



Appeal Decision

Site visit made on 17 February 2014

by Thomas Shields MA DipURP MRTPI

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

Decision date: 26 March 2014

Appeal Ref: APP/J1915/A/13/2205070

Brickendon Grange Golf Club, Brickendon Green, Hertford, SG13 8PD

- 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 Brickendon Grange Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/13/0204/FP, dated 6 February 2013, was refused by notice dated 22 May 2013.
 - The development proposed is 2 No 4 bedroom detached dwellings and detached garages with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for 2 No 4 bedroom detached dwellings and detached garages with associated parking and landscaping at Brickendon Grange Golf Club, Brickendon Green, Hertford, SG13 8PD in accordance with the terms of the application, Ref 3/13/0204/FP, dated 6 February 2013, subject to the schedule of conditions set out in the annex to this decision.

Procedural Matter

2. The Government's Planning Practice Guidance (PPG) was published on 6 March 2014. The content of the PPG has been considered but in the light of the facts of this case the document does not alter my conclusions.

Main Issue

3. The main issue in this appeal is whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework (2012) (the Framework) and development plan policy.

Reasons

4. Brickendon is an attractive rural village within the Metropolitan Green Belt and is a Category 2 Village as defined by the East Herts Local Plan Second Review (2007) (LP). It has a large and open village green, Brickendon Green, overlooked by the village hall and dwellings on 2 road frontages. In my view the village green forms the principal central feature of the village.
5. The appeal site, where the 2 dwellings would be located, comprises a parcel of land primarily formed from the existing garden area of 34 Brickendon Green. The appeal site also extends slightly to the east and to the south, incorporating 3 ponds which are proposed to be improved, although these would be outside

of the proposed residential curtilage for the dwellings. The site also lies within the Brickendon Conservation Area (BCA).

6. The Council's objection to the proposal, as expressed in its reason for refusal, is that the site lies outside the built up part of the village in the Green Belt, and that no very special circumstances exist contrary to LP Policy GBC1.
7. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraphs 89 and 90. One such exception is *limited infilling in villages*.
8. LP Policy GBC1 lists a number of exceptions which would qualify as not being inappropriate development, including at (f) limited infill development in Category 2 Villages, in accordance with LP Policy OSV2 (II). LP Policy OSV2 (II) states that infill housing development may be permitted within the built up area of Category 2 Villages.
9. There are no defined boundaries in the LP to identify the extent of the village, or the built up area of the village. It is therefore a matter of planning judgement as to whether the proposal would fall within the built up area of the village. To the north side of the village green development extends along Brickendon Lane including detached and semi-detached dwellings and the village hall.
10. To the south of the village green there are 2 semi-detached dwellings, 33 and 34 Brickendon Green. The dwellings around the green mainly sit within generous plots. This is true of No 34 which has a very large garden area, having outbuildings and domestic paraphernalia typical of residential occupation. At the time of my visit to the site I also saw some remnant evidence and markings of former buildings within the garden area. This is supported by historical maps I have been provided with, which indicate that substantial buildings previously existed on the site extending east of No 34 along the inside of the front boundary wall. The appeal site therefore appears to have been subject of development for some considerable time.
11. To the west of the green there are 2 semi-detached houses, Nos 28 and 29, with a further 2 houses behind those. There is a vehicular access track from the north side of the village green on Brickendon Lane serving Nos 28, 29, 33 and 34. Between No 33 and the houses on the west side of the village green there are some utility sheds related to the golf course to the south.
12. To the east of the village green, along Brickendon Green from its junction with Brickendon Lane, there are further dwellings which extend further to the south than the appeal site. Between the garden area of No 34 and these dwellings to the east along Brickendon Green highway, there is a gap of open land which is substantially wooded, and part of which is the southern tapered promontory of the village green. From the same historical maps referred to above, it appears that this gap of open land has been devoid of any development for at least the last 100 years.

