthens the character and distinctive features of the local area. The development is not a natural infill and extends the village. It represents ribbon development; would remove the gap between the historic core of the village and newer housing to the east, and would change the character of Cottered as a compact village.

7.0 Parish Council Representations

7.1 Cottered and Throcking Parish Council has commented as follows:

- They understand the relevant policies contained within the NPPF; the East Herts Local Plan; the emerging District Plan and the emerging Buntingford Community Area Neighbourhood Plan (BCANP) and that they had been much involved in formulating the BCANP.
- They believe that these policies should be applied and that those in the emerging plans should now be given considerable weight.
- They accept the analysis of EHDC in pre-application consultation, and of the Campaign to Protect Rural England (CPRE) and they consider that the application is inconsistent with these policies.
- Nevertheless should EHDC be minded to grant permission it should not do so until it can be certain that the various community facilities on which the applicant's place great emphasis will be delivered in practice and promptly; these include affordable housing in continuing village control, allotments, extended and direct footpath access, road safety measures and an "honesty shop".
- EHDC are requested to consider whether delivery of these facilities can realistically be assured.

8.0 Summary of Other Representations

8.1 The application has been advertised by site and press notices and neighbour consultation.

8.2 12 responses have been received supporting the proposal. The following points are raised:

- Need to ensure viability and life of the village is maintained
- A good development for the village with a good layout with plenty of parking
- Provides housing for younger people
- Affordable housing, extra parking and other features will benefit the village
- Design and low density are sympathetic to the environment
- The site is clearly within the village so it is a good site for sensitive development
- It will support local businesses

8.3 The campaign to Protect Rural England (CPRE) object to the proposal on grounds summarised as:

- The site lies outside the village boundary as defined in the Local Plan, the emerging District Plan and emerging Neighbourhood Plan
- This is not an infill site and the proposal would constitute ribbon development along the A507
- The quality of the agricultural land has not been assessed in the application
- The site is not sustainable. There is no shop, post office, school or playgroup in the village and employment is limited. Public transport is limited with only one bus every three hours. As a consequence there would be heavy reliance on the private car
- The absence of a five year housing land supply will not necessarily be a conclusive reason to grant permission and other issues can be given due weight when considering the balance implicit in paragraph 14 of the NPPF. The balance is clearly against approval of the application

8.4 Herts and Middlesex Wildlife Trust object to the proposal on grounds summarised as:

- The species ecological survey was undertaken in sub-optimal winter conditions

- No compensation is offered for the loss of the greenfield site
- In accordance with the NPPF the ecological impacts should be clearly identified and minimised
- The BIC Environment Bank Calculator 2015 should be used to demonstrate net ecological loss or gain
- The area behind the development may be sufficient to compensate for the impact of the proposal with sufficient habitat enhancements but opportunities to incorporate biodiversity in and around developments such as bat and bird boxes will also be required

9.0 Planning History

9.1 There is no relevant planning history for this site.

10.0 Consideration of Relevant Issues

10.1 The main issues for consideration are:

- The principle of the development, including sustainability and housing land supply
- Design and layout
- Impact on the character and appearance of the area
- Access and highway matters
- Affordable housing
- Surface water drainage

The principle of the development

10.2 The application site lies just outside the built up area of Cottered, a Category 3 settlement in the Rural Area beyond the Green Belt wherein Policies GBC3 and OSV3 of the adopted Local Plan would not permit, as appropriate, residential development, other than rural exceptions affordable housing. In the emerging District Plan Cottered is designated as a Group 2 Village where limited infill housing development would be permitted under policy VILL 2. However, the site lies outside the defined village boundary in the emerging Plan and, by reason of its scale and siting, the development is not regarded as 'limited infill' development. The proposal therefore represents inappropriate development in the Rural Area beyond the Green Belt.

10.3 The Council has acknowledged its lack of a five year supply of housing and the need for housing in the District. Whilst the pre-submission District Plan has been published and sets out the up to date policy position in relation to the supply of housing land, it remains the case

that the Council currently remains unable to demonstrate a five year housing supply and, as confirmed by recent case law in *Suffolk Coastal DC v Hopkins Homes Ltd and Richborough Estates Partnership v Cheshire East BC* (May 2007), paragraph 14 of the NPPF is engaged. In these circumstances there is a presumption in favour of granting planning permission for sustainable development, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

- 10.4 It is necessary then to consider whether the development is sustainable; whether there are any significant or demonstrable adverse impacts associated with it, and whether there are specific policies in the Framework which indicate that development should be restricted.

Whether the proposal is sustainable development

- 10.5 Paragraph 7 of the NPPF provides that there are three dimensions to sustainable development: economic, social and environmental.

Economic considerations

- 10.6 With regard to the economic dimension of sustainable development, the proposal would provide some temporary employment opportunity during construction and other associated benefits in the building process. There may also be other economic benefits in respect of future occupiers of the development making use of local facilities such as the public house. This is therefore a matter which carries some weight in favour of the development. However, that weight is limited as there is little employment opportunity in the village and no shopping facilities.

Social considerations

- 10.7 The development would provide 15 dwellings and, in the absence of a five year supply of housing land, this must be regarded as a benefit of the proposal. However, the village has very limited facilities for residents. There is a village hall and a public house, but there are no shopping facilities, post office or school. There is a general lack of services to support housing development.
- 10.8 Public transport is limited to an infrequent bus service to distant larger settlements providing shopping and service facilities such as Buntingford (2.9 miles) and Stevenage (7.1 miles). However, in reality it is considered that residents would be largely reliant on the private car to access employment, services and shopping facilities.

- 10.9 The proposed provision of an 'honesty shop' within the scheme is noted but this is unlikely to provide for the day to day needs of residents who will need to travel by car to access most shopping facilities.
- 10.10 The application proposes that 40% of the development (6 units) will be 'Starter Homes' as its contribution to affordable housing. However, whilst the Government has provided the statutory framework for the delivery of starter homes within The Housing and Planning Act 2016 the subsequent Starter Homes Regulations have yet to be formally published. They are not therefore currently recognised by the Council as an appropriate form of affordable housing and the proposal does not provide any alternative means of providing that requirement.
- 10.11 These factors weigh against the proposed development and limit the positive weight that can be assigned to the provision of housing in this location.

Environmental considerations

- 10.12 The site is important to the character and appearance of the surrounding area, comprising an effective and attractive open rural space at the edge of the village. The proposed development will have an appreciable and detrimental impact on this open space.
- 10.13 The scale of the new development would be 2 storeys for the 2/3 and 3/4 bed family homes and 3 storeys for the larger 4/5 bed homes. It is considered that the proposed development and the 3 storey dwellings in particular would be out of keeping with and detrimental to the scale and character of surrounding development, resulting in a prominent and visually discordant development in the area.
- 10.14 The development would also be poorly connected to the rest of the village and would not assimilate well with the character of the site and surroundings.
- 10.15 In respect of sustainable drainage, the Lead Local Flood Risk Authority have advised that the Flood Risk Assessment (FRA) and supporting information submitted do not currently demonstrate the feasibility of the proposals for the sustainable drainage of surface water from the site and they maintain an objection to the proposal on that basis. The applicants have indicated that they are seeking to address the issues raised and an update in this respect will be provided for Members at the meeting.

- 10.16 These environmental issues are regarded as negative aspects of the proposed development.
- 10.17 Overall, the sustainability considerations set out above indicate that the site does not represent a sustainable location for residential development on the scale proposed.
- 10.18 In respect of other material planning considerations, the following are of relevance in the overall planning balance.

Design and layout

- 10.19 The application is submitted in outline but layout and scale are matters for consideration at this stage.
- 10.20 A single point of access is proposed off the A507 with a car park (12 spaces) located on the west side of the junction. A terrace of 6 starter homes is proposed on the west side of the site served by an access road aligned northwest to southeast. The remainder of the site would be occupied by detached houses in substantial plots served by a continuation of the access road running through the centre of the site aligned southwest to northeast.
- 10.21 The layout indicates the provision of two potential vehicular access points on the northwest boundary of the site to open land at the rear of the site indicated as being within the applicant's ownership.
- 10.22 The design approach to the layout provides a very regular development form reflective of the rectangular shape of the site. Whilst landscaping is not a matter for consideration at this stage the layout provides adequate public realm space. However, the access road culminates in two ends on the northeast boundary of the site and it would be preferable if these were omitted in order to provide landscaping at these points.
- 10.23 The layout proposes that rear gardens would face the A507 and it is considered that this design approach would result in a poor frontage to the existing street scene comprising rear garden fencing/boundary treatments turning their back on the rest of the village and with the potential to deteriorate in appearance over future years.
- 10.24 Having regard to policy ENV1 of the adopted Local Plan; DES 3 of the emerging District Plan and HD4 of the emerging Neighbourhood Plan, the proposal would fail to integrate well with the pattern, grain and character of its surroundings.

