The Planning Inspectorate

Appeal Decision

Site visit made on 30 July 2014

by Wendy McKay LLB (Hons) Solicitor (Non-practising)

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

Decision date: 2 September 2014

Appeal Ref: APP/J1915/X/13/2207465
Pondcroft, Rush Green, Hertford, SG13 7SB

- 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 K and D Watkiss against the decision of the East Hertfordshire District Council.
- The application Ref 3/13/1148/CL, dated 27 June 2013, was refused by notice dated 21 August 2013.
- 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 use or development is sought is a proposed triple garage.

Summary of Decision: The appeal is dismissed.

Application for costs

1. An application for costs was made by Mr and Mrs K and D Watkiss against the East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well-founded.

Reasons

3. The proposed triple garage would be positioned to the west of the residential property known as Pondcroft. The building would contain space for three cars. The roof would be hipped at either end with a centrally placed projecting gable on the northern (front) elevation.

4. The Appellants submit that the building could be erected as permitted development pursuant to Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (as amended[1]). The Council contends that the development would not meet one of the limitations of Class E, namely, E.1 (d) (i) which requires that the height of the building would not exceed 4m in the case of a building with a dual-pitched roof.

[1] See The Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008

5. The Appellants have referred to the Department for Communities and Local Government (DCLG) document 'Permitted Development for Householders: Technical Guidance'. This states that: *"The height limit on a "dual-pitched roof" of four metres should also be applied to buildings that have "hipped" roofs (slopes on all four sides)".*

6. The Appellants submit that the Council has been inconsistent in its approach to such cases and draw support from other examples in the district. In 2010, an LDC application was refused for the erection of an 'L' shaped outbuilding at a property known as The Downs, 73 Downfield Road, Hertford Heath on the basis that it did not have a dual-pitched roof. That building had a hipped roof over the garage element and a projecting gable over the store, at right angles to the garage. The Appellants indicate that the gabled projection of that building was significantly greater than that which is proposed at the appeal property.

7. The appeal against that refusal was subsequently allowed[2]. The decision-maker stated: *"The 'pitch' of a roof or the term 'dual-pitch' is not defined in the Order. I understand the thrust of the appellant's case that the 4m height restriction was designed to ensure the outbuildings are not excessively intrusive in terms of their overall height, whereas the Council focus on the number of roof pitches."*

8. The decision-maker applied the Technical Guidance and concluded that: *"In this case, the slopes rise to a central ridge from which measurements of the height of the building can be taken".* An LDC was issued on the basis that the outbuilding complied with the Class E.1 (d) (i) height limitation for a building with a dual-pitched roof.

9. There have also been two LDC applications made in respect of a property known as Little Hocketts, Burnham Green. The first application concerned a proposed detached outbuilding which the Council decided did not have a dual-pitched roof. The subsequent appeal against the refusal of that application was dismissed[3]. The Inspector considered that the building would have two parts with the roof comprising ten tiled slopes, two tiled and glazed slopes and an element of flat roof. She concluded that the proposed roof, which would comprise a number of different slopes well in excess of four, would be neither dual-pitched nor hipped. As such, it would not be *'a building with a dual-pitched roof',* as permitted by Class E.

10. The second application for Little Hocketts involved a modified design and roof form. This was principally an 'L' shaped building with a single brick width gable projection at its south-eastern end. The Council granted an LDC with the officer concluding that the building had a dual-pitched roof, where the roof is regular in appearance and rises to an apex. The Appellants submit that the south-east elevation of that structure resembles the appeal proposal.

11. In the light of these various decisions, the Appellants contend that the proposed triple garage would have slopes that would rise to a common central ridge from which measurements of the height of the building could be taken. The central single brick gabled projection would run at right angles to the ridge but without breaking either its line or height. They submit that since the height

[2] Appeal Reference APP/J1915/X/10/2122330
[3] Appeal Reference APP/J1915/X/11/2161385

does not exceed 4m, it would comply with the Class E limitation for a building with a dual-pitched roof.