13. Apart from the gap of open land between the garden area of No 34 and the dwellings to the east along Brickendon Green highway, I consider that the layout and pattern of housing plots and buildings I have described above substantially enclose the village green. Given that the appeal site is primarily the domesticated garden land of No 34, and it would share the same access as No 34 to Brickendon Lane, together with its historical use previously described, and its location and integrated relationship with the surrounding pattern and layout of development I have described above, I conclude that the location of the appeal site is within the built up area of the village.
14. Although it does not form part of the Council's reason for refusal, the Council considers at paragraphs 4.8-4.9 of its statement that the proposal would not amount to infill development because, firstly, it would not fall between existing buildings, and secondly because the 2 proposed four bedroom dwellings would not fall within a definition of infill development as the *erection of up to five small dwellings*.
15. Rather than being a policy requirement itself, the definition referred to by the Council is taken from the supporting text to LP Policy OSV2. It states that infill development is *the erection of up to five small dwellings on a site within the built up area of the village, where such development can take place without damage to the character and appearance of the locality*.
16. The Council's reason for refusal relates to LP Policy GBC1, which does not define what constitutes infill development. However, I note that the LP glossary states that infill development can be defined as *the subdivision of an unusually large plot in an otherwise built up area normally capable of taking only one or two houses without damage to the character of the village*. In my view, the proposal entirely satisfies the terms of this definition.
17. The Framework does not define or give guidance on what *limited infilling in villages* means, and hence it is a matter of planning judgement for the decision maker. Given that the Framework post-dates the LP by some years I attach significant weight to it in reaching my decision.
18. I acknowledge that infill development is often located within a gap between, or to the rear of, existing buildings in a built up frontage. However, there is no national policy requirement, or any other evidence before me, which would lead me to conclude that re-development of land to the side of an existing dwelling, within its garden area where buildings previously existed, (sometimes referred to as 'rounding off' of development) should not be treated as infill development. The supporting text to LP Policy OSV2 states that the definition is intended for guidance and hence I consider it is not prescriptive. Moreover, neither of the two LP definitions requires that infill development must be located between buildings. In my view, the underlying purpose of the policies, and common to both of the two definitions, is that infilling should not result in harm to the character and appearance of the village.
19. If, in the narrowest interpretation of the definition, the 2 proposed dwellings were much smaller so as to be unquestionably 'small', they would be patently at odds with the form and scale of surrounding development which would harm the character and appearance of the area. That would defeat the underlying purpose of the policies. The proposed 2 dwellings would be no higher to ridge level than the existing dwellings at Nos 33 and 34, and would be likely to have a smaller footprint than 5 smaller dwellings. Also, in terms of overall size they

would be smaller than some of the other dwellings in the village I saw at the time of my visit. In my view, the proposed dwellings are small enough such that they would be in scale and sit comfortably with surrounding properties, and hence would not harm the character and appearance of the area. Therefore, in the context of surrounding development they would accord with the underlying purpose of LP Policy OSV2 and the definition provided for guidance in its supporting text.

20. The dwellings and garages would only be partially visible over the existing tall front boundary wall, trees and shrubbery. In addition, they would be near to existing dwellings and sit between the boundary wall and the belt of trees to the rear. Their impact on the openness of the Green Belt would be minimal. Moreover, the Council have no objection to the proposed development in terms of its impact on the character and appearance of the area or upon the BCA. In my opinion, subject to appropriate conditions to control the finished appearance of the proposed development, the dwellings would be of a design and appearance that would be compatible with the traditional scale and form of dwellings in the area and would preserve the character and appearance of the BCA. In addition, the proposal would comply with LP Policy OSV2 (II) (b) by providing two family sized dwellings in an area where the Council accept there is a general shortage of housing.
21. In conclusion, the proposal would amount to limited infilling within the built up area of the village and hence would not be inappropriate development. As such, it would not materially conflict with the requirements of LP Policies OSV2 (II) or GBC1, or the provisions of the Framework.