Impact on the character and appearance of the area

- 10.25 The site comprises an existing open area of rural character sited outside the village boundary adjoining the A507. The open area contributes to the character and distinctiveness of the locality and, as set out above, it is considered that the proposed development particularly at 3 storeys would intrude into the open rural area to the detriment of the character, appearance and distinctiveness of the locality.
- 10.26 The western boundary of the site forms the boundary of Cottered Conservation Area, but it is separated from it by a strong belt of existing trees situated within the extensive grounds of The Old Rectory. It is considered therefore that the proposed development would not significantly impact on the setting of the Conservation Area.

Highways, parking and connectivity

- 10.27 No precise details of the parking provision for the proposed development have been provided. However, from the submitted plans it appears to provide for 42 spaces and it is considered that sufficient space is available within the plots and the site to provide a satisfactory level of parking to adopted standards.
- 10.28 Further details in relation to the provision of a satisfactory parking layout could be required by planning condition should Members be minded to support the proposal.
- 10.29 In respect of connectivity, the proposal lacks a footway link to the remainder of the village and this would encourage trips being made by unsustainable forms of transport and this weighs against the proposal.

Neighbour impact

- 10.30 The nearest existing properties are those fronting the A507 opposite the site to the south, Magpie Farm to the north east, and The Old Rectory, standing in substantial grounds to the west. Given the distances to those properties, it is unlikely that the proposal would have any adverse impact on the living conditions of nearby occupiers. Any overlooking or loss of privacy can be considered at the reserved matters stage and can be suitably controlled by planning condition if Members wish to support the application.

10.31 The proposed development would alter the existing view of the residential properties opposite the application site but there is no right to a view within planning legislation and this matter cannot be given weight in the planning balance. It is the impact of the development on the open appearance and character of the area that is the material planning consideration in this case.

Surface water drainage

10.32 The Lead Local Flood Authority advises that that the submitted Flood Risk Assessment (FRA) does not provide a suitable basis for the flood risks arising from the proposed development. Further information has been submitted and discussions are ongoing between the applicant and the LLFA in this respect. An update will be provided for Members at the meeting.

Planning obligations

10.33 In addition to affordable housing, the development would impact on the provision of local infrastructure and contributions would be sought in accordance with the table set out at the end of this report.

10.34 Herts CC Planning Obligations Unit have also requested the following contributions:

- A contribution to the expansion of Millfield School to 2 forms of entry (£30,594.00)
- A contribution towards the refurbishment of Buntingford Youth Centre kitchen (£658.00)

10.35 The application does not make any commitment to these contributions and, given that the proposal is recommended for refusal, the commitment of the applicant has not been sought. However, the absence of contributions is a material consideration of significant weight and the absence of that mitigation is contrary to Policy IMP1 of the adopted Local Plan. This is therefore reflected in the third reason for refusal.

11.0 Conclusion

11.1 The proposal represents an inappropriate form of development which is contrary to the Council's Rural Area Policies. However, the NPPF sets out that where Local Plans are out of date in terms of housing supply, there is a presumption in favour of sustainable development unless the

impact of doing so would significantly and demonstrably outweigh the benefits of the proposal.

- 11.2 To make that judgement, all relevant material considerations have been assessed. In this case, whilst positive weight is assigned to the provision of 15 new dwellings and the contribution that makes to housing supply, it is not considered that the proposal represents a sustainable form of development, given the limited access to services, facilities, amenities and public transport. The provision of starter homes does not accord with current affordable housing policy and the proposal is unsustainable in terms of its economic, social and environmental impacts. It is therefore considered that the presumption in favour of sustainable development in the NPPF is not applicable in this case.
- 11.3 The application site is considered to represent a significant and important gap that makes a contribution to the rural character of the area beyond the built up area of the village. The overall quantum of development and its proposed layout and scale is considered to result in a significant and adverse impact on the character and appearance of the site and its surroundings. Furthermore the proposed development would be poorly connected to the remainder of the village, encouraging the use of unsustainable forms of transport. In the opinion of Officers, these are matters that weigh significantly against the development proposal.
- 11.4 The development is considered to be acceptable in terms of highway considerations and in respect of the relationship with neighbouring properties. These are matters which are considered to be neutral in the overall balance of considerations.
- 11.5 Having assessed all the relevant material considerations, therefore, the proposal is not considered to result in a sustainable form of development and would have a significant adverse impact on the character and appearance of the local area. Inadequate mitigation measures are put forward to alleviate the impact of the proposal on local infrastructure, services and amenities and the positive impacts of the development in terms of housing supply are considered to be outweighed by the unsustainable nature of the development. As a result, Officers consider that the development proposal cannot be supported and recommend that planning permission is refused for the reasons set out below:

Reasons for Refusal:

1. The proposal, by reason of its siting, scale and poor connectivity with the village, would result in an unsustainable form of development within the Rural Area beyond the Green Belt with poor access to services and facilities. As such, future residents would be heavily reliant on private motor vehicle transport for day to day residential amenities. The harm identified cannot adequately be mitigated and the proposal is thereby contrary to Policies SD2, GBC3, OSV3 and ENV1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.
2. The proposal would be detrimental to the pattern, grain, character and appearance of the surrounding area, contrary to Policy ENV1 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.
3. The proposal fails to make adequate financial provision for infrastructure improvements to support the proposed development, and does not provide appropriate affordable housing. The proposal would thereby be contrary to Policies IMP1, HSG3 and HSG4 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

Summary of Reasons for Decision

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. East Herts Council has considered, in a positive and proactive manner, whether planning objections to this application could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in the decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Framework.

KEY DATA

Residential development	
Units	15
Density	16.6 dph

The application is submitted in outline and the housing mix and parking requirements/provision are not assessed at this stage.

Parking	Spaces
Proposed	42
Local Plan Standard	33 - 40
Emerging District Plan Standard Accessibility Zone 4	37 - 42