12. The Council does not accept that there has been any inconsistency in its decision-making. The Council's determination of the first application made in respect of Little Hocketts was supported by the Inspector on appeal. That decision emphasised that permitted development rights are granted for a building with a single dual-pitched roof. The Inspector also distinguished the situation where an 'L' shaped building might have several slopes yet remain a 'dual-pitched' structure. The Council explains that in the current case, the building would not have an 'L' shaped roof form. The gable would project at right angles to the main ridge and it would not have a wholly hipped roof form. It would comprise both hipped and gable roof elements.

13. The Appellants acknowledge that the Inspector's interpretation of the GPDO in relation to the first Little Hocketts application was reasonable and justified. Neither the 'L' shaped proposal granted on appeal for 73 Downfield Road, nor the approved second application at Little Hocketts included a centrally positioned gable. The Appellants point out that the latter proposal had a small projecting gable at one end. In terms of its impact on the form of the roof, I do not consider that the appeal scheme gable can be regarded as small or insubstantial. It seems to me that the appeal proposal is materially different from the other schemes to which the Appellants have referred. The decisions in these cases can readily be distinguished from the appeal proposal given the significant and obvious differences in the various roof designs. The decision-maker in the 73 Downfield Road case, applied the GPDO and the Technical Guidance to the facts of that particular case, and I must do likewise in determining this appeal.

14. The Technical Guidance provides an explanation of the rules on permitted development for householders, what these mean and how they should be applied in particular sets of circumstances. It explains that the guide cannot cover all possible situations that might arise. The guidance does not specifically deal with the scenario under consideration in this appeal where both a hipped and gable roof form has been introduced. In this case, the proposed roof would, as a matter of fact, comprise more than four different slopes. Whilst the guide indicates that "hipped" roofs (slopes on all four sides) fall within the definition of "dual-pitched" roofs, that is not the situation in this instance. I do not consider that the meaning of "dual-pitched" roofs can be stretched to include schemes which incorporate centrally positioned gables in this way. The Appellants speculate as to what might be the position if the front projecting bay were to be moved sideways to a position above either of the end garages. However, that is not a matter that is before me to determine.

15. Since the roof form is not "dual-pitched" and the building exceeds the other height limitations set out in Class E.1 (d), it would not be permitted development.

Formal Conclusions

16. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed triple garage 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.

Formal Decision

17. The appeal is dismissed.

Wendy McKay

INSPECTOR

Costs Decision

Site visit made on 30 July 2014

by Wendy McKay LLB (Hons) Solicitor (Non-practising)

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

Decision date: 2 September 2014

Costs application in relation to Appeal Ref: APP/J1915/X/13/2207465 Pondcroft, Rush Green, Hertford, SG13 7SB

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr and Mrs K and D Watkiss for a full award of costs against the East Hertfordshire District Council.
- The appeal was against the refusal of a certificate of lawful use or development (LDC) for a proposed triple garage.

Decision

1. The application for an award of costs is refused.

Reasons

2. The application for costs was initially made and responded to on the basis of Circular 03/2009, which has been superseded by the Planning Practice Guidance. By letters dated 12 August 2014, The Planning Inspectorate sought further comments from the parties in the light of the cancellation of Circular 03/2009 by the new Planning Practice Guidance published on 6 March 2014. The submissions made in response have been taken into account and I am satisfied that no party's interests will be prejudiced by my judging the application and response against the Planning Practice Guidance.

3. The Planning Practice Guidance advises that parties in planning appeals and other planning proceedings normally meet their own expenses. However, costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

4. The Planning Practice Guidance provides that awards against a local planning authority may either be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.

5. The Appellants complain that the Council has failed to give any weight to the advice of its own solicitor or to other cases involving identical issues relating to the interpretation of Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (as amended[1]).

