



---

## Appeal Decision

Hearing held on 17 December 2014

Site visit made on 17 December 2014

**by Paul Freer BA (Hons) LL.M MRTPI**

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

**Decision date: 2 February 2015**

---

**Appeal Ref: APP/J1915/A/14/2225395**

**17 Church Street, Bishops Stortford, Hertfordshire CM23 2LY**

- 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 G Bray against the decision of East Herts Council.
  - The application Ref 3/13/2088/FP, dated 25 November 2013, was refused by notice dated 17 March 2014.
  - The development proposed is the change of use from a beauty salon to residential.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development on the planning application form refers to the change of use from Use Class A1 to retail. However, the appeal property was last occupied as a beauty salon, a use that does not fall within any specific Use Class in the Town and Country Planning (Use Classes) Order 1987. The use as a beauty salon is therefore a *sui generis* use and it follows that the description of development on the application form is incorrect. Accordingly, I have adopted the description set out in the Council's Decision Notice.
3. The appeal property was originally constructed as a dwelling but planning permission was granted in 1966 for a change of use to offices. It is not known whether that permission was implemented but more recently the property was occupied as a beauty salon, a use that continued for a period of some sixteen years. That use ceased circa May 2014 and the property is currently vacant. The Council confirm that it has no records of any planning permission being granted for use as a beauty salon. The appellant therefore contends that there has been no formal change away from the original residential use and that planning permission is not required for the residential use of the property.
4. Whether or not planning permission is required is not a matter for me to determine in the context of an appeal made under Section 78 of the above Act. It is open to the appellant to apply for a determination under Section 191 of the Act in relation to this matter. My decision on this appeal under Section 78 of the Act does not affect the issuing of a determination under Section 191 of the same Act. I have therefore determined this appeal on the basis upon which the planning application was made, this being the change of use of use from a beauty salon to residential.

## **Main Issues**

5. Having regard to the above, the main issues are:
- whether the loss of the existing employment use would be justified, and
  - the effect of the proposal on the vitality and viability of Bishops Stortford Town Centre.

## **Reasons**

### *Loss of the existing employment use*

6. Policy EDE2 of the East Herts Local Plan Second Review (Local Plan) indicates that, outside identified Employment Areas, development that would result in the loss of a site that was last in employment use will only be permitted where the retention of the premises has been explored fully without success. There is no definition of employment use or premises in the Local Plan but the Council explained at the Hearing that a pragmatic approach is taken, such that the policy applies to any business that generates capital and employment. The appellant confirms that the beauty salon employed up to five staff and I am therefore satisfied that the beauty salon falls within the scope of Policy ECE2.
7. The appellant explains that, due to a plethora of other beauty salons in the area and an increase of costs, the use as a beauty salon became unviable and that from September 2013 the entire business was 'soft marketed' by a local property agent. This period of soft marketing appears to have continued for some nine months until May 2014, when the business merged with another beauty salon. The property agent indicates that 12 discreet viewings took place but that no firm interest was forthcoming.
8. The only indication that this 'soft marketing' included offering the appeal premises for uses other than a beauty salon are two sales brochures produced by the property agent. One of these brochures describes the property as being 'home/commercial' on the title page, and also includes a rental level at which the property is offered.
9. However, the detailed description of the property in these brochures makes reference to a domestic use of the rooms, including kitchen, a dining room, two living rooms and four bedrooms. The first brochure includes photographs of the inside of the property when operating as beauty salon, but there is no reference in the main text to a commercial use. The second brochure refers to a 'work from home' use on the title page and the photographs show the rooms in residential use. These brochures are therefore not entirely focused upon a commercial use of the property, and for that reason I attach little weight to them in terms of establishing the demand an employment use of the premises.
10. Given that the beauty salon was operating during this time, I can understand the reasons why the appellant wished to conduct a 'soft' marketing campaign. Nonetheless, this soft marketing of the property does not translate to the requirement in Policy EDE2 that retention of the employment generating use is explored fully. In particular, in the absence of evidence to show that the property has been robustly marketed for a range of employment generating purposes over a sustained period of time and at a competitive market rate, I cannot be certain that a commercial occupier would not be forthcoming.

11. In that context, I note that the Council advised the appellant of its expectations in relation to marketing in a letter dated 20 June 2014. In my view, the measures set out in that letter are reasonable and would be necessary to show that the retention of the employment use had been explored fully. The soft marketing carried out by the appellant falls a long way short of those expectations.
12. The appellant points out that the internal layout of the property was designed for residential use and that this presents difficulties in adapting the layout of the building for commercial uses. I also note the points made in relation to the lack of footfall in Church Street, as well as the difficulties resulting from the parking restrictions on that road. Furthermore, the appeal property has no on-site car parking and I am advised that the car park in Apton Road, although close to the appeal site, is usually full from early in the morning.
13. I accept that all these factors may reduce the attractiveness of the appeal premises for commercial occupiers. Nevertheless, although a number of the units in Church Street were vacant at the time of my site inspection, I noted that the majority were occupied and that a range of businesses were operating there. These businesses included accountants, a personnel recruitment agency and insurance brokers. These businesses are all operating notwithstanding the low footfall and the difficulties in terms of car parking, and in some cases in buildings that also appear to have been originally constructed as dwellings. The appellant has provided no evidence to show that the appeal property could not similarly be occupied by one of these types of business or other employment generating uses that do not require a location with high footfall.
14. I conclude that, on the basis of the marketing of the appeal property to date, the loss of the existing employment use would not be justified. The proposed development would therefore be contrary to Policy EDE2 of the Local Plan. The proposed development would also fail to accord with the objective of building a strong, competitive economy set out in the National Planning Policy Framework (Framework).