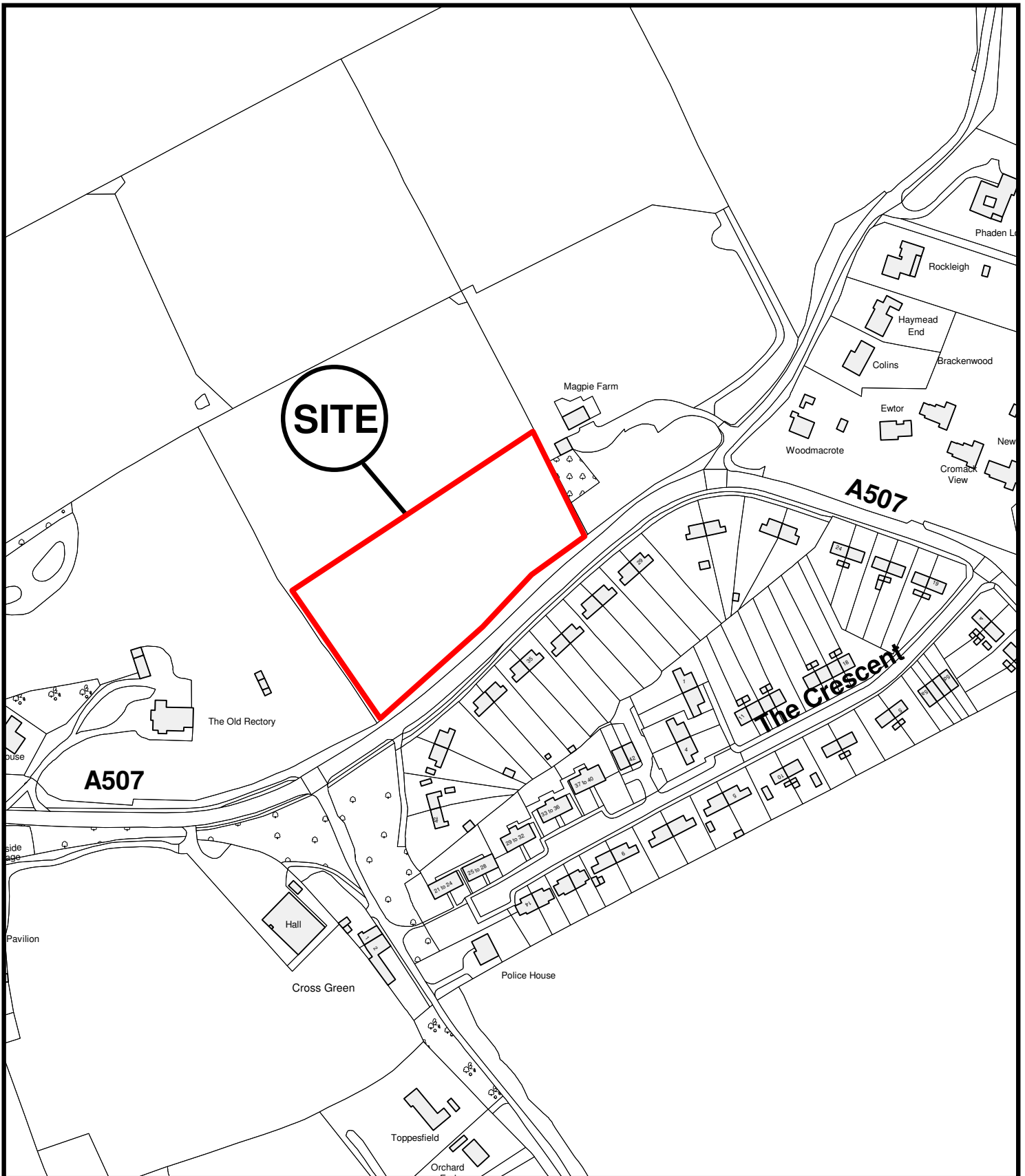
Legal Agreement – Financial Obligations

This table sets out the financial obligations that could potentially be sought from the proposed development in accordance with the East Herts Planning Obligations SPD 2008. However, in this case the application is submitted in outline and as the housing mix is unknown an assessment cannot be made. The application is recommended for refusal and in the circumstances financial obligations have not been sought.

Obligation	Amount sought by EH Planning obligations SPD	Amount recommended in this case	Reason for difference (if any)
Affordable Housing	40%	40% but Starter Homes not appropriate	
Parks and Public Gardens	Unknown – outline application	In accordance with SPD Table 4	
Outdoor Sports facilities	Unknown – outline application	In accordance with SPD Table 4	
Amenity Green Space	Unknown – outline application	In accordance with SPD Table 4	
Provision for children and young people	Unknown – outline application	In accordance with SPD Table 4	
Maintenance contribution –	Unknown – outline application		

Parks and public gardens			
Maintenance contribution – Outdoor Sports facilities	Unknown – outline application		
Maintenance contribution – Amenity Green Space	Unknown – outline application		
Maintenance contribution – Provision for children and young people	Unknown – outline application		
Community Centres and Village Halls	Unknown – outline application	In accordance with SPD Table 4	
Recycling facilities	Unknown – outline application	In accordance with SPD Table 4	

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East Herts Council
Wallfields
Pegs Lane
Hertford
SG13 8EQ
Tel: 01279 655261

Address: Land Adj To The Old Rectory, Baldock Road, Cottred, SG9 9QP

Reference: 3/17/0387/OUT

Scale: 1:2500

O.S Sheet: TL3229

Date of Print: 10 April 2017

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Agenda Item 7

EAST HERTFORDSHIRE DISTRICT COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE - 24 MAY 2017
ITEMS FOR REPORT AND NOTING

(A) APPEALS

Head of Planning and Building Control

Application Number 3/15/1738/CLE
Decision CL Existing Refuse
Level of Decision Delegated
Address Warrengate Farm Money Hole Lane Tewin Welwyn Hertfordshire AL6 0JD
Appellant Mr John Hesler
Proposal Use of the land to the east of the dwelling house as amenity space (garden space) ancillary to the use of the property as a private dwelling (Use Class C3).
Appeal Decision Dismissed

Application Number 3/16/1138/CLP
Decision CL Existing Refuse
Level of Decision Delegated
Address Little Croft Ermine Street Colliers End Ware Hertfordshire SG11 1EH
Appellant Mr And Mrs A And K Borgia
Proposal Proposed outbuilding
Appeal Decision Dismissed

Application Number 3/16/2133/HH
Decision Refused
Level of Decision Delegated
Address Robins Nest Farm Robins Nest Hill Little Berkhamsted Hertford SG13 8LL
Appellant Mr Terry Bambridge
Proposal Demolition of existing extension and construction of new wing to house.
Appeal Decision Dismissed

Application Number 3/16/2285/HH
Decision Refused
Level of Decision Delegated
Address Ye Olde Off Licence Baldock Road Cottered Buntingford Hertfordshire SG9 9PU
Appellant Mr And Mrs R And A Crofton
Proposal Proposed part single storey / part two storey side extension.
Appeal Decision Dismissed

Application Number 3/16/2367/HH
Decision Refused
Level of Decision Delegated
Address 5 East Riding Tewin Wood Tewin Welwyn Hertfordshire AL6 0PA
Appellant Mr C O'Farrell
Proposal Single storey front extension and alterations to ground floor fenestration.
Appeal Decision Dismissed

Application Number 3/16/2602/HH
Decision Refused
Level of Decision Delegated
Address 20 Bishops Road Tewin Wood Tewin Welwyn Hertfordshire AL6 0NW
Appellant Mr And Mrs Mercer
Proposal Remove existing bay and roof structure to the rear of the house, replaced with new bay windows and flat roof balcony area. Removal of existing conservatory, replaced by rear single story orangery with glass roof lantern. Existing front door, porch area and window removed and replaced with proposed front door and pitched roof porch area. Removal of existing ground floor windows to the left elevation and replaced by proposed window.
Appeal Decision Allowed with Conditions

Background Papers

Correspondence at Essential Reference Paper 'A'

Contact Officers

Kevin Steptoe, Head of Planning and Building Control – Extn: 1407.

Alison Young, Development Manager – Extn: 1553.

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Appeal Decision

Site visit made on 13 March 2017

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 24 April 2017

Appeal Ref: APP/J1915/X/16/3155140

Little Croft, Ermine Street, Colliers End, SG11 1EH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development ['LDC'].
 - The appeal is made by Mr and Mrs A & K Borgia against the decision of East Hertfordshire District Council.
 - The application ref 3/16/1138/CLE, dated 16 May 2016, was refused by notice dated 12 July 2016.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful development is sought is proposed outbuilding.
-

Decision

1. The appeal is dismissed.

Reasons

2. The main issue to consider is whether the Council's decision to refuse the LDC was well-founded.
 3. Little Croft is a detached four bedroom property situated in a spacious plot. The original dwelling-house's footprint is said to be somewhere in the region of 75 square metres; about 165 sq m taking account of permitted extensions. The LDC application relates to building operations comprising the erection of an outbuilding. It would have an 'L-shape' footprint. It would be 33 metres long by 7 m deep and 27 m x 7. It would be 3.8 m in overall height and eaves height would be 2.25 m; the structure would be set 2 m from any curtilage boundary. It would have a footprint of about 427 square metres. It would be located at the bottom of the garden. The outbuilding would be used as an office, a gymnasium, games room, home cinema and store rooms.
 4. Mr and Mrs Borgia seek a declaration that the proposed development would be lawful if instituted or begun at the time of the application. The case is a simple one, namely, that the development does not require express planning permission by virtue of permitted development ['PD'] rights set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 ['the GPDO']. Deemed planning permission is granted by virtue of Article 3(1). Classes of development described as PD are set out in Schedule 2 to the GPDO. Amongst other things, Class E grants a planning permission for the provision within the curtilage of the dwelling-house of any building required for a purpose incidental to the enjoyment of the dwelling-house as such, subject to conditions and limitations.
-

5. In order to comprise PD, all of the outbuilding must be within the curtilage and required for an incidental purpose; all of these words are important and constitute a basic criteria in Class E(a). Even if all of the physical parameters are met, failure to comply with basic criteria renders the development outside the scope of PD.
6. There is agreement that the outbuilding would fall within the curtilage and it would satisfy paragraphs E.1 to E.3. The Council argue that the size and scale of the proposed outbuilding cannot be reasonably considered as being incidental to the enjoyment of Little Croft. On behalf of Mr and Mrs Borgia, the planning agent vehemently disagrees and argues that the outbuilding would be used for incidental purposes. That the proposed size and scale would be required for the intended activities. The argument is that the Council has misdirected itself in applying the relevant tests when assessing the proposal against Class E.1(a). The submission is that once relevant principles of planning law are correctly applied to the facts and circumstances, a LDC should be granted. For all of reasons that follow I disagree with those submissions.
7. In Class E(a), what do the following words mean *...required for a purpose incidental to the enjoyment of the dwellinghouse as such*. The word 'incidental' describes something that occurs in connection with something else or is minor connoting subordination. Paragraph E.3 defines the keeping of domestic animals or pets for the domestic needs or personal enjoyment of the occupants of the dwellinghouse as an incidental purpose, but the GPDO does not actually define the meaning of Class E(a). It does not explain how Class E(a) must be applied in any particular circumstances. There is no statutory definition of the word incidental but case law provides authority for its interpretation¹.
8. A building that may be considered incidental to the enjoyment of a substantial dwelling with many occupants and large grounds may not be incidental if situated in the garden of a small cottage with a single occupant. It is therefore reasonable and necessary to consider the building in the particular context within which it is or would be situated. Size alone is not necessarily a determining factor and a wide range of outbuildings for different purposes may be permitted depending on the particular circumstances. In *Emin* the Court confirmed that regard should be had to the use to which it was proposed to put a building and to consider the nature and scale of that use in the context of whether it was a purpose incidental to the enjoyment of the dwelling-house. Physical size of a building in comparison to the dwelling-house might be an important consideration, but was not by itself conclusive. It was necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and answer the question as to whether the building is genuinely and reasonably required or necessary in order to accommodate the use or activity and thus achieve that purpose. The word *required* should be interpreted to mean reasonably required. The words *as such* are also important. It is therefore reasonable to examine the justification as to the proposed building's size in relation to the intended purpose even where the physical tolerance is satisfied.
9. The test must retain an element of objective reasonableness and should not be based on the unrestrained whim of an occupier. But a hard objective test should not be imposed to frustrate the reasonable aspirations of an owner or occupier so long as they are sensibly related to the enjoyment of the dwelling. These judgments and the findings therein serve to illustrate that with each case it is a matter of fact and degree based on particular circumstances.