6. As is evident from my decision on the appeal, I concur with the Council's assessment that the proposed roof would not be 'dual-pitched' and would not

[1] See The Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008

therefore comply with limitation E.1 (d) of Class E. I am satisfied that the Council has applied the relevant aspects of the GPDO and Technical Guidance correctly in this case. Whilst I note that the Council's solicitor had provided advice contrary to its eventual decision, the Appellants acknowledge that the Council was not bound to follow that advice. I disagree with the solicitor's assessment for the reasons set out in my decision. I do not find the Council's refusal of the LDC application to have been unreasonable notwithstanding that it was contrary to the advice of its own solicitor.

7. The Appellants assert that the Council's approach shows a lack of consistency and it has failed to decide like cases in a like manner. They have drawn support from properties at Little Hocketts, Burnham Green and 73 Downfield Road, Hertford Heath which have both received LDCs for Class E development. The latter having been granted on appeal. The Appellants submit that the Council has misunderstood the nature of the Little Hocketts roof form in reaching its decision. In response, the Council contends that there is a material difference between the proposed garage roof at Pondcroft and the development for which an LDC was granted at Little Hocketts.

8. In reaching my decision on the appeal, I have taken into account the other cases mentioned by the Appellants. However, I have found the appeal proposal to be materially different from those other schemes. I do not agree that the Council's approach to the appeal application reveals a lack of consistency in decision-making or a failure to have regard to other similar applications. I am entirely satisfied that the LDC application and appeal have been dealt with in a competent and professional manner by the Council's officers.

9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Planning Practice Guidance has not been demonstrated. There is no justification for an award of costs being made against the Council either on procedural or substantive grounds.

Wendy McKay

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 9 September 2014

by Roger Catchpole Dip Hort BSc (Hons) PhD MCIEEM

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

Decision date: 23 September 2014

Appeal Ref: APP/J1915/A/14/2216507
62 Mangrove Road, Hertford SG13 8AN

- 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 Ms Morag Tait against the decision of East Hertfordshire District Council.
- The application Ref 3/13/2149/FP, dated 4 December 2013, was refused by notice dated 21 January 2014.
- The development proposed is described as: alterations to as-built extension involving removal of rear gable and replace with hip roof and 2 small dormers and the removal of 1 no. large dormer to north side face of building and replace with smaller dormer.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken into account Redhill Aerodrome Ltd v SSCLG , Tandridge District Council, Reigate and Banstead Borough Council [2014] EWHC 2476 (Admin), in reaching my decision.

3. As part of the development has already taken place, I consider the proposal to be an application for retrospective planning permission and have therefore dealt with the appeal on that basis.

4. I am aware of a number of unsuccessful appeals[1] that relate to this site. Whilst I have considered the issues afresh, I have nonetheless taken these decisions into account in this appeal.

5. I have also taken into account the Government's Planning Practice Guidance (PPG), which came into force on 6 March 2014, in reaching my decision. The relevant content of this guidance has been considered but, given the facts of this case, it does not alter my conclusions.

Main Issues

6. As the appeal site is within the Green Belt the main issues are:

   a) whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework 2012 (the Framework);

   b) the effect of the proposal on the openness of the Green Belt;

[1] APP/JI915/C/08/2083169; APP/J1915/X/10/2135567; APP/JI915/A/10/2135562; and APP/J1915/A/08/2076119

c) if the proposal is inappropriate development, whether the harm to the Green Belt by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it; and

d) the effect of the proposal on the character and appearance of the host property.

Background

7. The host property was originally built in the 1930's as a detached, single storey 2 bedroom bungalow, on a corner plot at the junction of Mangrove Road and Mangrove Drive. Planning permission was granted in 2006 for ground floor extensions and a loft conversion which included the formation of five dormer windows (Ref 3/06/1683/FP, the 2006 scheme). Planning permission was then granted in 2008 for an alternative scheme (Ref 3/07/2446/FP, the 2008 scheme). This consisted of a rear extension and a loft conversion with a combination of two gable-ended windows and four box-dormer windows. The former were situated on each side elevation, near the front of the property, whilst the latter were situated on the front and rear elevations. However, an additional gable window was built on each of the side elevations, together with a first floor, hipped gable roof on the rear elevation and an open, front veranda.