Other Matters

22. Concerns have been raised that allowing the appeal would set a precedent encouraging further development on the open land to the east between the garden area of No 34 and Brickendon Green highway. Although I have concluded that the appeal site would be infill development within the built up part of the village, no such conclusion is made with regard to this adjoining land to the east, and no precedent would be set in allowing the appeal.
23. I have been referred to a previous appeal decision¹ at Hadham Ford. While I acknowledge the importance of consistency in decision making, the weighing and balancing of relevant policies and material considerations in that case are not directly comparable to those in this appeal. In any event, as I am required to do so, I have determined this appeal on its own merits.
24. Notwithstanding the appellant's comments in respect of the proposal raising funds for the repair and restoration of The Grange and the adjacent Coach House, I have found that the proposed development is acceptable on its own merits, and hence I have given little weight to this matter in reaching my decision.
25. I have considered the legal opinions provided. However, they do not lead me to reach any different conclusions on the main issue.
26. With regard to landscaping and biodiversity I note there are no objections from the Council's Landscape Officer or from the Herts and Middlesex Wildlife Trust,

¹ APP/J1915/A/12/2178912

and I am satisfied that these matters can be adequately controlled by the imposition of appropriate planning conditions.

27. I acknowledge the strength of opposition to the proposed development including from the Parish Council, residents and other third parties. However, that opposition does not justify the refusal of planning permission for the development which I have found acceptable on its merits.
28. None of the other matters raised, either individually or collectively, are of such significance that they would outweigh my conclusions on the main issue.

Conditions

29. The Council have suggested a number of planning conditions, which I have considered against the advice in the PPG. Where necessary, and in the interests of precision, I have amended them to bring them in line with the guidance.
30. In addition to the statutory 3 year limitation for implementation it is necessary, for the avoidance of doubt and in the interests of proper planning, to define the plans with which the scheme should accord.
31. It is necessary to impose conditions to safeguard the character and appearance of the area. These include the development's materials, and the implementation of hard and soft landscaping and measures for tree protection.
32. Given the attractive and sensitive location of the development in the BCA and the Green Belt, it is necessary, in order to prevent potential future harm to the area from unsympathetic development, to impose conditions to restrict permitted development rights for further alterations to the dwellings, additional vehicular and pedestrian accesses, and additional curtilage buildings.
33. Conditions are required to ensure that risks to human health from potential ground contamination is minimised, and in order to properly control surface water drainage.
34. To safeguard highway safety conditions are necessary to secure the provision of a suitable area for parking, loading and unloading of construction vehicles, the storage of materials, and wheel washing. Also, to safeguard residential amenity conditions are necessary for details of any external lighting and for refuse storage and removal facilities.
35. In order to protect the habitats of Great Crested Newts a condition is necessary to ensure that the mitigation measures in the Great Crested Newt Survey Report dated 25 May 2011 are implemented.

Conclusion

36. For all the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Thomas Shields

INSPECTOR

Attached - Schedule of Conditions

ANNEX - CONDITIONS SCHEDULE

- 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: Location plan 546/LP1D, 54601B, 54604, 54605, 54606, 54607A, 54608, 54609B, 1449.1A, 1449.2A, 1449.3A, J192.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not begin until a scheme to deal with contamination of land and/or groundwater has been submitted to and approved in writing by the local planning authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the local planning authority dispenses with any such requirement specifically and in writing:
 - (1) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until:
 - (i) The requirements of the local planning authority for site investigations have been fully established; and
 - (ii) The extent and methodology have been approved in writing by the local planning authority.Copies of a report on the completed site investigation shall be submitted to the local planning authority without delay on completion.
 - (2) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be approved in writing by the local planning authority prior to commencement and all requirements shall be implemented and completed by a competent person.
- 5) Prior to the commencement of development hereby approved, details of facilities to be provided for the storage and removal of refuse from the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to occupation.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development as specified in Schedule 2, Part 2, Classes A, B, C and E of the Order shall be undertaken without the prior written consent of the local planning authority.
- 7) Development shall not begin until a scheme for surface water drainage has been submitted to, and approved in writing by the local planning authority. The approved scheme shall be completed before the development is occupied.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting

that Order with or without modification), no vehicular or pedestrian access, other than those expressly authorised by this permission, shall be formed onto the highway without the prior written consent of the local planning authority.