¹ See *Emin v SSE* [1989] JPL 909, *Pêche d'Or Investments v SSE* [1996] JPL 311, *Rambridge v SSE & East Herts DC* QBD CO-593-96) and *Wallington v SSE & Montgomeryshire DC* [1990] JPL 112; [1991] JPL 942.

10. The argument is that the size and scale of any curtilage building is not defined in Class E. While there is no absolute limitation in percentage terms as to how small or large a building can be compared to the host dwelling, it must be demonstrated that what is proposed is genuinely and reasonably required for the intended purpose(s). Otherwise the GPDO would be open to abuse by proposals involving any size building meeting physical thresholds and being constructed for one stated purpose but then being used for another purpose.
11. In support of this LDC proposal the agent cites three other appeal decisions. He refers to these as examples where similar sized outbuildings have been allowed on the basis that they met Class E(a) criteria. The logical argument is that an LDC should be granted for this proposal. Inspector decisions are not Case Law nevertheless the findings and approach to a particular matter may be material. There is a need for consistency in the planning process but I am not bound to reach the same conclusions provided there are sound planning reasons for departing from their approach. Moreover, in the context of an LDC appeal, I must examine the factual evidence in a particular case about the history and planning status of the building or land in question, and the interpretation of any planning law or judicial authority. Although comparisons are made it should be borne in mind that I must evaluate the evidence presented in relation this particular proposal and site.
12. The following LDC decisions are cited as precedents. The Old Pump House, Marsh Lane Stanstead Abbots, allowed 24 August 2009 relates to an outbuilding incorporating a double garage, garden room and games room (162 sq m). The decision at 73 Downfield Road Hertford Heath, allowed 17 September 2010, relates to an outbuilding incorporating garaging, car port and office space (136 sq m). The outbuilding at 15 Channoaks Lane Gilston, allowed 29 March 2016, would be a new triple garage, gym and games room². I have reviewed all of these decisions but the proposed development can be distinguished on its particular facts. None of these permitted outbuildings included a home cinema whereas the proposed outbuilding would have an eight-seater home entertainment room (about 7 m wide and 7 m deep); that is a material difference.
13. Turning to the proposed outbuilding, the contention is that the cinema room would be for leisure purposes. However, exact detail of the main dwelling's permanent occupants who are likely to use the facility has not been provided. Vague and incomplete evidence has been submitted to show that the existing dwelling cannot provide this type of facility for its occupants. I am not satisfied that a home cinema of this size is genuinely and reasonably required.
14. The proposed quadruple garage would include two 5 m wide entrances and it would be 7 m deep. There is an existing large garage adjacent to Little Croft. I give limited weight to the assertion that Mr and Mrs Borgia have many cars, as precise detail has not been provided. For example, it is unclear how many motor vehicles they would actually keep inside the quadruple garage. Given the absence of specific detail showing who actually is a permanent occupant of the dwelling-house, it is unclear whether other residents require parking space. In addition to that, there is no plausible explanation as to why such a large garage is required because there is an existing garage. I find that the size and scale of the proposed garage is not reasonably required.

² These appeal decisions against refusal of LDC made by East Hertfordshire DC have the same prefix digits at this appeal ending with 2088016, 2122330 and 3134681.

15. Comparison between the proposed garage and those permitted at Downfield Road and The Old Pump House does not really stand up to scrutiny. The former had a garage for five motor vehicles but exact circumstances have not been submitted. The latter included the demolition of an existing garage and its replacement with a double garage within the LDC application. This is not the case here.
16. The agent says that the outbuildings permitted at Channoeks Lane and The Old Pump House contained store rooms for garden equipment. Decision-makers opined that the size of that space was required to maintain the garden, store tools, garden furniture and other domestic accoutrements. Be that as it may, the proposed outbuilding would have a separate tractor store with a 5 m wide entrance. I acknowledge the domestic curtilage to Little Croft is large, but the nature and type of ground maintenance plant and machinery likely to be kept within the tractor store is unclear. This is because specific evidence has not been provided. In addition, there is proposed a separate store room, which would be positioned between the garage and cinema room, but it is unclear as to why this is required. There is insufficient evidence to show that the existing dwelling has no space for storage of domestic paraphernalia.
17. The size of the leisure facility at The Old Pump House and Channoeks Lane was much bigger. The gymnasium would be around 20 sq m yet the one permitted at Channoeks Lane was 40 sq m. I have seen nothing to show the nature and scale of gym equipment that would be installed in the outbuilding at Little Croft, however. The games room is shown to accommodate a table-tennis and pool table. It is contended that both require space around them for players to either play the ball or to line up their cue, but the agent admits that the games room at Little Croft is larger in floor area than that at Channoeks Lane. There is no explanation why this facility cannot be provided in the main dwelling. There is an added complexity. The submitted plans show a changing room, two separate toilets, a shower room and a room labelled 'C'. There is no explanation why there is a need for separate games room, gymnasium and changing rooms/facilities to serve the occupants of the main dwelling.
18. Mr and Mrs Borgia own and operate security alarm business. The home office, which would be about 9.8 m wide and 7 m deep, is intended for use in connection with the administration of that business. The Downfield Road outbuilding included an office that was around 10 sq m smaller than the one proposed at Little Croft and the inference drawn is that must be acceptable. However, a plausible explanation as to why such a large space is necessary has not been advanced. The amount and type of office equipment that would be installed. Given the number of people likely to utilise the space, it is unclear why such a large home office is required. Additionally, there is nothing showing why space in the main dwelling cannot be utilised as a home office. I do not consider that the size of the home office is modest and commensurate with an office use incidental to the residential use of the main building.
19. An argument may well be advanced that larger facilities of the type proposed at Little Croft are genuinely required on the basis that people who do not normally reside at the property would visit for the purpose of using those facilities. For instance, extended family members or friends. The rationale in that respect fails to appreciate the meaning and application of Class E(a), because it is based on the need to accommodate those who reside elsewhere and not necessarily the requirements of the occupants of the dwelling-house itself.

20. Drawing all of the above threads together, I find that ambiguous, weak and incomplete evidence has been submitted to substantiate the claim that an outbuilding of this size and scale is genuinely and reasonably required for the intended uses. My assessment of the information presented indicates that, in all likelihood, the space required for purpose of garaging motor vehicles, home office, gymnasium, home cinema, store and tractor store would be excessive. As a matter of fact and degree, a building of this size would not be reasonably required for its intended purposes. It would be on a scale that would not be incidental to the enjoyment of the dwelling-house as such. On the particular facts and circumstances of this case, the proposed outbuilding would not meet the necessary requirement of Class E(a).
21. The case for Mr and Mrs Borgia has been forcefully put and centres upon previous appeal decisions within the district. My analysis of the particular facts and principles referred to above is broadly consistent with the cited appeal decisions. On the particular circumstances of this case, however, I have come to a different decision.
22. For the reasons given above, having regard to all other matters, I conclude that the Council's refusal to grant a LDC in respect of proposed outbuilding was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A U Ghafoor

Inspector



Appeal Decision

Site visit made on 13 March 2017

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 24 April 2017

Appeal Ref: APP/J1915/X/16/3153082

Warren Gate Farm, Money Hole Lane, Tewin, Hertfordshire AL6 0JD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 [‘the Act’] against a refusal to grant a certificate of lawful use or development [‘LDC’].
 - The appeal is made by Mr John Hesler against the decision of East Hertfordshire District Council.
 - The application ref 3/15/1738/CLE, dated 21 August 2015, was refused by notice dated 13 October 2016.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended¹.
 - The use for which a certificate of lawful use or development is sought is described in the application form as follows: *Use of land to the east of the existing dwellinghouse amenity land (garden space) ancillary to the use of the property as a private dwelling (Use Class C3) for the purpose of the enjoyment of the occupiers of the dwelling house since 1935.*
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. The applicant must precisely describe what is being applied for but the description of the existing lawful use given in the application form is not a planning land-use activity. The correct description of what use is being sought as lawful is the use of the application land for residential purposes incidental to the residential use of the dwelling-house. As convenient shorthand, I shall refer to this as the *incidental residential use*. All of the written representations refer to this residential use, and there is no prejudice caused to any party if I proceed on this basis, which I will do.