*Vitality and viability of Bishop's Stortford Town Centre*

15. The appeal property is located within a Secondary Shopping Frontage as defined in the Local Plan. The Council explains that the role of the Secondary Shopping Frontage is to support the main shopping areas in the town and to prevent a dilution of the main shopping functions in the town centre. The Council accepts that footfall is lower within the Secondary Shopping Frontage but contends that this lower level of footfall is maintained by and dependant upon the mutual support of businesses within that area.
16. Some support for the Council's stance is provided by the representation from the proprietor of the adjoining business, who explains that their trade has declined since the beauty salon ceased operating due, they believe, to the resultant decline in footfall. The appellant dismisses this representation as being derived from a professional conflict of interest but I have been provided with no evidence to support that. Accordingly, whilst I accept that other factors may have contributed to the reduction in trade experienced by the adjoining business, equally I have no reason to doubt that the closure of the beauty salon was also a contributory factor.

17. To my mind it is axiomatic that, in locations where footfall is low, the businesses in that area are to a large extent reliant upon the footfall generated by their neighbours. It follows that the loss of one of the existing units adversely affects footfall throughout the Secondary Shopping Frontage and therefore the trade experienced by their neighbours. I accept that, individually, the number of customers generated by each business may be relatively low. It is, however, the cumulative effect resulting from all the businesses within the Secondary Shopping Frontage that enables these areas to function and in turn to support the main retail activity in the town centre.
18. The proposed change of use of the appeal property to residential would result in a reduction in footfall compared with a commercial use of the premises. In my view, this would harm the vitality and viability of the Secondary Shopping Frontage and, to that extent, the vitality and viability of Bishops Stortford Town Centre as a whole. This would be contrary to the objective in the Framework that planning should promote competitive town centre environment and set out policies to promote their viability and vitality.
19. The Council has cited Policy ST3 of the Local Plan in the reason for refusal. However, on my reading, Policy ST3 is primarily intended to prevent an excessive concentration of non-shop uses within Secondary Shopping Frontages and does not specifically address the loss of existing non-shop uses to residential. Accordingly, I consider that Policy ST3 is only of limited relevance to the appeal proposal.

#### *Other Matters*

20. The Council concedes that it cannot demonstrate a five-year housing supply. The addition of one additional residential unit resulting from the appeal proposal would assist in addressing that shortfall and to that extent would be accord with the objective in the Framework to boost significantly the supply of housing. I accept that this would be a benefit arising from the appeal proposal. However, the benefit in that respect must be weighed against other objectives in the Framework, including that of building a strong, competitive economy. In my view, the limited benefit resulting from one additional dwelling would be outweighed by the harm to the local economy resulting from the loss of employment and the harmful effect on the Bishops Stortford town centre.
21. I am mindful of the wider objectives behind the changes to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO) that allow the change of use of some properties in retail use to a mixed use that includes a residential flat(s) without the need for express planning permission. However, unlike the appeal proposal, where applicable the changes permitted by the GPDO retain an element of commercial use and as such are not directly comparable to the appeal proposal.
22. The appeal site is within the Bishop's Stortford Conservation Area, the character of which is largely derived from a mixture of traditional older buildings, set in part within a busy shopping area. The appeal property dates from circa 1860 and is a traditional town house design. In my view, it makes a positive contribution to the character and appearance of the conservation area. The appeal proposal would return the use of the property to that for which it was originally constructed and not require any significant external alteration. Consequently, I am satisfied that the proposed development would preserve the character and appearance of the Bishop's Stortford Conservation Area.

*Conclusion*

23. I have had regard to all other matters raised, including the recognition in the Framework that residential development can play an important role in ensuring the vitality of town centres. However, having balanced this consideration with other objectives in the Framework and the provisions of the development plan, this does not alter my conclusions in relation to the main issues.
24. Accordingly, I conclude that this appeal should be dismissed.

*Paul Freer*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Gregg Bray	Appellant
Mr David Somerset	

### FOR THE LOCAL PLANNING AUTHORITY:

Mrs Nicola McKay MRTPI	Senior Planning Officer, East Herts Council
------------------------	--

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1/ Letter notifying local residents of the arrangements for the Hearing.
- 2/ Plan 1 – plans as existing, 17 Church Street, Bishops Stortford.
- 3/ Copy of press advertisement for planning application 3/13/2088/FP
- 4/ Sales particulars for 17, Church Street, Bishops Stortford.
- 5/ Letter from Park Lane property agents, undated.

---

## Appeal Decision

Site visit made on 18 November 2014

by **D J Board BSc (Hons) MA MRTPI**

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

Decision date: 13 February 2015

---

**Appeal Ref: APP/J1915/A/14/2215876**  
**6 Desborough Close, Hertford, SG14 3EG**

- 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 Cresthaven Developments Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/2220/FP, dated 13 December 2013, was refused by notice dated 10 February 2014.
  - The development proposed is erection of a detached dwelling and garage.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on (a) the character and appearance of the area; (b) the protected trees and (c) protected species.