- 9) Prior to the commencement of any works, plans shall be submitted to and approved in writing by the local planning authority indicating the provision of space within the site to provide for the parking of construction workers' vehicles, and for the delivery and storage of materials. Such space shall be maintained for the duration of construction works in accordance with the approved plans.
- 10) Prior to the commencement of development, wheel washing facilities shall be established within the site in accordance with details to be submitted to and approved in writing by the local planning authority and shall be kept in operation at all times during construction of the development.
- 11) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All retained trees and hedges on and immediately adjoining the site shall be protected from damage during construction in accordance with the approved plans and details. In the event that any retained or proposed trees or hedging become damaged, die, or are removed during such period, the local planning authority shall be notified in writing as soon as reasonably practicable. Any such trees or hedging shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with species of such size, number and positions as approved in writing by the local planning authority.
- 12) All hard and soft landscape works shall be carried out in accordance with the approved plans and details prior to first occupation.
- 13) The development hereby permitted shall not be carried out other than in accordance with the details, recommendations and mitigation measures of the Great Crested Newt Survey Report dated 25th May 2011. This includes the need to obtain a European Protected Species Licence from Natural England before ground/site clearance takes place.

END OF CONDITIONS SCHEDULE



Appeal Decision

Site visit made on 28 February 2014

by **David Fitzsimon MRTPI**

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

Decision date: 20 March 2014

Appeal Ref: APP/J1915/A/13/2200388

Woodhill Farm, Hertford Road, Great Amwell, Herts SG12 9RS

- 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 D Demetriou against the decision of East Herts Council.
 - The application Ref 3/13/0261/FP, dated 8 February 2013, was refused by notice dated 9 April 2013.
 - The development proposed is the creation of hardstanding.
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Procedural Matters

1. In reaching my decision, I have taken into account the Planning Practice Guidance which came into force on 6 March 2014.
2. The track and hardstanding area was present at the time of my visit but this has no bearing on my decision.

Decision

3. The appeal is dismissed.

Main Issues

4. The main issues in this case are as follows:
 - Whether the proposal amounts to inappropriate development in the Green Belt;
 - Its effect on the openness of the Green Belt and the character and appearance of the immediate surroundings; and
 - If it is inappropriate development, whether the harm by reason of inappropriateness, along with any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriateness, openness, character and appearance

5. The National Planning Policy Framework (NPPF) indicates that certain forms of development are 'not inappropriate' in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it. One example is an engineering operation and there is not dispute between the
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parties that the development amounts to such. Saved policy GBC1 of the adopted East Herts Local Plan (LP) is consistent with this advice.

6. Although the site is largely screened by mature woodland, the hardstanding area is extensive. It is a stark contrast to the green surroundings beyond the existing equestrian related buildings and associated facilities and it appears as a visually harsh feature. Further, whilst the track and hardstanding area do not harm openness, the parking of large horse related vehicles on the hardstanding area most definitely would. According to the NPPF, openness is one of the essential characteristics of the Green Belt.
7. For these reasons, I conclude that the development undertaken unduly harms the character and appearance of the immediate surroundings and the use of the hardstanding area for the parking of vehicles would harm the openness of the Green Belt. On this basis, it amounts to inappropriate development which is, by definition, harmful to the Green Belt. The NPPF directs that substantial weight be given to any harm to the Green Belt and that inappropriate development should not be approved except in very special circumstances. As such, the development conflicts with the national and local planning policy outlined above.