Inspector’s reasons

1. The main issue is whether the Council’s decision to refuse the LDC was well-founded. In this appeal, the onus of proof is firmly upon Mr Hesler whose evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make his version of events less than probable, there is no good reason to refuse the application, provided his evidence alone is sufficiently precise and unambiguous to justify the grant of a LDC, on the balance of probability².

¹ S. 191(1)(a) of the Act: if any person wishes to ascertain whether any existing use of buildings or other land is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

² See *Gabbittas v SSE & Newham LBC* [1985] JPL 630. The authority of *Ravensdale Limited v Secretary of State for Communities and Local Government* [2016] EWHC 2374 (Admin) reviews the relevant case law regarding the onus of proof upon an appellant in s. 174(2)(d) appeal, which is similar to this type of case. Guidance is also available in the

2. Mr Hesler's submission is a simple one, namely, incidental residential use of the application land is lawful and falls within the scope of s. 191(2) and 171B of the Act³. According to *Richard O'Flynn*⁴, I must examine whether there was a lawful existing use of the application land for incidental residential use. This matter is approached by considering whether a use of the land for residential purposes had commenced on or before 21 August 2005 (ten years before the date of the LDC application), which is the relevant date, and had continued since that date in which case it would have become immune from enforcement proceedings, due to the passage of time. A further consideration is whether, at the date of the LDC application (21 August 2015), a use of the land for residential purposes was lawful since it did not constitute development by virtue of the dwelling-house exception in s. 55(2)(d) of the Act⁵.
3. The application land excludes the dwelling-house and land immediately around and about the building. It is mainly located to the dwelling's east and extends in an easterly direction towards woodland. It roughly forms a rectangular shape; the boundary to the east, north and south is defined by close-boarded timber fence. The boarder between the dwelling-house and application land has an irregular shape and is defined by vegetation. The application land and dwelling-house are not defined by a barrier and the land appears within the same field of view as the building and its immediate environs from different locations within the property. The evidence is that it was primarily used for agriculture, which is broadly consistent with its mainly undeveloped appearance and layout. Ms Cook and Mr and Mrs Barton suggest that it was part of wider agricultural land and that its use changed to orchard, grassland or vegetable patch, but photographic evidence suggests that it had been unmanaged and overgrown around September 2015.
4. While there is no subdividing barrier between the dwelling-house and application land, the latter is separate and generally unmanaged and appears open and empty in comparison to the former. It has a different character and appears much less like what one would label as garden. Indeed, at the time of my site visit, the land appeared uncultivated and the type and texture of grass is different. The application land has a different function to the rest of Mr Hesler's land, despite being in the same ownership. In my planning judgement there is a residential and agricultural use of land and both are not ancillary to a primary use. In applying *Burdle*⁶ to the facts of this case, I consider that all of the land under one occupation constitutes the planning unit as it forms one undivided unit of occupation but it is in a mixed residential and agricultural use.
5. A material change of use requires a change in the definable character of the use of the land. The evidence should show that the incidental residential use of the application land started on or before the relevant date. The existence of an overgrown footpath or remnants of a pond and summerhouse do not affirm a residential use. None of these show when the actual change from agriculture to incidental residential use occurred.

Department's Planning Practice Guidance paragraph 001 reference ID: 17c-001-20140306 to paragraph: 014 Reference ID: 17c-014-20140306.

³ S. 191(2) of the Act: Uses and operations are lawful at any time if – (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. S. 171B sets out time limits.

⁴ See *Richard O'Flynn v SSCLG and Warwick District Council* [2016] EWHC 2894 (Admin).

⁵ The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land; (d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such.

⁶ See *Burdle and Williams v SSE and New Forest DC* [1972] 1 WLR 1207.

6. Mr Hesler has no direct knowledge of his own to show when the residential use commenced. He provides nothing firm to substantiate the claim that the material change of use occurred on or before the relevant date, or that the application land has been in continuous incidental residential use for a period of 10 years. Instead, he relies on anecdotal evidence to support the claim that the residential use started in 1935. However, the ownership certificate submitted with an application for planning permission in 1940 does nothing more than certify that the land does not form part of an agricultural holding. The historic survey plan and valuation report does not show when the change of use occurred or the nature of its residential use. In a similar vein, Ms Cook moved into South Barn in April 2003 and cannot provide detail of what happened in 1935. There is nothing from Mr and Mrs Barton to substantiate the claim that incidental residential use started at that time. I consider that none of this information shows the nature or scale of any residential use from 1935 onwards.
7. Ms Cook's evidence is that her property was sold by John Barton when he retired from farming. He also sold the majority of the land attached to the farm in circa 2002/2003, but retained those fields close to the farmhouse as grassland. In line with the lack of active farming, the land directly attached to the east of the farmhouse was used as garden, containing a vegetable patch, flowers and a hot tub in a summerhouse with the majority as grass, and there was no commercial use of the land. Mr and Mrs Barton state that the land has always been a garden but also an orchard. However, there is no plausible explanation as to the extent of any incidental residential use. The evidence presented is too weak to show residential use from 2002/2003 onwards, because it does not sufficiently substantiate an incidental residential use from that time onwards.
8. I find the quantum of evidence too ambiguous and unspecific as it does not adequately show the physical state of the application land on or before the relevant date, nor does it satisfactorily explain the type and level of residential activity for a continuous 10-year period. It does not clearly show the extent of domestic activity. There is no exact detail as to the frequency of use or how long the land had been used for residential purposes. For all of the reasons given in the preceding paragraphs, I am not persuaded that the definable character of the use of the application land changed from agriculture to incidental residential use on or before the relevant date. On the balance of probabilities, I find that there was no lawful existing use of the application land for incidental residential use at the date of the application.
9. The mere fact that the application land adjoins areas around and about the dwelling-house and is in the same ownership does not necessarily or automatically mean that it is curtilage land. In *Collins*⁷ it was held that an area of rough grass that lay beyond well-maintained lawns near a dwelling-house was not part of the curtilage. In *James* the Court held that a tennis court some 100 metres from the house was not within its curtilage; the latter defines an area of land in relation to a building and not a use of land. There is no definition of the word 'curtilage' in the Act, but it is an area of land in relation to a building and falls to be assessed as a matter of fact and degree. The Oxford English Dictionary refers to the term as a small court, yard, garth, or piece of ground attached to a dwelling-house, and forming one enclosure with it and the area attached to and containing a dwelling-house and its outbuildings.
10. Curtilage is relevant to s. 55 (2) (d) of the Act and the Town and Country Planning (General Permitted Development) (England) Order 2015 ['the GPDO']. For example,

⁷ See *Collins v Secretary of State and Epping Forest DC* [1989] EGCS 15 and *James v Secretary of State* [1991] JPL 550.

Class P, PA and paragraph X of Part 3 to Schedule 2 of the GPDO. It defines the term as a piece of land, whether enclosed or unenclosed, immediately beside or around the building or closely associated with and serving the purposes of that building or an area of land immediately beside or around the building. The relevant case law was reviewed in *McAlpine*. The Court defined the following characteristics of curtilage: it is confined to a small area about a building, intimate association with the land which is undoubtedly within the curtilage necessary to make the area under consideration part and parcel of that undoubted curtilage land, and that physical enclosure of the land is unnecessary. The Court of Appeal found in *Skerritts* that a curtilage to a building is not always small. A curtilage must serve the purpose of a building in some necessary or useful manner and considerations such as the physical layout of the land, past and present ownership and use or functions are also relevant⁸.