### Reasons

#### *Character and appearance*

3. The space is currently an open area within the street scene. It does not have any specific designation. Desborough Close is part of a wider estate and is accessed from Cowper Crescent and The Wick. The close and wider area has a clear layout and spaciousness between buildings, typified by groups of semi detached properties of different styles. This spaciousness is reflected across the wider estate, with other dwellings being grouped around open areas, having generous set back from the road and space around them.
4. Therefore, whilst I appreciate that the area does not have a specific designation, is privately owned and could be fenced, it does contribute to the generally open character of the area. Furthermore it provides setting to the groups of buildings either side. The introduction of the access to serve the dwelling proposed would intrude into the existing spacious area. As a result it would stand out as an incongruous feature in the street scene and would conflict with the prevailing layout along Desborough Close.
5. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. It would therefore be in conflict with policies HSG7, ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review (LP) which amongst other things require new development to have

regard for local distinctiveness and be compatible with the structure and layout of the surrounding area.

*Protected trees*

6. The site contains a number of protected trees. These are part of a wider TPO cluster group. The trees are visible in the street scene from both the north and south. Further from the north the trees are also visible from a distance. Therefore, whilst I appreciate that the site has never been part of Great Mole Wood, the trees contribute significantly to the character and appearance of the street.
7. The trees are located toward the boundaries of the site. The main impact on the trees would be from the position of the house and access. The dwelling would be outside the canopy and plotted root protection areas (RPA) of the trees. The access would be within the canopy of T2 (Hornbeam) and within the RPA of both T2 and T3 (Hornbeams).
8. I note that technically it would be possible to construct the access and that the only trees removed would be those identified as being of 'low' value. The submitted arboricultural report confirms that the access could be constructed using 'no dig' methods of construction to determine if there are any significant roots present. Nevertheless this would not alter the fact that the access would be within the canopy spread of the T2. Cars, delivery and other vehicles associated with the dwelling would pass in close proximity to this when entering and leaving the site. Over time this proximity would lead to pressure to lop or fell the tree. Should this occur the contribution that the tree does and could continue to make to the character and appearance of the area would be diminished.
9. The appellant has drawn my attention to an appeal decision<sup>1</sup> and suggests that matters relating to the trees can be dealt with by condition. This may be the case for technical issues but this would not overcome issues regarding future pressure on the trees. Therefore overall, whilst I note that the dwelling would not be in close proximity to the protected tree and that the physical construction works could be undertaken without undue harm, the final position of the access would be close to the protected Hornbeams. The increased use and resultant potential for pressure to lop or fell the trees in the future lead me to conclude that the proposal would have a harmful effect on the trees. Therefore it would conflict with LP policies HSG7 and ENV1 which amongst other things require new development to complement the local natural surroundings.

*Protected species*

10. The submitted ecology survey deals adequately with the effects on bats, the information on other species is not as detail. In particular, there is no detail regarding the number or time of visits for other species such as Badgers. There is no information regarding Roman Snails.
11. I appreciate that the Council officer's report highlights that 'Hertfordshire Ecology' does not raise a significant objection to the development. However it goes on to conclude that the development would have an adverse effect on protected species. This is partly based on the evidence provided by third

---

<sup>1</sup> APP/J1915/A/10/2128283



parties of regarding the presence of both Roman Snails and Badgers and their habitats. The appellant submits that this information is not based on the view of a qualified ecologist. Nevertheless, this information is supported by photographic evidence. Based on this information there is a reasonable likelihood of protected species being present on or near the site. Without further survey work the affect of the proposal cannot be determined and I cannot, therefore, be satisfied that protected species would not be harmed. In light of the advice in National Planning Policy Framework (the Framework) it would not be appropriate to leave this to a condition.

12. I therefore conclude that the proposal would have an adverse effect on ecology and that it would conflict with paragraph 118 of the Framework which highlights that when determining planning applications the aim should be to conserve and enhance biodiversity and ensure that adequate site investigation information, presented by a competent person, is presented. It would also be in conflict with LP policy ENV16 which amongst other things seeks to resist development where there would be harm to protected species.

*Other matters*

13. I appreciate that the provision of one dwelling would be a benefit, the Council has not objected to the proposed design, that there would be harm to the living conditions of existing occupiers and there are no highway safety issues. However, none of these matters alters or outweighs my conclusions on the main issues in the appeal.

**Conclusion**

14. Therefore, for the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*D J Board*

INSPECTOR

## Appeal Decision

Site visit made on 4 March 2015

by **Ron Boyd BSc (Hons) MICE**

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

Decision date: 30/03/2015

---

**Appeal Ref: APP/J1915/D/14/2220235**

**5 Bluebell Walk, High Wych Road, Sawbridgeworth, Herts. CM21 0JQ**

- 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 S Grayston against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0016/FP, dated 3 January 2014, was refused by notice dated 30 April 2014.
  - The development proposed is described as 'detached double garage (amendment to 'Use approved double garage as residential annex and consequential changes')'.
- 

### Decision

1. The appeal is allowed and planning permission is granted for 'detached double garage (amendment to 'Use approved double garage as residential annex and consequential changes') at 5 Bluebell Walk, High Wych Road, Sawbridgeworth, Herts. CM21 0JQ in accordance with the terms of the application Ref 3/14/0016/FP, dated 3 January 2014, and plan 10/019/TP01bA1 submitted with it, subject to the following conditions:
  - 1) The building hereby permitted as a residential annexe shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 5 Bluebell Walk.