Other considerations

8. The appellant argues that the land where the hardstanding has been created previously comprised clay and stone rather than grass. In any event, the appellant accepts that a significant amount of crushed hardcore has been laid across an extensive area, thereby making it more suitable for the parking of vehicles in all weather.
9. The appellant also asserts that the hardstanding area improves the cramped parking facilities at the site, enabling the larger lorry boxes to park and turn safely at the rear of the manege. Whilst this may be so, no justification has been advanced as to why such a large area is required or why the approach taken is the only feasible option. In addition, the appellant argues that the development could be softened and partially screened by a landscaping scheme, but attempting to screen what amounts to an inappropriate form of development would not make it acceptable.

Overall Conclusion

10. The development undertaken harms the rural character of the immediate surroundings and the openness of the Green Belt. It therefore amounts to inappropriate development in the Green Belt. None of the arguments advanced by the appellant clearly outweigh this harm and therefore the very special circumstances necessary to justify it do not exist.
11. Accordingly, the appeal does not succeed.

David Fitzsimon

INSPECTOR



Appeal Decision

Site visit made on 17 March 2014

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 31 March 2014

Appeal Ref: APP/J1915/A/13/2204423

13 Baldock Street, Ware, Hertfordshire SG12 9DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Papa Johns against the decision of East Hertfordshire District Council.
 - The application Ref 3/13/0931/FO, dated 30 May 2013, was refused by notice dated 16 August 2013.
 - The application sought planning permission for "Variation of condition 4 (restricted to the hours 12:00am to 2:00pm and 4:30pm to 10:00pm Mondays to Saturdays with no opening on Sundays and Bank Holidays) to 12:00hrs to 23:00hrs Mon to Sat, and 17:00hrs to 22:30hrs on Sundays and Public Holidays" without complying with a condition attached to planning permission Ref 3/11/0950/FO, dated 3 August 2011.
 - The condition in dispute is No 4 which states that: "The hours of opening of the premises for A5 (Hot food takeaway) Use shall be restricted to the hours 12:00hrs to 23:00hrs Mondays to Saturdays, and 17:00hrs to 22:30hrs on Sundays and Bank Holidays".
 - The reason given for the condition is: "In the interests of the amenities of the residents of nearby properties".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the ground floor from A1 (Retail) to A5 (Hot food takeaway) at 13 Baldock Street, Ware, Hertfordshire SG12 9DH in accordance with the application Ref 3/13/0931/FO dated 30 May 2013, without compliance with condition number 4 previously imposed on planning permission Ref 3/11/0091/FP dated 22 March 2011 (and modified by planning permission 3/11/0950/FO) but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions:
 - 1) The permission shall not be implemented until details of noise attenuation measures to deal with the kitchen extraction system has been submitted to and approved in writing by the local planning authority and has been installed on site, in accordance with the agreed details. The approved equipment and measures shall thereafter be retained.
 - 2) The use hereby permitted shall discontinue on or before a date 1 year from the date of this permission.

- 3) The use hereby permitted shall not be open to customers outside the following times: 12:00hrs to 23:00hrs Sundays to Thursdays; 12:00hrs to 01:00hrs (on the following day) Fridays and Saturdays.

Preliminary Matters

2. The original planning permission for the use of the premises as a hot food takeaway was granted on 22 March 2011 under the Council's reference 3/11/0091/FP. That permission contained a restriction within condition 4 relating to the hours of use. The description used in the main heading above, is that as set out in the documentation submitted with the appeal and relates to a subsequent application to vary the approved hours of use. However, I shall refer back to the original grant of planning permission (Ref 3/11/0091/FP) as necessary in my decision.
3. I have taken account of the recently published Planning Practice Guidance in determining this appeal.

Main Issue

4. The main issue in this appeal is the effects of the proposed hours of use on the living conditions of nearby residents.