11. The area immediately around and about the building is visually defined by outbuildings, laid to lawn and patio. These areas appear private and have a domestic appearance because of their intimate layout, close association and relationship with the dwelling-house. Due to the arrangement of outdoor furniture, access to a patio area and display of domestic paraphernalia, the area immediately around and about the building are connected to the house; they possess a sense of domesticity. In comparison to the size of the property, these are modest and serve a reasonably useful function as curtilage to the building.
12. In contrast, the application land appears set apart and disconnect from the dwelling-house. Visually, all of this area appears physically separate from the land closest to the building given its location and positioning. Despite remnants of a footpath and pond, the texture and type of grass combined with the area's layout is different to areas around and about the dwelling. The application land does not appear or seem to have a close association with the dwelling. It does not have an intimate relationship with the land which is undoubtedly within the curtilage. Additionally, the evidence about the historic agricultural use shows that the area was distinctly disconnect and separate from the dwelling-house. As a matter of fact and degree, and on the circumstances of this particular case, I find that the application land cannot be regarded as part of the curtilage to the dwelling (Warrengate Farm). At the date of the LDC application - 21 August 2015 - the use of the application land for residential purposes was not exempt by operation of law.
13. Even if an alternative view prevails and the land is found to be within the curtilage to the building, the evidence presented does not sufficiently show when and how this vast area was appropriated as curtilage to the dwelling-house. The type and nature of its incidental residential use is unclear. The information lacks detail as to the level, extent and scale of any domestic activity taking place on the application land, when and for how long is unclear. There is meagre information showing it had been used for ancillary or incidental purposes in connection with the residential use of the dwelling-house. There is simply nothing of substance at all.

⁸ See *Sinclair-Lockhart's Trustees v Central Land Board* [1950] 1 P&CR 195, *Methuen-Campbell v Walters* [1978] P&CR 693, *Att. Gen Ex Rel. Stuccliffe v Calderdale BC* [1982] P&CR 399, *Debenhams plc v Westminster City Council* [1987] 1 All ER 51 (mainly to do with rates, hereditament, and listed buildings), *Dyer v Dorset CC* [1988] 3 WLR 213, *McAlpine v SSE* [1995] JPL 843 (*McAlpine*) and *SSETR and Another v Skerritts of Nottingham Ltd* [2000] EWCA Civ 60 (*Skerritts*) (the Court of Appeal), *Denis Lowe v FSS and Tendring DC* [2003] EWHC 537 (Admin), *Sumption and Sumption v Greenwich LBC and Rokos* [2007] EWHC 2776, and *R (ona of Gore) v SSCLG and Dartmoor National Park Authority* [2008] EWHC 3278 (Admin).

14. Therefore, on the available evidence, I am not able to draw any firm conclusion that, on 21 August 2015, the use of the application land fell within the scope of s. 55(2)(d) of the Act, and was exempt from the meaning of development in s. 55(1).

Conclusion

15. For all of the reasons given above and on the available evidence, I am not persuaded that the LDC sought should be granted, because the onus of proof has not been discharged. This does not necessarily preclude the submission of a further application if better evidence is subsequently available. Thus far, I am afraid, insufficient evidence has been presented to discharge the burden of proof.
16. I therefore conclude that the Council's refusal to grant a LDC in respect of the claimed residential use of the application land was well-founded and that the appeal should fail.
17. Accordingly, I will exercise the powers transferred to me in section 195(3) of the 1990 Act.

A U Ghafoor

Inspector

Appeal Decision

Site visit made on 3 April 2017

by **Chris Couper BA (Hons) Dip TP MRTPI**

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

Decision date: 26 April 2017

Appeal Ref: APP/J1915/D/17/3168362

**Robins Nest Farm, Robins Nest Hill, Little Berkhamstead, Hertfordshire
SG13 8LL**

- 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 Terry Bambridge against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2133/HH, dated 22 September 2016, was refused by notice dated 18 November 2016.
 - The development proposed is described as demolition of existing extension and construction of new wing to house as per previous application agreed 3/16/0157/HH and amendment to LPA 3/15/0485/HH with change to roof design from pitched to gambrel to accommodate full disability access to infirmary/loft room from lift, through access and disabled access to wc/shower room. Materials change from render in orange on timber of 1st/2nd floor gable rear to matching materials brick as per ground floor. Window positions changed to accommodate as built structure and to utilise and recycle previously used windows.
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Decision

1. The appeal is dismissed.

Procedural matter

2. Whilst I would ordinarily identify the main issues in an appeal, given the Council's contention that the development that has been carried out is of a materially different shape and design to that depicted on the application drawings, I have considered first that matter in my reasoning below.

Reasons

3. Robins Nest Farm is set back from the road, on a large plot in the Green Belt. Planning permission was previously granted for an extension ('the approved extension'), as set out in the above description. However, for the reasons given in the grounds of appeal, and to afford the applicant suitable disability access by lift to his infirmary room, the development was not carried out in accordance with the approved drawings.
4. Consequently, revised drawings were prepared and the application the subject of this appeal was submitted. However, in its officer delegated report ('report') the Council states that the development as carried out is materially different from those submitted plans.

5. On my site visit I observed that there are significant differences between the development as carried out and the development as depicted on the submitted drawings. In particular, the form of the roof is markedly different with the lower section of the gambrel roof appearing to have a steeper pitch and the upper section a shallower pitch than depicted on the drawings, thus also giving the development a greater second floor bulk. Furthermore, the top of the north-facing first floor opening appears to be higher relative to the adjacent dormer window than show on drawing no. A/A200/PR/001 Rev D. Drawing no. 2/A600/CN/020 Rev A showing sections through the roof is also inconsistent with that drawing. There are also other discrepancies between the style and position of the fenestration as built and as depicted, such as the west facing dormer windows on drawing no. A/A200/PR/002 Rev E.
6. In its report the Council states that it based its decision on the submitted drawings rather than the works that have taken place. However, the appellant makes no reference to those discrepancies, and whilst he apparently wishes to retain the development as built, his statement makes comparisons between the approved extension and the extension as set out on the inaccurate drawings.
7. I note that Little Berkhamsted Parish Council's representation was one of 'no comment'. However, given the significant differences between the form and appearance of the development as built, and the development as set out on the drawings, I cannot be certain which scheme third party representations were based on, or whether other parties who did not comment based on the submitted drawings might otherwise have done so. The assessments by the two main parties are also based on different schemes.
8. With regard to the Council's decision, the main issue is the scheme's design and its impact on the character and appearance of the host property, although its impact in relation to the site's location in the Green Belt would also need to be considered, as would the needs of the appellant. However, given the significant discrepancies that I have noted, I am unable to properly assess those matters; and I cannot be certain that if I did base my decision on either the development as built or the development as set out on the drawings, that all parties' interests would have been properly considered.
9. Consequently, the appeal is dismissed.

Chris Couper

INSPECTOR

Appeal Decision

Site visit made on 11 April 2017

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 05 May 2017

Appeal Ref: APP/J1915/D/17/3168777

Ye Olde Off Licence, Baldock Road, Cottered, Hertfordshire, SG9 9PU.

- 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 and Mrs R and A Crofton against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2285/HH, dated 6 October 2016, was refused by notice dated 1 December 2016.
 - The development proposed is a two-storey side extension.
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Decision

1. The appeal dismissed.

Main Issues

2. I consider the main issues to be the effect of the proposed development on the architectural integrity of the host property and therefore whether it would serve to preserve or enhance the character or appearance of the Cottered Conservation Area.

Reasons

3. The property the subject of this appeal, Ye Olde Off Licence, is a two-storey dwelling. It is located in a built up residential part of Cottered, within the Cottered Conservation Area. It also falls to be considered as lying in the Rural Area Beyond the Green Belt. The area surrounding the appeal site is characterised by a rich mix of buildings the design of which has drawn on a variety of architectural styles, forms, materials and details.
4. Following the removal of an earlier single storey catslide to the rear, the original dwelling has been previously extended by the addition of a part single/part two-storey rear extension. This extension, to the rear of the dwelling, maintained the gable roof form of the original property.
5. The appellants propose a further extension comprising a small ground floor addition, the removal of a catslide roof over part of the existing kitchen and the construction of a new first floor addition along the north east elevation of the later rear addition.
6. Policy GBC3 of the East Herts Local Plan Second Review April 2007 (LP) indicates that limited extensions or alterations to existing dwellings in accordance with LP Policy ENV5 within Rural Areas Beyond the Green Belt would

be acceptable. LP Policy ENV5 states that an extension to a dwelling or erection of outbuildings will additionally be expected to be of a scale and size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area.