8. As the completed work significantly deviated from the approved plans, retrospective planning permission was sought for the above elements (Ref 3/08/0343/FP). This was refused and the decision was upheld on appeal in November 2008. In the meantime a planning enforcement notice was issued in July 2008 which was partially upheld on appeal in February 2013 after a successful High Court challenge of the original enforcement appeal decision issued in August 2009. An application was made in 2010 to modify the original planning permission (Ref 3/10/0777/FP) to incorporate the unauthorised development but this was refused and the Council's decision was upheld on appeal in February 2011. An application to grant a certificate of lawful development for the side elevation gable windows (3/10/0453/CL) was also refused and upheld in a separate appeal, issued at the same time.

9. The proposal as it relates to this particular appeal, seeks to replace the unauthorised hipped, rear gable roof with two small, pitched roof dormers, to match the front elevation of the property. It would also replace the unauthorised rearmost gable window on the northern side elevation with a dormer of the same design. The unauthorised rearmost gable on the southern side elevation would remain.

Reasons

Whether inappropriate?

10. Paragraphs 89-90 of the Framework set out those categories of development which may be regarded as not inappropriate, subject to certain conditions. These comprise buildings and other facilities listed in paragraph 89. Whilst the extension and replacement of buildings can be considered as exceptions, proposals must not lead to disproportionate additions over and above the size of the original building or be materially larger than the ones they replace. Given the nature of the development, the cumulative extension of the original

building arising from this proposal is a critical consideration. An original building is defined in Annex 2 of the Framework as a building as it existed on 1 July 1948 or, if constructed after this date, as it was built originally.

11. I note from my own observations and the evidence before me that the building is substantially larger than the original bungalow but that the proposal would reduce its overall massing. Consequently, the key point on which this issue turns is whether this reduction is sufficient, in comparison to the massing of the original building, to be considered acceptable and satisfy the exception criteria of paragraph 89 of the Framework.

12. I note that neither policy GBC1 nor ENV5 of the East Herts Local Plan Second Review 2007 (LP) specify an absolute threshold above which such additions might be considered disproportionate. Nor do I have any relevant calculations before me concerning the relative changes in volume of the proposed alterations in comparison to the volume of the original bungalow. As a result, the effect of the proposed changes is a matter of judgement which is necessarily grounded in overall appearance, rather than in any breach of a quantified, numerical threshold.

13. I observe from my site visit and the evidence before me that despite the proposed reduction in the massing of the southern elevation gable window and the replacement of the hipped gable end to the rear, the roof plane would still be dominated by projecting gable windows and dormers. This would substantially alter the single storey nature of the original bungalow and erode the hipped roof form by reducing the extent of uninterrupted roof that was previously present. The bulk and massing of these projections has essentially created a two storey dwelling that would not be demonstrably reduced by the proposed changes. Consequently, I find the proposed extensions would be, and are, disproportionate.

14. The appellant has argued that the proposal would be modest in comparison to the extensions to properties along Mangrove Road and Mangrove Drive and considerably smaller than the permitted 2006 scheme. Whilst I can appreciate what might, superficially, appear to be inconsistent decision-making, such decisions are made against an evolving planning policy context. In particular, I note that both the national and local policy context has changed since the 2006 scheme was approved. Since I do not have any evidence before me with regard to exactly how local policy has changed, I am not persuaded as to a validity of this comparison.

15. In relation to the second point, I accept that some of the original dwellings appear to have been subject to post-construction modification. However, I do not have the full facts before me and do not find them similar in all respects to the proposal that is before me. I also have no indication as to when the majority of these alterations were carried out and whether or not they predate current policy. In any event, this appeal must be judged on its own merits and determined against the changes to the original building which, in this particular instance, places a considerable constraint on the size of extensions that may be permitted.