Reasons

5. The appeal premises operate as a pizza takeaway and delivery establishment, and is sited within this Secondary Shopping Frontage, within Ware Town Centre. The area contains a mix of commercial uses with some residential accommodation, mainly to the rear of the premises.
6. The appellant has drawn my attention to the fact that the Council as Licensing Authority has granted a Premises License in spring 2013 to allow the premises to operate during the extended hours now proposed on Fridays and Saturdays. One of the restrictions within the Premises License is that the rear yard should not be used by delivery vehicles, for the cleaning of equipment or by vehicles after 23:00hrs; and so, the delivery vehicles will operate from the front of the premises during the extended hours.
7. Some evidence made available to me would suggest that activities within the rear yard have given rise to disturbance to neighbouring residents. However, the recently granted premises license needs to be taken into account and it appears that the Council now has a measure of control over these matters, under a different regulatory regime.
8. Notwithstanding the above, the appellant has identified through the submitted noise assessment that the extraction mechanism could give rise to unacceptable noise levels, but has suggested that a suitable condition could be imposed to require noise attenuation measures. Therefore, in relation to residents to the rear of the premises, I have taken account of the recent Premises License and the prospect of noise attenuation for the extraction system and consider that it is unlikely that any additional disturbance would arise from the additional hours of use.
9. In relation to residents who are to the front of the premises, these are located over 20m away. The appellant's submitted noise assessment has included this location within its readings and has concluded that any effects of delivery

mopeds at the additional hours proposed would be small and insignificant taking account of the ambient noise levels and the distance involved. The Council has not sought to challenge or contradict the appellant's submissions with any technical evidence of its own. In the light of this, and my consideration of the evidence, I consider that there would be no additional unreasonable effects on the living conditions of these residents.

Conditions

10. The effect of allowing the appeal would be to create a new planning permission which would stand alongside the existing permission. Therefore, it is appropriate to refer back to conditions attached to that permission and to consider the need for any additional conditions, if this appeal is allowed. The appellant has identified that additional noise attenuation would be necessary for the extraction system and I agree that this is necessary. I have given careful consideration to the appellant's suggestion of a temporary permission. Taking account of the nature of the use, the hours involved and the proximity of neighbouring residential premises (and the nature of the comments made by residents) I consider that it is necessary to require a trial run period and so intend to impose a condition which shall mean that the permission will run for one year in order that the effects of the additional hours can be monitored and the matter reconsidered in the light of any findings.

Conclusions

11. For the reasons set out, I conclude that there is little likelihood of the use over the additional hours of having a detrimental effect on surrounding residents, but have decided that the additional hours should be approved for a temporary period, for the reasons stated. Therefore, the appeal is allowed.

S T Wood

INSPECTOR



Appeal Decisions

Site visit made on 1 April 2014

by Nigel Burrows BA MRTPI

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

Decision date: 14 April 2014

Appeal A: APP/J1915/E/13/2205832

Gardeners Cottage, Hare Street, Buntingford, Hertfordshire, SG9 0DY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Rev N J Richards against the decision of East Hertfordshire District Council.
 - The application Ref 3/13/0985/LB, dated 3 June 2013, was refused by notice dated 7 August 2013.
 - The works are described as 'Proposed single storey Oak Framed Traditional Orangery'.
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Appeal B: APP/J1915/A/13/2205829

Gardeners Cottage, Hare Street, Buntingford, Hertfordshire, SG9 0DY

- 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 Rev N J Richards against the decision of East Hertfordshire District Council.
 - The application Ref 3/13/0984/FP, dated 3 June 2013, was refused by notice dated 7 August 2013.
 - The development is described as 'Proposed single storey Oak Framed Traditional Orangery'.
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Decisions: Appeals A and B

1. The appeals are dismissed.

Main Issue

2. The main issue in these appeals is the effect of the oak-framed orangery upon the special architectural or historic interest of this listed building.