### Application for costs

2. An application for costs was made by Mr S Grayston against East Hertfordshire District Council. This application is the subject of a separate Decision.

### Main issues

3. I consider these to be :
  - whether the proposal would be inappropriate development in the Green Belt and, if so, whether there are other considerations sufficient to clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm, thereby justifying the proposal on the basis of very special circumstances;
  - whether the appeal building, in view of its location is capable of being used as a residential annexe ancillary to the residential use of 5 Bluebell Walk; and
  - the effect of the proposal on the living conditions of neighbouring residents.

## Reasons

4. Permission for the appeal building to be provided as a double garage at the western end of the residential curtilage to 5 Bluebell Walk (3/10/1997/FP) was granted on 4 January 2011. The development was begun within the period specified in the permission but the permitted garage layout was altered to provide a single-bedroom residential annexe to the above dwelling. The building is currently occupied as such. The application seeks permission for its current use, and for the changes to the permitted garage design which have been carried out to accommodate that use.

### *Green Belt*

5. The building is on residential land within the Green Belt. The external dimensions of the building are as were permitted as a garage. The National Planning Policy Framework (the Framework) explains, as does Policy GB1 of the East Herts Local Plan Second Review April 2007 (the Local Plan) that new buildings in the Green Belt should be regarded as inappropriate development other than specified exceptions to this general rule. The application is seeking permission for alterations carried out to an existing building and its re-use as an annexe. There has been no change to the size of the building previously permitted or to the effect upon openness. In the light of the exceptions referred to above and set out in paragraphs 89 and 90 of the Framework I conclude that the proposal does not constitute inappropriate development in the Green Belt.

### *Use as an annexe*

6. The building is some 30m from the host dwelling linked by a direct pedestrian path alongside the lawn – a walk of 20 seconds or so. To my mind such a location would not prevent the building's use as an annexe ancillary to the main building. I consider it to be appropriately located in relation to the main building as required by Local Plan Policy ENV8 (II) and compatible with the other requirements of that Policy. I therefore conclude that the building is capable of being used as a residential annexe ancillary to the residential use of 5 Bluebell Walk.
7. I note the concerns, referred to in the Officer's Report, about the possible effects of the building being used as a separate dwelling. This is not what has been applied for and I note there is no proposal for a kitchen in the building. The Officer's Report advises that any proposal for the use of the building as a separate dwelling as opposed to that as an annexe ancillary to the main dwelling house would be materially different to the use currently sought and a separate planning permission would be required. For the avoidance of doubt I consider a planning condition limiting use of the building to that as an annexe, in accordance with Local Plan Policy ENV8 (III) would be appropriate.

### *Effect on living conditions*

8. The provision of a residential annexe into a quiet back garden area will inevitably introduce a degree of disturbance from the day to day activity associated with its use as such. However, the building is around 30m from the rear elevation of the neighbouring 4 Bluebell Walk to the south, and over 25m from the rear elevation of the closest of the High Wych Road dwellings to the north, this being No. 119. I am also mindful that permission exists for the

building to be used as a double garage with a vehicular access along the northern side of the appeal site adjacent to the boundary with the back gardens of the High Wych Road dwellings together with double access doors facing, and a vehicle parking and manoeuvring area adjacent to, the back garden of No. 119.

9. To my mind the potential for harm to the living conditions of adjoining residents by reason of loss of privacy, noise, or disturbance, would be no greater from the use of the building as a residential annexe than from the permitted use as a double garage, and as such would not warrant dismissal of the appeal.

*Conclusion and condition*

10. I have taken into account all the matters raised in the evidence including the concerns of neighbouring residents and Sawbridgeworth Town Council but have found nothing sufficient to outweigh my conclusions in respect of the main issues which have led to my decision on the appeal. For the reasons given above I conclude that the appeal should succeed.
11. I have considered the conditions suggested by the Council in the light of the Government's Planning Practice Guidance and Appendix A of Circular 11/95. As the development has already been carried out I consider only the condition I set out with my decision above to be reasonable and necessary. This is to limit the use of the building to that as a residential annexe ancillary to the use of 5 Bluebell Walk, in the interests of ensuring that the local planning authority retains proper control over any future development proposals for the building other than that hereby approved, and for the avoidance of doubt.

*R.T.Boyd*

Inspector

---

## Costs Decision

Site visit made on 4 March 2015

by **Ron Boyd BSc (Hons) MICE**

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

Decision date: 30/03/2015

---

### **Costs application in relation to Appeal Ref: APP/J1915/D/14/2220135 5 Bluebell Walk, High Wych Road, Sawbridgeworth, Herts. CM21 0JQ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr S Grayston for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for development described as 'detached double garage (amendment to 'Use approved double garage as residential annex and consequential changes')'.
- 