7. LP Policy ENV1 requires extensions, along with other things, to be of a high standard of design and layout and to reflect local distinctiveness. LP Policy ENV6 goes on, amongst other things, to require that extensions should be to a design and choice of materials of construction, either matching or complementary to those of the original building and its setting. LP Policy BHS considers the design of extensions and alterations to unlisted buildings in conservation areas. It has particular regard to the need for such extensions to be sympathetic in terms of scale, height, proportion, form, materials and siting in relation to the building itself, adjacent buildings and the general character and appearance of the area.
8. The proposed extension would be set in from the rear wall of the earlier addition and from the gable flank wall of the original dwelling. Due to the double pitch form of the roof, the ridgeline of the extension would sit below that of the main ridge of the original dwelling and the later rear extension. In terms of its three-dimensional form therefore, I consider the extension would be subservient to the current dwelling as previously extended.
9. Nevertheless, whether the increase in floor area is 81% as asserted by the Council or 76% as calculated by the appellants, it is clear that when considered cumulatively the previous and proposed additions, in terms of the building's overall massing, would disproportionately alter the size of the original dwelling. Consequently, although due to its location the proposal would not intrude into the openness or rural qualities of the surrounding area, I consider that the development would not accord with LP Policy ENV5.
10. In terms of its form I have found that the proposed extension would be visually subservient. Further, in relation to its height, proportions, choice of materials and siting the extension would not be unacceptable. However, I consider that the introduction of new hipped roofs here would result in a jarring alien feature that would detract from the architectural integrity of the host building. This would be the case despite the other local examples of this roof form that have been drawn to my attention. In turn, and albeit that there would be limited views of the north east elevation of the property from the public domain, I consider that the extension as designed would thereby cause harm to the character and appearance of the conservation area.
11. The National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of designated heritage assets, which include conservation areas. It draws a distinction between substantial harm and less than substantial harm to such an asset. For the latter, which applies here, the test is that the harm should be weighed against public benefits, including securing the optimum viable use.
12. The proposed development, in terms of its construction, would provide some limited economic benefit. However, given the harm that has been identified I conclude that the public benefits would not outweigh that harm, or the conflict

that the development would have with the objectives of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Framework and LP Policies GBC3, ENV1, ENV5, ENV6 and BH5 as they relate to the quality of development and the preservation or enhancement of the character or appearance of conservation areas.

13. In reaching my conclusion I have been mindful of the proposed change in status of Cottered to a Group 2 village and the change in emphasis of emerging Policy GBR2 at criterion (d) away from the comparison of an extension to the size of the original dwelling towards its impact on the character and appearance of the area. However, the emerging local plan has yet to complete its examination process and I can therefore only give this limited weight in my deliberations. Nevertheless, in any case I have found that in this instance the extension would cause harm to the wider area.

Conclusions

14. For the reasons given above and having regard to all other matters raised, including the support of three direct neighbours for the proposal and the lack of objection from consultees (including the Council's historic conservation advisor) or third parties, I conclude that the appeal should be dismissed.

Philip Willmer

INSPECTOR

Appeal Decision

Site visit made on 11 April 2017

by **Philip Willmer BSc Dip Arch RIBA**

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

Decision date: 08 May 2017

Appeal Ref: APP/J1915/D/17/3169260

5 East Riding, Tewin Wood, Tewin, Hertfordshire, AL6 0AP.

- 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 C. O'Farrell against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2367/MH, dated 20 October 2016, was refused by notice dated 22 December 2016.
 - The development proposed is a single storey front extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this case are:
 - a) whether the proposal constitutes inappropriate development in the Green Belt;
 - b) the effect of the proposal on the character and appearance of the host property; and
 - c) its effect on existing protected trees.

Reasons

3. The property the subject of this appeal, 5 East Riding, is a large two-storey dwelling located in a substantial mature corner garden plot. Tewin Wood, which is characterised by similar large dwellings in large plots, is situated within the Metropolitan Green Belt.
4. Number 5 is set back in the plot from the road behind dense hedge. To the eastern boundary there is a large oak tree which is the subject of Tree Preservation Order 410 (TPO).
5. The appellant proposes a single storey contemporary styled and detailed addition to the eastern façade of the house that would be in contrast to the more vernacular design of the existing dwelling. The proposed extension would be single storey with large areas of glazing under a flat roof.

Whether the proposal constitutes inappropriate development in the Green Belt

6. Policy GBC1 of the East Herts Local Plan Second Review April 2007 (LP) allows for limited extensions to dwellings within the Green Belt. LP Policy ENV5 requires extensions, cumulatively with those previously added, to not disproportionately alter the size of the original dwelling house. These policies are broadly consistent with the National Planning Policy Framework (the Framework), which advises at paragraph 89 that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, one of the six exceptions given to this is 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.
7. From the Council's evidence, and this is not contradicted by the appellant, I understand that the original house had a floor area of approximately 248.9 square metres, that it has previously been extended (planning permissions 3/87/0587/FP, 3/99/0189/FP, 3/99/0965/FP and 3/03/1651/FP) and that these earlier additions cumulatively represent an increase in floor area of some 152 square metres. Accordingly the Council states that the total increase in floor area to date has been some 61%. I also note that the proposed addition would have a floor area of 48 square metres or so. When added to the earlier approved extensions this would amount to an increase in floor area of about 200 square metres or so. According to the Council's evidence, therefore, if this extension were to be built the cumulative overall increase in floor area, as a percentage of the size of the original dwelling house, would I understand be about 80%.
8. However, the appellant has referred me to planning permission Ref: 3/03/1651/FP. I understand this earlier development included for the removal of an existing detached double garage in the location of the extension the subject of this appeal. From the drawing provided the garage was located close to the existing house such that it could, in my opinion, be considered a normal domestic adjunct to the house.
9. The appellant states, and the Council has upon enquiry not raised an objection to his assertion, that if the removal of the garage were taken into account when calculating the proposed cumulative increase in floor area over the size of the original house it would only be some 61% and not 80% as the Council suggested. On this basis, in terms of the cumulative increase in floor area alone, I consider that the proposed extension would not disproportionately alter the size of the original dwelling house.
10. However, the Framework refers to 'size', consequently in addition to floorspace it is the overall size increase in terms of volume and external dimensions that also need to be taken into account. Having regard to the mass and form of the original dwelling house and while taking into account the previous removal of the former double garage, even assuming that it only had a flat roof, I do not consider on balance that due to its size and form that the proposed addition, when considered with the earlier extensions, would cumulatively result in disproportionate additions over and above the size of the original building.
11. I therefore conclude, in respect of the first main issue, that the proposal is not inappropriate development.

Character and appearance

12. The proposed single storey flat roof extension has been designed in a contemporary style that would contrast with the traditional, more vernacular design of the host property.
13. In my judgement, given the proposed addition's single storey form, height, fenestration pattern and contrasting modern design, I believe that it would not significantly add to the overall visual mass of the main house. Indeed it would appear as a subservient addition that would, in my judgement, add to the overall visual interest of the host property.
14. I therefore conclude in respect of the second main issue that the proposed extension would accord with the objectives of the Framework and LP Policies ENV5 and ENV6 as they, along with other things, relate to the quality of development and the need for extensions to compliment the host property.

Effect on existing protected trees of amenity value

15. From both the application drawings and my observations on site it is clear that the proposed extension would be built within the root protection area of a large oak tree protected by the TPO. The appellant has not submitted an arboricultural impact assessment so that the potential impact on the protected tree can be assessed.
16. I appreciate that it is likely to be in the interests of the appellant to maintain the verdant nature of the appeal site and therefore not to lose any trees. While the Council did not ask for an arboricultural implications assessment at the application stage, given the proximity of the tree to the extension, it was nevertheless, in my opinion, reasonable to assume that one would have been necessary for the proper consideration of the application and subsequently this appeal.
17. I note that when the earlier application (Ref: 3/03/1651/FP) was considered that the Council addressed the potential impact on the trees by way of a condition requiring the retention and protection of the existing trees. However, based on the drawings before me, it is clear that those trees were in all probability smaller than the oak tree here and sited further from the extension proposed at that time.
18. I consider that construction of the extension would be likely, in terms of ground works (foundations, floor construction, drains, services etc.), to impact on the roots of the TPO tree. Further, given the proximity of the tree and its size it may also, over time, impact on the proposed extension and occupants (by way of the dropping of leaves/debris on the flat roof, overshadowing of the roof-light terrace areas etc.) which in turn might well lead to pressure to remove overhanging branches or ultimately its removal altogether. Due to the proximity of the tree to the extension this would be difficult for the Council to resist.
19. I therefore conclude in respect of the third main issue that it would not be appropriate to consider this appeal without the benefit of a detailed arboricultural survey and report. The proposal would thereby be contrary to LP Policies ENV1, ENV2 and ENV11 as they relate, amongst other things, to the

protection of existing trees and the desirability of minimising the loss or damage of any important landscape features.

Conclusions

20. I have concluded that the proposed extension would not be an inappropriate form of development. I have also found that as designed the extension would not cause harm to the character and appearance of the host building. However, these considerations are outweighed by the potential unacceptable harm to the oak tree, the subject of a TPO. To my mind this is a compelling objection.
21. Accordingly, for the reasons given above and having regard to all other matters raised, I conclude that the proposal is not in accordance with the development plan, when read as a whole, and that the appeal should be dismissed.