Reasons

3. Gardeners Cottage is a Grade II listed building situated on the east side of Hare Street near Buntingford. The list entry describes the building as a small 1½ storey C18 house and indicates that it has a timber frame on a black stucco plinth and plastered elevations lined as ashlar. The half-hipped roof of the building is steeply pitched and clad with red tiles. The list entry indicates the building was included for group value.
4. According to the planning history of Gardeners Cottage, various extensions and alterations have been permitted to the building. There is an extensive single storey linear range to the rear of the 1½ storey historic core. The current proposal involves the erection of an oak-framed orangery attached to the south side of the linear range.
5. On the evidence before me, it is apparent that the special significance of 'Gardeners Cottage' derives from its age, scale, architectural composition and materials, its

relationship to the nearby listed buildings and its prominence within Hare Street.

6. The parties have cited local and national planning policies in support of their respective cases. However, it should be borne in mind that the approach to listed buildings is underpinned by the statutory requirements placed upon decision makers by the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 16(2) and 66(1) of the Act indicate that in considering whether or not to grant listed building consent or planning permission for any proposals, the local planning authority (or the Secretary of State) shall have special regard to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses.
7. The single storey range to the rear of Gardeners Cottage has resulted in a building of more extensive scale and complexity of form. This is accentuated by the difference in the ridge heights of the various single storey elements and the articulation of their south-facing elevations. The new orangery would introduce a further extension at right angles to the axis of this linear range. In this respect, it would not only detract from the linear form of this range, but it would also add to the scale and complexity of form of Gardeners Cottage. The adverse impact of the orangery would be reinforced by its exposed frame and bracing, which together with its extensive glazing and roof lantern would appear out of character with the building. The adverse impact of this extension would be apparent from the public realm, especially when approaching from the south.
8. I conclude the proposal would fail to preserve the special architectural interest of the building. It would conflict with the aims of 'saved' policies ENV1 and ENV6 of the East Herts Local Plan Second Review¹, insofar as they require development to be of a high standard of design and layout and to match or be complementary to the building.
9. The Council's concern to protect the heritage assets of the District is consistent with the objectives of the National Planning Policy Framework (NPPF)². Paragraph 132 gives 'great weight' to the conservation of a designated heritage asset; the more important the asset, the greater the weight that should be given. I recognise that for the purposes of paragraph 134 the proposal would lead to less than substantial harm to the significance of a designated heritage asset. Nevertheless, I am not persuaded that there are any public benefits that would outweigh the harm arising from this proposal.
10. In view of my findings on the main issue, I conclude the appeals should not succeed. I have taken into account all the other matters raised in the representations, but I find they do not alter or outweigh the main considerations that have led to my decisions.

Nigel Burrows

INSPECTOR

¹ Adopted in April 2007

² Published in March 2012

Appeal Decision

Site visit made on 4 February 2014

by **D Spencer BA (Hons) DipTP MRTPI**

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

Decision date: 13 February 2014

Appeal Ref: APP/J1915/D/14/2211285

Ashleigh, Patmore Heath, Albury, WARE, Hertfordshire, SG11 2LX

- 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 Mrs Alannah Lockwood against the decision of East Hertfordshire District Council.
 - The application Ref 3/13/1735/FP was refused by notice dated 27 November 2013.
 - The development proposed is first floor extension created over the existing house, a full length front porch and internal alterations.
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Patmore Heath Conservation Area.

Reasons

3. The Patmore Heath Conservation Area is tightly defined to a small rural community arranged off a narrow metalled road around the open edge of the attractive and publically accessible nature reserve with its grassland, trees and ponds. The conservation area occupies an elevated position in the landscape and as such views are possible between houses over the surrounding undulating farmland, accentuating the rural qualities of the conservation area. There is variety in the styles and materials of properties around the heath but generally they are of a modest scale.
4. Ashleigh is a 1960s brick and tile bungalow property with an open aspect onto the heath where the road follows a sweeping curve in the south-west corner of Patmore Heath. The property has a modest rear gable extension and outbuildings. To the north is a low 2 storey traditional cottage of weatherboard, tile and thatch. Both properties occupy spacious, wide plots, characteristic of a rural hamlet location. To the south and west of Ashleigh is an arable field which is separated by low boundaries. As such the bungalow is a visible property both from within the conservation area and from a well-used public footpath to the south-west which connects Patmore Heath to Albury.
5. Both parties accept that the proposals represent a substantial increase, with the Council submitting that it would result in a 145% increase in volume. The proposals would effectively remove all trace of the scale and appearance of the existing bungalow and the result would be a sizeable house, albeit on a very similar footprint. The altered property would extend to a new ridge height of