### **Decision**

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

### **Reasons**

2. The Government's Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant made a claim for costs on the grounds that the Council failed to show reasonable planning grounds for refusing the application contrary to the advice of officers. In paragraph 049 the PPG provides examples of the type of behaviour that may give rise to a substantive award against a local planning authority. Whilst planning authorities are not bound to accept the recommendations of their officers a failure to produce evidence to substantiate each reason for refusal on appeal is one of the examples given in paragraph 049.
4. The Council considered the appeal building not to be capable of being used as an annexe for the clearly stated reason of its distance from the main house (some 30m). Local Plan Policy ENV8 (II) (c) requires buildings proposed as annexes to be 'appropriately' located in relation to the main dwelling. There is clearly a degree of subjectivity in interpreting the term 'appropriate' in the Policy. The example of a previous Appeal in the District was drawn to Members' attention (APP/J1915/A/13/2197187). The Inspector in that case considered that the location of a building at the far end of the garden, around 12-15m from the main house, would not prevent it from being used as an annexe ancillary to the main dwelling. I have reached a similar conclusion in respect of the situation at Bluebell Walk. However, I acknowledge that the previous appeal did involve an outbuilding closer to the main house than is the

situation at Bluebell Walk. This being the case, notwithstanding that I reached a different conclusion from the Members on this aspect, I do not consider that their reaching the conclusion they did amounted to unreasonable behaviour.

5. Similarly the Members' conclusion in respect of the potential for harming the living conditions of adjoining residents, whilst again at odds with mine, was not unreasonable behaviour.
6. However, no justification for the conclusion that the proposal constitutes inappropriate development in the Green Belt has been given. I have set out, in my decision on this appeal, the objective reasons why the proposal is not inappropriate development and Members were clearly advised by the planning officer attending the Committee Meeting that this was the case. I conclude that Members' conclusion to the contrary, in the absence of any reasonable supporting evidence, to amount to unreasonable behaviour.
7. However, whilst unreasonable behaviour has occurred in respect of this particular reason for refusal, it is necessary, as stated in paragraph 2 above, that, for an award of costs to be made, the unreasonable behaviour must have directly caused the applicant to have incurred unnecessary or wasted expense in the appeal process. Paragraph 032 of the PPG explains that an application for costs will need to clearly demonstrate how the unreasonable behaviour has resulted in that expense.
8. The applicant states that the expense has been incurred because the appeal process should not have been necessary. However, I have found that no unreasonable behaviour occurred in respect of two of the three reasons given for refusal. The appeal would have been necessary even without the conclusion in respect of inappropriate development. This being the case I conclude that it has not been clearly demonstrated that the Council's unreasonable behaviour in categorising the proposal as inappropriate development in the Green Belt directly caused the applicant to incur unnecessary or wasted expense in the appeal process.
9. Having considered all the matters raised in the parties' submissions, I conclude that the circumstances which would justify an award of costs as set out in the PPG, and referred to in paragraph 2 above, have not been demonstrated. Accordingly I refuse the application for an award of costs.

*R.T.Boyd*

Inspector



---

## Appeal Decision

Site visit made on 10 February 2015

by **I Radcliffe BSc(Hons) MCIEH DMS**

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

Decision date: 3 March 2015

---

**Appeal Ref: APP/J1915/A/14/2225085**

**Land at Rectory Farm, Langley Lane, Meesden, Buntingford, Hertfordshire SG9 0AZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Shajeed Shaikh, Imperial Engineering and Development Limited against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0189/OP, dated 18 January 2014, was refused by notice dated 27 March 2014.
  - The development proposed is a timber furniture joinery workshop (Class Use B1 and B8) with access via the existing access gate to the site.
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. The application was submitted in outline, with access to be determined at this stage. I have dealt with the appeal on this basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
3. Policy SD4 of the Local Plan has been referred to. However, this policy which related to sustainable development and nature conservation was not saved by the Secretary of State in 2010. As a consequence, I have not taken it into account in the determination of this appeal.
4. The appellant has expressed concerns about the way the Council dealt with the application. The Public Sector Equality Duty contained in the Equality Act 2010 requires decision makers to promote equality of opportunity and not to discriminate, amongst other matters, on the grounds of race or religion. I have dealt with this appeal having due regard to this duty and have reached my decision in relation to this appeal purely on the planning merits of the case.
5. Reference has been made to the Council's use in assessing this application of the landscape officer's consultation response to a previous application (ref 3/12/0159/FP) for a larger agricultural building on the site. It is also stated that the Hertfordshire and the Middlesex Wildlife Trust (HMWT) wrongly assessed the application on the basis that the proposal would occupy 9% of the wildlife site (ref 16/009). I have taken these criticisms into account when considering the consultation responses from the landscape officer and HMWT, and the Council's interpretation of these reports.

### **Application for costs**

6. An application for costs was made by East Hertfordshire District Council against Imperial Engineering and Development Limited. This application will be the subject of a separate Decision.

### **Main Issues**

7. The main issues in this appeal are
  - whether the location of the proposed development would be in accordance with the development plan;
  - the effect on the character and appearance of the area;
  - the effect of the proposed development on wildlife and woodlands; and,
  - whether there are other material considerations, such as the sustainability of the proposed development, which would outweigh any conflict with the development plan and any other harm that would be caused.

### **Reasons**

8. In 2011 / 2012 two planning applications (references 3/11/1829/FP & 3/12/0159/FP) were made by the appellant for an agricultural building on the appeal site. Both applications were refused, with the second application dismissed on appeal<sup>1</sup>. In 2013 an application for a timber joinery furniture workshop (ref 3/13/1612/OP) was refused. This appeal relates to a fourth application which seeks to overcome the reasons for refusal of the previous applications.