16. The appellant has also argued that the proposal constitutes limited infilling within a village. However, I note that the site is not within one of the six main settlements specified in policy SD2 of the LP or within a Category 1 or 2 Village as specified in policies OSV1 and OSV2 of the LP. Moreover, the estate is

bounded either by open countryside or playing fields and has no direct physical linkage, in terms of contiguous development, with the nearby settlement of Hertford. The prominent corner plot that the host property occupies is also located at the interface with the wider landscape which further emphasises the fact that it is not within an existing settlement.

17. Since no other exceptions apply, I do not find any support for the proposal in paragraph 89 of the Framework. As it would not be one of the other forms of development specified in paragraph 90, I therefore find that it would amount to inappropriate development in the Green Belt. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. In conclusion, I attach substantial weight to the harm arising from the proposal due to the inappropriate nature of the development.

Openness

18. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. This is defined by an absence of built or otherwise urbanising development. Given that the proposal would lead to a significant increase in the massing of the roof, in comparison to the original dwelling, it would invariably reduce openness, regardless of the proposed reduction in the existing massing of the building. The projecting dormers and gable windows represent a significant divergence from the original roof form which would have detracted little from the open setting of the generous corner plot on which the property is located. The appellant has argued that the definition of openness is subjective, emotive and not linked to clear policy. However, I do not find this to be the case given the above and its inclusion in policy GBC1 of the LP. Consequently, I conclude that there is a limited degree of harm to openness, in addition to that which has arisen from the inappropriate nature of this development.

Other considerations

19. The appellant has argued that the failure of the appeal would cause great hardship owing to a range of unsubstantiated, medically-related family circumstances. In the absence of any explanation or clarification of those circumstances and, more specifically, how they relate to the proposed development, I am unable to conclude that great hardship would, in fact, be caused. I am similarly unable to draw any conclusions regarding the availability of viable alternatives in the event that the needs of the family are no longer met at this location.

20. The appellant has made a passing reference to PPS1 (Sustainable Development) and PPG2 (Green Belts) as material considerations that she feels the Council failed to take into account when determining her application. However, this guidance was superseded by the PPG shortly after the appeal was submitted is no longer a material consideration. Despite this fact, the guidance would not have led me to a different conclusion in relation to the proportionality of the additions or, indeed any other issues, as stated at the beginning of this decision.

21. The appellant is of the opinion that Permitted Development (PD) rights are present in relation to the proposed replacement of the northern dormer and the retention of the existing southern gable window. I am, however, unable to

conclude that the proposal would conform to criterion B.1(c) of the Town & Country Planning (General Permitted Development) Order 1995 (GPDO) on the basis of the evidence before me. Moreover, it is for the appellant to make her case in relation to this issue which has not been adequately substantiated. I also have no decisive evidence before me to suggest that Mangrove Drive is not a highway, despite the lack of a metalled surface and the orientation of the front elevation of the house. Consequently, the proposed replacement dormer on the northern elevation would clearly not constitute permitted development according to B.1(b) of the GPDO. Given this fact and the equivocal nature of any change in volume I do not find this stated fall back position credible and I am therefore unable to give it much weight.

22. The appellant has argued that the refusal means that the land cannot be put to beneficial use but does not offer any further elaboration of this point. Paragraph 81 of the Framework advises that beneficial use relates either to sport and recreation activities or the retention or improvement of Green Belt for the sake of visual amenity or biodiversity. As I can find no support for the proposal in any of these respects I am unable to give this matter much weight.

23. The appellant has also raised concerns that she has been unfairly treated by the Council as a result of the contentious planning history. As this is not a planning matter I am unable to give this matter any weight.

Harm to the Green Belt

24. Having considered all matters raised in support of the proposal, I conclude that, collectively, they do not clearly outweigh the totality of harm I have identified in relation to the Green Belt. Accordingly, very special circumstances do not exist which means that the proposal is contrary to section 9 of the Framework and policy GBC1 of the LP which seek to protect the Green Belt land and ensure appropriate development.

Other Matters

Character and appearance

25. I observed that two-storey properties comprising a range of architectural styles and materials characterise the immediate area along the southern side of Mangrove Drive and the western side of Mangrove Road. Given this lack of architectural cohesion and the significant contrast in the scale of the host property, the key point on which this issue turns is the extent to which the proposal would affect the host property itself rather than any established architectural character of the immediate area.