some 8.2 metres, including the rear gable extension, and this would give it a bulky appearance. It would be appreciably taller than other nearby traditional cottages in this corner of Patmore Heath. Whilst the proposed materials would better reflect those found elsewhere in the conservation area, the scale and height of the altered property means it would be conspicuous. In particular it would have a harmful enclosing effect on the particular rural openness at the corner edge of the conservation area. It would also be prominent in the wider rural landscape, especially when viewed from the public footpath to Albury.

6. Whilst the existing bungalow is simple in its character and appearance, there are other bungalows nearby in the conservation area and as such I do not find Ashleigh to be a discordant property. Its low profile helps its integration into the open, corner location and it does not dominate the nearby modest traditional cottages. The property is set slightly lower than the highway but not to any appreciable extent that would offset the harmful impact from the overall scale and bulk of the appeal proposals.
7. Substantial front porches are not part of the character and appearance of the conservation area, with properties having generally unaltered and uncluttered frontages to the heath. Whilst the appellant has referenced a front porch at Heath House this has limited comparison due to the property being set behind other houses down a private driveway with a very limited relationship to the heath. As such I was not able to view it. In contrast the full front porch on Ashleigh would occupy a prominent corner position, emphasising what would be an uncharacteristic feature.
8. A number of properties have clearly been adapted and extended in the conservation area. I have limited information about their planning history. However, the referenced examples do not share the same open, conspicuous situation as the appeal dwelling. As such their alterations are not prominent due to their scale being notably less than the appeal proposals or by the proximity of similarly scaled buildings. I also visited the new dwelling at 'Paddock View' in Furneux Pelham. Whilst this is a highly comparable scheme in terms of scale and design, because it is not near the conservation area this limits comparison in terms of both its context and development plan policy.
9. The appellant has submitted that a benefit of the extension would be the transformation of what they describe as currently an 'unattractive' and 'aesthetically unappealing' building to create a better living space. Whilst harm to the significance of the conservation area would be less than substantial, I nonetheless find the benefit is not sufficient to outweigh that harm.
10. I therefore conclude that, by virtue of its disproportionate scale and bulk and its uncharacteristic full front porch, the appeal proposal would fail to preserve the character or enhance the appearance of the Furneux Pelham Conservation Area. As such it would be contrary to Saved Policies GBC3 and ENV5 of the East Hertfordshire Local Plan Second Review (LP) which seek to manage the scale and size of extensions to existing rural houses so that they do not disproportionately alter the size of the original dwelling or intrude into the open or rural qualities of the surrounding area. It would also compromise the design objectives of LP Policies ENV1 and ENV6 LP and conflict with Policy BH5 which expects new extensions in conservation areas to be sympathetic to the character and appearance of the area. It would also conflict with the objectives of the National Planning Policy Framework to conserve heritage assets and respond to local context.

11. The appeal property is directly opposite a large pond on the Patmore Heath Site of Special Scientific Interest. Therefore the precautionary approach of the Council in this regard is justified and the absence of an ecological assessment adds to my concerns about the appeal proposals.
12. The appellant claims that the local planning authority did not carry out an appropriate site visit when assessing the application. This is primarily a procedural matter between the appellant and the Council. I have visited the property, the conservation area and the examples submitted by the appellant. Accordingly, I have assessed the proposal on its own merits and have shared the Council's view that in respect of character and appearance the proposal would be unacceptable.
13. For the reasons given above, and having regard to all other matters including the lack of harm to neighbours' living conditions, I conclude that the appeal should be dismissed.

David Spencer

INSPECTOR