#### *Location of development*

9. The development plan for the area is the East Herts Local Plan Second Review. The appeal site is located within the rural northern area beyond the Green Belt. The spatial strategy of the Local Plan in this area is to direct development to the main settlements. Policies GBC2 and GBC3 of the Local Plan supports some new development in other selected settlements to maintain the vitality of the area. In smaller settlements development will only be supported to meet the needs of the locality. Within such settlements, and the open countryside beyond, development is therefore strictly controlled.
10. The appeal site is located within the open countryside close to Rectory Farm. The proposed workshop would produce timber furniture, but does not fall within any of the exceptions to the restraint on development in the countryside imposed by policy GBC3. The location of the proposed development would therefore be contrary to policies GBC2 and GBC3 of the Local Plan. As a result, it would not comply with the development plan.
11. The National Planning Policy Framework ('the Framework') is an important material consideration. Core planning principles of the Framework support sustainable economic growth, but also recognise the intrinsic character and beauty of the countryside and the role planning has in conserving and enhancing the natural environment. As paragraph one explains the document provides a framework within which distinctive local plans that reflect the needs and priorities of their communities can be produced. This was a principle of the previous national guidance that underpinned the preparation of the existing Local Plan. Although the Local Plan is eight years old its approach to

---

<sup>1</sup> Appeal ref APP/J1915/A/12/2177599



controlling development in the countryside is therefore consistent with the Framework. As a consequence, I give its policies full weight.

#### *Character and appearance*

12. The appeal site is located within woodland in gently undulating attractive countryside characterised by large arable fields bounded by hedgerows and areas of trees. The central area of that part of the woodland controlled by the appellant, including much of the appeal site, has been cleared of trees. The woodland is the subject of a Tree Preservation Order (ref 564). A restocking notice has been served by the Forestry Commission requiring the replanting of trees on the site. With such planting and the self seeded saplings that I saw the appeal site would slowly return to woodland. The site is separated from the buildings at Rectory Farm by a gap of approximately 50m occupied by a narrow field, hedgerow and track. As a result, it is a distinctly separate area of land that stands apart from the cluster of development associated with the farm.
13. The appellant submitted a plan with the application illustrating how a rectangular timber workshop could occupy the site towards its northern boundary. As the application is in outline the appellant is not tied to the detail shown on this plan. However, given that the plan and the application form both show that the building would have a floor area of approximately 250sqm to 300sqm I have treated this as indicative of the appellant's intentions. The application has accordingly been assessed on this basis.
14. A building of the size indicated would be significantly smaller than the agricultural building proposed for the site that was dismissed on appeal in 2012. Nevertheless, it would still be a substantial building. Isolated from Rectory Farm it would not appear as part of the cluster of buildings associated with it. Together with the hardstanding serving the building, fencing and the paraphernalia a business use attracts, such as car parking, it would result in the loss of land that would otherwise regenerate as woodland. As a result, although the proposed development would occupy only 9% of the woodland owned by the appellant, it would have an urbanising effect on the countryside.
15. This effect would be visible all year round in public views from the road across the gap between the farm and the site. Native broadleaf planting is proposed to replace and add to that which has been felled on the site. Nevertheless, in the colder months of the year, when these and the existing trees around the site are not in leaf, the development would also be visible in far wider views from Langley Lane that runs along the front of the site. The building could be designed to match the appearance of a traditional rural building in the area. However, this would not overcome the harm that I have described. As a result, the proposed development would have a significant adverse effect on the character and appearance of the countryside.
16. For all of these reasons, I therefore conclude that the proposed development would demonstrably harm the character and appearance of the countryside. Given that the proposed development would not fall within one of the exceptions supported by policies GBC2 and GBC3 of the Local Plan this harm would be contrary to the objectives of these policies.

#### *Wildlife and woodland*

17. The Council states that a conservation survey of the area describes the appeal site as being part of a much larger woodland area that contains a mixture of

trees and ground fauna. The Authority also states that the survey refers to the presence of a number of indicator species that confirm the ancient origins of this woodland. In the absence of any evidence to the contrary, I have no reason to disagree with that assessment.

18. The site has consequently been identified in the Local Plan as a wildlife site. As a result, policy ENV14 applies. It advises that where development is likely to have an adverse effect on such a site permission should not be granted, unless there are reasons in favour of the proposal that would outweigh the harm that would be caused. This is consistent with the approach of the Framework. I shall therefore identify whether adverse affects on wildlife would be likely to occur.
19. Other than around its edge trees have been largely cleared from the appeal site. As I earlier noted a re-stocking notice has been served requiring the replanting of native trees. The smaller size of the proposed building and its location towards the northern boundary would mean more of the woodland would be preserved from built development than in the schemes for an agricultural building on the plot. However, the proposal would still cover a significant part of the appeal site. As a result, it would result in the loss of a noteworthy area of woodland that would otherwise be replanted. In time such replanted trees, along with the ground fauna beneath them, would provide an attractive habitat for wildlife. Therefore whilst the proposal in not removing more trees would comply with the wording of policy ENV11 of the Local Plan, in practice by preventing replanting of the cleared area of woodland it would cause harm. Given the need for adequate spacing between trees this loss of woodland would not be compensated for by a higher concentration of tree planting on the remainder of the site.
20. The building and hardstanding for the access, manoeuvring and parking would occupy only 1.69% of the wildlife site (ref 16/009). Whilst this is a small percentage, the position of the development plan and the Framework is that development that causes ecological harm to such sites should only be allowed if the benefits of the development outweigh the harm that would be caused.
21. The noise, activity and lighting associated with the building and its use would also deter local wildlife in the remaining undeveloped area of the appeal site. Although a fence is proposed to separate the development from woodland to the south, this would not prevent noise from an operational timber workshop discouraging wildlife in the vicinity of the appeal site. Furthermore, as the remaining boundaries between land in the appellant's ownership and Langley Lane would remain open, the proposed fence would be of little benefit in preventing wildlife being killed on the road. For the same reason, the fence would be of little use in preventing disturbance from the headlights or noise of passing traffic.
22. Reference has been made to allowing the RSPCA to release rescued wildlife on the site and the introduction of red squirrels. However, there is an absence of further information on the types of rescued animals that would be released. There is also a lack of supporting evidence from an ecologist demonstrating that the site is a suitable habitat where the red squirrels and rescued animals would remain and prosper. For these reasons, this consideration therefore does not alter my finding in relation to this issue.
23. Taking all these matters into account, I therefore conclude that the proposed development would adversely affect the biodiversity of the woodland. I shall