26. As I have already noted, the proposal would maintain what is essentially a two storey dwelling which deviates significantly from the original dwelling. However, the proposal is not without merit as I find the similarity between the front elevation, as well as the proposed changes to the rear elevation would create a more balanced, subservient design that would be more in keeping with the form of the original dwelling. Moreover, the open design of the veranda on the front elevation has no material effect on the appearance of the dwelling. In these respects I find the proposal to be acceptable. The same conclusion cannot, however, be reached in relation to the treatment of the side elevations.

27. This is because I find the proposed replacement of the northern gable window with a box dormer to be highly incongruous despite its similarity to the existing

front dormers. This would introduce a divergent, poorly designed element that would contrast significantly with the adjacent gable window. Furthermore, the retention of the southern, rear gable window places a disproportionate emphasis on the first floor of the dwelling. Taken together, the visual dominance of the second storey and lack of open roof form would continue to maintain a bulky, unsympathetic roof structure that is at odds with the original dwelling, as well as the 2008 scheme, where the hipped roof form would have retained its dominance, as noted by a previous Inspector.

28. The appellant has argued that the proposal would use high-quality materials and that this would avoid impacts on the appearance of the host property. However, I do not find that this would outweigh the harm that I have identified given the disproportionate and incongruent bulk of the roof.

29. Given the above, I conclude that the proposal would cause significant harm to the character and appearance of the host property contrary to policies ENV1, ENV5 and ENV6 of the LP that seek, among other things to ensure that dormers do not dominate existing roof forms and that all proposals are of a high standard of design and not detrimental to the character and appearance of the original dwelling.

Conclusion

30. Having regard to the above, as well as my own observations on site, I conclude that, on balance, the proposal would be unacceptable due to the harm to the Green Belt as well as the harm to the character and appearance of the host property and that the appeal should therefore be dismissed.

Roger Catchpole

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 27 August 2014

by Sue Glover BA (Hons) MCD MRTPI

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

Decision date: 19 September 2014

Appeal Ref: APP/J1915/A/14/2221080
The Cottage, Cautherly Lane, Great Amwell, Ware, SG12 9SD

- 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 J Mayes against the decision of East Hertfordshire District Council.
- The application Ref 3/14/0254/FP, dated 6 February 2014 was refused by notice dated 30 April 2014.
- The development proposed is the erection of 1 no. five bed and 1 no. four bed detached dwellings with associated off-street parking, landscaping and new vehicular access.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The decision is made in accordance with the judgement by Patterson J in *Redhill Aerodrome Ltd v SSCLG, Tandridge District Council, Reigate and Banstead Borough Council [2014] EWHC 2476*. The assessment of very special circumstances therefore does not include any non-Green Belt harm.

Main Issues

3. The main issues are:

   - whether the proposal constitutes inappropriate development in the Green Belt for the purposes of development plan policy and the National Planning Policy Framework
   - the effect on the openness of the Green Belt and the purposes of including land within it
   - if the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm to the Green Belt, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

4. Paragraph 87 of the Framework states, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. Paragraph 89 of the Framework indicates that the construction of new buildings in the Green Belt is inappropriate. The Framework sets out some exceptions. One exception is limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan. In Green Belt terms, the question is therefore whether the proposal constitutes limited infilling in the village of Great Amwell.

6. Great Amwell is what is commonly described as being "washed over" by the Green Belt having no defined settlement boundaries. Saved Policy GBC1 of the East Herts Local Plan Second Review (LP) indicates that the construction of new buildings on land in the Green Belt will be inappropriate unless it is for, amongst other things, limited infill development in Category 2 villages, in accordance with Policy OSV2 (II).

7. Saved LP Policy OSV2 defines Great Amwell as a Category 2 village. Part (II) of that policy indicates that within the built up area of Category 2 villages, infill housing development may be permitted, provided that a number of specified criteria are met.