Philip Willmer

INSPECTOR

Appeal Decision

Site visit made on 3 April 2017

by Chris Couper BA (Hons) DiP TP MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/J1915/D/17/3168485

20 Bishops Road, Tewin Wood, Tewin AL6 0NW

- 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 and Mrs Mercer against the decision of East Hertfordshire District Council.
- The application ref: 3/16/2602/HH, dated 16 November 2016, was refused by notice dated 12 January 2017.
- The development proposed is 'remove existing bay and roof structure to the rear of the house, replaced with new bay windows and flat roof balcony area. Removal of existing conservatory, replaced by single storey orangery with glass roof lantern to the rear of the property. Existing front door, porch area and window to the front of the house to be removed and replaced with proposed front door and porch area. Removal of existing windows to the left elevation and replaced by proposed window. Internal changes include removal of existing wall between kitchen and dining room, proposed utility area and proposed internal double door and single door sets'.

Decision

1. The appeal is allowed and planning permission is granted for the removal of the existing bay and roof structure to the rear of the house, replaced with new bay windows and a flat roof balcony area; the removal of the existing conservatory, replaced by a single storey orangery with a glass roof lantern to the rear of the property; the existing front door, porch area and window to the front of the house to be removed and replaced with a proposed front door and porch area; the removal of the existing windows to the left elevation and replacement with a proposed window; internal changes to include the removal of an existing wall between the kitchen and the dining room, a proposed utility area and a proposed internal double door and single door sets at 20 Bishops Road, Tewin Wood, Tewin AL6 0NW, in accordance with the terms of the application, Ref 3/16/2602/HH, dated 16 November 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. 5934-1 Rev C and 5934-2 Rev C.
 - 3) The materials to be used in the construction of the external surfaces of the masonry walls, and the roof of the porch hereby permitted shall match those in the existing building.

Main Issue

2. The main issue is whether or not the proposal constitutes inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies.

Reasons

3. The site is located within the Green Belt where the National Planning Policy Framework ('Framework') states that inappropriate development is, by definition, harmful, and should not be approved except in very special circumstances. It regards the construction of new buildings as inappropriate, unless, amongst other things, at bullet point 3 of paragraph 89, it is 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'.
4. In addition to the Framework, the Council's decision refers to policies GBC1 and ENV5 of the East Herts Local Plan Second Review 2007 ('LP'). However, those policies pre-date the Framework, which states that in such circumstances, due weight should be given to relevant policies according to their degree of consistency with it.
5. LP policy GBC1 sets out that limited extensions or alterations to existing dwellings in the Green Belt in accordance with policy ENV5 may be allowed. Amongst other criteria, policy ENV5, which applies to dwellings within and outside the Green Belt, sets out that extensions to houses outside the main settlements and villages should, cumulatively, be of a scale and size that would not disproportionately alter the size of the original dwelling, nor intrude into the openness of the area. Consequently, whilst there are some differences between the LP policies and the Framework, I concur with the appellants that its overall thrust broadly aligns with the national approach.
6. No. 20 Bishops Road is a large detached dwelling on a landscaped plot. The Council sets out that it had an original floor area of around 200sqm. However, it calculates that extensions to the side, front and rear have added 190sqm, amounting to around a 95% increase in floor area. It estimates that the replacement of the conservatory with an orangery would result in a net increase of 2sqm, and a cumulative floor area increase of 96%. The appellant has not contested those figures, and I have no reason to dispute them.
7. The Council contends that as the extensions to the original building amount to disproportionate enlargements, any further enlargement would be inappropriate development. In the Green Belt it has typically considered extensions of around 50% of the original floor area to be proportionate, and has cited appeal decisions where floor area increases of 69% and 74% were found to be disproportionate. However, I agree with the Council that any purely mathematical calculation must be used with care, and tempered by an assessment of actual harm.
8. The proposed orangery would have a broadly similar maximum height and depth to the conservatory, and would be only very marginally wider. In terms of size it would be virtually a like-for-like replacement. The proposed replacement porch would be an open-fronted structure, with little solid bulk, and it would be visually contained within the dwelling's broader footprint.

9. Consequently, whilst the Council states that the scheme would result in a slight increase in floor area, I agree with the appellant that the proposal in effect represents largely cosmetic enhancements which would not materially add to the size of the dwelling. Whether or not previous extensions to the original building have amounted to disproportionate additions, I am satisfied that as this development would largely replace existing extensions with no material increase in size, this scheme would not result in a disproportionate addition.
10. Although both parties refer to permitted development rights, given my conclusions, I have not found it necessary to consider that matter further.
11. For the above reasons, the scheme would not be inappropriate development in the Green Belt, and would not conflict with the Framework, or with LP policies GBC1 and ENV5. Furthermore, it would not conflict with emerging policy GBR1 of the East Herts Draft Plan 2016 which requires applications to be considered in line with the Framework.
12. Impact on openness is implicitly taken into account in the exception at bullet point 3 of Framework paragraph 89. Consequently, although the Council additionally contends that the scheme would intrude into the Green Belt's openness, having concluded that the development would not be inappropriate, it is not necessary for me to separately assess its impact on openness.
13. Turning to the matter of conditions, I have considered those suggested by the Council against the Framework's tests. In addition to the standard time limit condition, in the interests of certainty, I have imposed a condition requiring that the development be carried out in accordance with the approved drawings. Various facing materials, including for flat-roofed areas and the frame of the orangery and its lantern roof, are set out on the drawings. Consequently, my third condition requiring matching materials, which is imposed in the interests of the character and appearance of the host property, is amended from that more generalised condition suggested by the Council.
14. Summing up, the scheme would not be inappropriate development in the Green Belt and would therefore not harm its openness. Consequently, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR

PLANNING APPEALS LODGED
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Mode
3/14/2143/OP	Residential development (247 dwellings), alterations to Patmore Close, internal access and parking, landscaping, open space and related works (Application A)	Land To The South Of, Hadham Road, Bishop's Stortford, Herts	Not Determined	13/04/2017	Informal Hearing
3/14/2145/OP	Residential development (84 dwellings), alterations to Patmore Close, access road, internal access and parking, landscaping, open space and related works (Application C)	Land To The South Of, Hadham Road, Bishop's Stortford, Herts	Not Determined	13/04/2017	Informal Hearing
3/16/2364/FUL	Retrospective planning application for the retention of the recently constructed new zoo facility.	Van Hages Garden Centre Amwell Hill Great Amwell Ware Hertfordshire SG12 9RP	Refusal Delegated	28/04/2017	Written Reps
3/16/2435/HH	Two storey side and rear extension and single storey rear extension.	51 Kingsway Ware Hertfordshire SG12 0QG	Refusal Delegated	24/04/2017	Fast Track Appeal
3/16/2596/HH	First floor side dormer extension.	6 Highfield Avenue Bishops Stortford Hertfordshire CM23 5LS	Refusal Delegated	24/04/2017	Fast Track Appeal
3/16/2748/HH	Proposed two storey side extension	7 Henderson Place Epping Green Hertford Hertfordshire SG13 8GA	Refusal Delegated	13/04/2017	Fast Track Appeal
3/16/2749/FUL	Demolition of existing dwelling and the erection of 2no 3 bedroom dwellings.	325 Ware Road Hertford Hertfordshire SG13 7EL	Refusal Delegated	28/04/2017	Written Reps
3/17/0009/HH	Single storey side and rear extension	42 Cublands Hertford Hertfordshire SG13 7TS	Refusal Delegated	24/04/2017	Fast Track Appeal

NOTE: This report shows only appeals lodged since the last Development Management Committee agenda deadline.

Background Papers

None

Contact Officers

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Planning Appeals: Inquiry and Informal Hearing Dates

Public Inquiries

Application Number	Location	Proposal	Date
3/14/2143/OP	Land at Hadham Road, Bishop's Stortford	Residential	27 June 2017
3/14/2145/OP	Land at Hadham Road, Bishop's Stortford	Residential	27 June 2017
3/16/1391/FUL	Land north of Park Farm Ind Estate, Buntingford	Residential	27 June 2017

Informal Hearings

None

Enforcement Appeals (where the matter does not relate to an associated planning or similar application which are set out above)

Application Number	Location	Proposal	Date
E/16/0156/ENF	Rowneybury Cottage, Harlow Road, Sawbridgeworth	Residential extension/ listed building	20 June 2017

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DEVELOPMENT CONTROL

Major, Minor and Other Planning Applications

**Cumulative Performance for
May 2016**
(calculated from April 2016)

	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17
<i>Total Applications Received</i>	202											

<i>Percentage achieved against Local and National Targets</i>	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17		Targets for Local Performance (set by East Herts)	National Targets (set by Government)
Major %	100%												Major %	60%	60%
Minor %	97%												Minor %	80%	65%
Other %	93%												Other %	90%	80%

Appeals	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17
Total number of appeal decisions (Monthly)	7											
Number Allowed against our refusal (Monthly)	2											

Total number of appeal decisions (Cumulative)	7											
Number Allowed against our refusal (Cumulative)	2											

AGENDA ITEM NO. 7D

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