assess whether the proposal would comply with policy ENV14 of the Local Plan by considering whether the benefits of the proposal would outweigh the harm caused in the conclusion.

*Sustainable development*

24. The Framework contains a presumption in favour of sustainable development. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development; economic; social and environmental. The Local Plan's approach to sustainable development differs significantly to that of the Framework. However, as paragraph 215 of the Framework makes clear where there is more than a limited degree of conflict between the Framework and the development plan, greater weight should be given to the Framework. The proposed development in relation to sustainability should therefore be assessed against the Framework rather than the Local Plan.
25. In terms of the environment, whilst the workshop would produce furniture without the use of chemicals I have found that the proposal would harm the character and appearance of the area. It would also harm the woodland and its biodiversity. With regard to its location, in comparison to the main settlements and other settlements selected for development by the Local Plan, it is remotely located. As a result, employees and visitors would be reliant upon the private car to access the site. The appellant states that the workshop would primarily be used to manufacture furniture for London. The site would only have one delivery of materials and one collection of goods a week by small van. However, in the absence of evidence that there are no suitable locations for workshops within settlements within the District where such a business could operate from, I find that the proposal would not be in a sustainable location for development.
26. Economically, the construction of the workshop would result in employment. The operation of the workshop would create two jobs. As a result, it would help support economic growth. Socially, the workshop would provide a local source of furniture without any delivery charges for customers within five miles.
27. My overall conclusion on this issue is that the social and economic benefits of the scheme are small, and would not overcome the significant harm that would be caused to the character and appearance of the area, and to biodiversity. The unsustainable location of the appeal site also counts against the proposal. I therefore conclude, on the overall balance of considerations, that the proposal would not be a sustainable development.

*Other matters*

28. In terms of highway safety the site access has adequate visibility in both directions. The Council has stated that the access is acceptable, subject to the highway verges being improved to the vehicle crossover standard. I have no reason to disagree with that conclusion, and note that the construction of a crossover to an appropriate standard could be secured by condition.

**Conclusions**

29. I have found that the location of the proposed development would be contrary to the development plan. The proposal would also cause harm to the character and appearance of the area and biodiversity. In addition, it would not be a sustainable development. Whilst there would be some economic and social

benefits, considered as a whole they do not outweigh the harm that would be caused. The proposal would therefore also be contrary to policy ENV14 of the Local Plan and the Framework. For these reasons, and having regard to all other matters raised, the appeal should therefore be dismissed.

*Ian Radcliffe*

Inspector



---

## Appeal Decision

Site visit made on 4 March 2015

**by Ron Boyd BSc (Hons) MICE**

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

**Decision date: 21 March 2015**

---

**Appeal Ref: APP/J1915/D/14/2220503**

**Plovers, Cherry Green Lane, Westmill, Buntingford SG9 9LE**

- 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 S De Bono against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0198/FP, dated 31 January 2014, was refused by notice dated 25 March 2014.
  - The development proposed is described as 'First floor rear extensions (amended proposal)'.
- 

### Decision

1. The appeal is allowed and planning permission is granted for first floor rear extensions at Plovers, Cherry Green Lane, Westmill, Buntingford SG9 9LE in accordance with the terms of the application, Ref 3/14/0198/FP, dated 31 January 2014, 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 materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.
  - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 130124.3A and 130124.4A dated February 2013 and 130124.5 dated October 2013.

### Main issues

2. I consider these to be the effect the proposed development would have on :
  - the character and appearance of the host dwelling and the surrounding area; and
  - the living conditions of the occupants of the adjacent dwelling 'Four Winds' in respect of the use of the south-eastern first-floor bedroom.

### Reasons

3. The appeal property is a detached, two-storey, four-bedroom house facing north-westwards towards Cherry Green Lane. It is one of a group of four detached dwellings, including its neighbour to the south-west, 'Four Winds',

which share access on to the lane. A detached garage, provided in accordance with permission 3/08/1070/FP lies to the north-east of the house. Against the original rear elevation is an existing two-storey, hipped-gable extension flanked, to the south west and the north east by two single-storey, single-pitch-roofed extensions. The proposal is to provide a first-floor extension above each of these existing single-storey extensions. Each would have a hipped gable echoing the larger gable of the existing two-storey extension. Combined, the existing and proposed extensions would amount to a 3.6m deep two-storey extension across the rear elevation of the house.