8. Although the text in the guidance box next to LP Policy OSV2 is not part of the policy, it provides an indication of what might not comprise infill development. It indicates that infill is not linking up of 2 separate built up areas in a settlement separated by a significant gap. Criterion (g) of the policy requires the site not to represent a significant open space or gap important to the form and / or setting of the settlement.

9. The appeal site is an area of open land at the rear of an enclosed, formal, rear garden of The Cottage. The appeal site does not appear to be part of a cultivated garden, but rather a former orchard with some fruit trees still remaining. It is screened on all sides by mature vegetation.

10. The site is adjoined on 2 sides by open land used for equestrian purposes. There is a considerable distance on these 2 sides between other buildings including those at Fairview Cottages. There is some built development on the other 2 sides with a ribbon of development to the east along Cautherly Lane, and dwellings set back on the north-east side of Madgeways Lane.

11. With open land on 2 sides, the site is located at the western edge of the historic part of the village. It cannot be described as being within the built-up area of the village. Nor can it be described as an infill development in the village in the sense that it is not filling a gap between buildings within the built-up area. The proposal conflicts with criterion (g) in that there would be new buildings beyond the built-up area into a significant open gap that separates the historic core from other built-up areas around.

12. Criterion (i) requires the site not to represent an extension of ribbon development. A ribbon of 3 large houses would be formed, to include The Cottage, on the south-west side of Madgeways Lane, contrary to the aims of criterion (i).

13. Criterion (b) requires there to be a local need identified by the latest District Housing Needs or Parish survey. Although the appellant and her family clearly have strong local connections, there is no substantive or specific evidence of housing need in support of the appeal proposal.

14. These matters bring me to the conclusion that the appeal proposal is not limited infilling in a village; nor does it meet the provisions set out in LP Policies GBC1 and OSV2. In terms of development plan policy and the Framework the proposal is inappropriate development in the Green Belt. Inappropriate development in the Green Belt attracts substantial weight against the development.

The effect on openness of the Green Belt

15. There would be new buildings of a significant size in the Green Belt that were not there before. There would be a loss of openness of the Green Belt, which, as stated in paragraph 79 of the Framework, is one of the essential characteristics of the Green Belt.

16. Openness implies the absence of development irrespective of the degree of visibility of buildings from public vantage points. I therefore conclude that there would be a significant impact on openness arising from the appeal proposal and therefore a conflict with the purposes of including land in the Green Belt contrary to the Framework. This Green Belt harm also attracts substantial weight against the development in accordance with paragraph 88 of the Framework.

Are there very special circumstances to justify the development?

17. The appellant has drawn my attention to other decisions nearby relating to infill development in the Green Belt. I have considered all the submissions relating to them. Taking account of these, I find fundamental differences in circumstances between these other sites and the appeal proposal. I have therefore judged the appeal proposal on its own individual merits. I attach limited weight to the other decisions.

18. Whilst I sympathise with the appellant's family circumstances, I am mindful that personal circumstances seldom outweigh more general planning considerations. I am able to place only limited weight on these matters.

19. I have taken into account all matters raised by the appellant in support of the proposal. These considerations, even when taken together are not of sufficient merit that they would clearly outweigh the substantial harm by reason of inappropriateness and the loss of openness to the Green Belt. The very special circumstances necessary to justify the development do not exist.

Other matters

20. In reaching my decision I have had regard to the fact that Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

21. This part of the Great Amwell Conservation Area is characterised by narrow lanes and a strongly verdant and rural appearance. Madgeways Lane is of significance given that it is in part a sunken laneway. The proposed new access and driveway would break through the steep bank of the narrow laneway. The access would introduce a suburban appearance with the provision of visibility splays and brick retaining walls. The proposal would contribute to a significant lessening of the historic character and rural appearance of the laneway. It would neither preserve nor enhance the

character and appearance of the Great Amwell Conservation Area in this respect.

22. Given the separation distance and screening between the listed building, Great Amwell House however, there would be no material harm to the setting of the listed building.

23. The proposed buildings would be visible from the dwelling and garden at Mountfield beyond the boundary vegetation, but I am satisfied that there would be a substantial separation distance between buildings. There would be no significant harm to the living conditions of the residents of Mountfield in respect of outlook, daylight and sunlight.

24. There is also considerable separation between the dwellings at nos. 1 and 2 Fairview Cottages and other dwellings nearby, with mature boundary vegetation screening the site. Notwithstanding the level differences, I find no material harm to any existing residents' living conditions in respect of outlook, privacy, daylight or sunlight, or any temporary noise likely to be associated with construction works.

25. The laneway is narrow and there are few passing places. Vehicles must of necessity exercise caution and travel slowly. I am told that the lane is well used by pedestrians including school children. With the provision of adequate visibility at the access point however, I find no significant additional risks to highway safety from vehicles generated by 2 new dwellings. I also find no substantive evidence that the proposal would exacerbate flooding in the laneway or at any nearby property.

26. I have considered all other matters, including all the policies in the Framework and other national policy guidance. Notwithstanding all other matters, the substantial harm that I have identified to the Green Belt, and the significant harm to the conservation area, are overriding. For the avoidance of doubt, the inclusion of non-Green Belt harm in my assessment would not have altered my findings about very special circumstances. The appeal does not succeed.

Sue Glover

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 27 August 2014

by Sue Glover BA (Hons) MCD MRTPI

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

Decision date: 8 September 2014

Appeal Ref: APP/J1915/A/14/2221085
Land at Deacons Place, Buntingford, Hertfordshire, SG9 9TF

- 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 Andrew Boakes Developments Ltd against the decision of East Hertfordshire District Council.
- The application Ref 3/14/0716/FP, dated 17 April 2014 was refused by notice dated 13 June 2014.
- The development proposed is the erection of one house and associated works.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the character and appearance of the area.

Reasons

3. The appeal site marks the boundary between the commercial uses close to the A10, and the dwelling at How Green Meadow. The 3 newly constructed houses are situated at the rear. There are dwellings on the opposite side of the street, but on both sides development is set back from the street behind a landscaped area or a grass strip contributing to a spacious quality in the street scene. Although the garage to How Green Meadow is in a forward position, it is partially screened from the front by mature landscaping.

4. The proposed dwelling would be on a narrow plot close to the access point serving the 3 new dwellings. The site is lower than the service station, and separated from the commercial curtilage by a wall. It would have a similar building line to the dwelling at How Green Meadow, but it would be viewed forward of the adjoining service station building due to the angle of the buildings and a bend in the street.

5. Although there would be adequate separation between the buildings either side, the proposed dwelling would appear squeezed in between the boundary with the service station and the access road. Despite the level difference, there would be insufficient separation with the adjoining commercial use, reducing the spacious quality of the area.

6. Furthermore, the 2 parking spaces would be positioned forward of the dwelling close to the junction. Notwithstanding the low front hedge, parked vehicles

would appear prominently positioned near the junction with the access road from vantage points in the street. Due to its position and layout the proposed dwelling would appear overly cramped, detracting from the spacious quality of the street scene. It would appear especially dominating in a corner position on this confined, narrow site.

7. I conclude that there would be material harm to the character and appearance of the area. There is conflict with Policy ENV1 of the East Herts Local Plan Second Review, which expects a high standard of design and layout, and development to reflect local distinctiveness. There would not be a high quality of design.

8. The development plan policy is compatible with the design objectives set out in the National Planning Policy Framework. Paragraph 64 of the National Framework says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The proposal does not meet the objectives of the National Framework in this respect.

9. There would be sufficient separation from nearby dwellings that there would be no material harm to residents' living conditions in respect of outlook, privacy, daylight or sunlight. I have taken into account all other matters, including the small contribution to housing supply, together with all the policies in the National Framework and other national planning guidance. However, these matters do not outweigh the significant harm that I have identified to the character and appearance of the area. The appeal therefore does not succeed.

Sue Glover

INSPECTOR