4. The site lies within the Rural Area Beyond the Green Belt, where Policy GBC3 of the East Herts Local Plan Second Review April 2007 (the Local Plan) restricts permissions for extensions to those in accordance with Policy ENV5. For locations such as the appeal site this policy, which differentiates between extensions to dwellings and the construction of outbuildings, states, amongst other things, that *'an extension to a dwelling.....will 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'*.
5. The floor area of the original dwelling is stated by the Council as 159.98 sqm and by the appellant as 185 sqm. In the absence of detailed dimensions regarding the original dwelling I have no reason to dispute either assessment. The appellant advises the floor area of the existing extensions to be 67 sqm, and that of the proposed extensions to total 30 sqm. From the submitted plans these seem to me to be reasonable assessments. In the light of the above I conclude that the existing and proposed extensions would represent an increase of some 97 sqm over the original floor area of either 159.98 sqm or 185 sqm – an increase of either 60% or 52%.
6. To my mind such an order of increase would not in itself amount to a disproportionate alteration in size. In the light of the form of both the existing and proposed extensions I consider the cumulative effect would not amount to a disproportionate alteration of the size of the original dwelling such as would warrant dismissal of the appeal on this aspect. Nor, notwithstanding their addition to the bulk of the house, would the proposed extensions, which would be slightly set back from the first-floor rear elevation of the existing two-storey extension, unacceptably intrude into the openness or rural qualities of the surrounding area. The Council considers the proposals acceptable in design terms and I agree. Overall, I conclude that the character and appearance of neither the host dwelling nor the surrounding area would be detrimentally affected and that in this respect the proposals would be compatible with Local Plan Policy EN5.
7. However, the proposed south-western first-floor extension would affect the outlook from the north-east-facing secondary window to the south-eastern first-floor bedroom of 'Four Winds'. At present this window faces partly on to the south-western elevation of the appeal property shown as 3.33m away on submitted Drawing 130124.5, and partly on to the south-western elevation and roof slope of the existing two-storey extension approximately 7.5m away. The latter limits the extent of outlook from the window towards points beyond the appeal property itself to between the north east and the south east.

8. The result of the proposal would be that the window would look on to the south-western elevation and roof slope of the proposed south-western extension 3.33m away. The outlook would be reduced in breadth by the proposed extension obscuring its north-easterly element which at present provides views across the north-western part of the appeal property's back garden to points beyond. However, notwithstanding the greater presence of the appeal building that would result from the proposed south-western first-floor extension, the window would retain an (albeit reduced) outlook towards the east and south east. In addition, 'Four Winds' is slightly higher than the appeal property and the existing skyline defined by the roof ridge of the existing building would not be affected. Nor would the main window to the bedroom which faces south-east.
9. In the light of the above I consider that the effect of the proposal on the outlook from the secondary window would be acceptable and that light levels to the bedroom would remain satisfactory. Accordingly I conclude that the proposal would not have a significantly detrimental impact on the living conditions of the occupants of 'Four Winds' in respect of their use of the south-eastern first-floor bedroom and that, in this respect, the proposal would be compatible with the aims of Local Plan Policies ENV1, ENV5 and ENV6.
10. I have taken into account all the other matters raised in the evidence but have found nothing sufficient to outweigh my conclusions on the main issues which have led to my decision on this appeal. For the reasons given above I conclude that the appeal should succeed.
11. I have considered the conditions suggested by the Council in the light of the Government's Planning Practice Guidance and Appendix A of Circular 11/95. I consider those I have set out with my decision above to be reasonable and necessary. They require the materials to be used in the external surfaces of the development to match those of the host dwelling, in the interests of a satisfactory appearance, and that the development be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

*R. T. Boyd*

Inspector

---

## Appeal Decision

Site visit made on 20 January 2015

**by Nick Palmer BA (Hons) BPI MRTPI**

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

**Decision date: 30 January 2015**

---

**Appeal Ref: APP/J1915/A/14/2219923**

**Lillymead, Mill End, Standon, Ware SG11 1LR**

- 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 Jan Stephens against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0211/FP, dated 31 January 2014, was refused by notice dated 31 March 2014.
  - The development proposed is an extension to the existing dwelling and erection of a new dwelling adjacent, the existing garage to be demolished for the new dwelling adjacent.
- 

### Decision

1. The appeal is allowed and planning permission is granted for an extension to the existing dwelling and erection of a new dwelling adjacent, the existing garage to be demolished for the new dwelling adjacent at Lillymead, Mill End, Standon, Ware SG11 1LR in accordance with the terms of the application, Ref 3/14/0211/FP, dated 31 January 2014, subject to the conditions set out in the attached schedule.

### Main Issues

2. The proposal would be located in the Standon Conservation Area. The Council considers that the proposals would not be harmful to the character and appearance of the Conservation Area and this does not form a reason for refusal. Standon Parish Council and an interested party have however objected to the proposal on the grounds of its effect on the character and appearance of the Conservation Area. I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and will consider this as a main issue.
3. The second main issue in the appeal is the effect of the proposal on the living conditions of adjacent occupants of The Granary in terms of outlook.

### Reasons

#### *Character and Appearance*

4. The Standon Conservation Area covers the historic part of the settlement along High Street as well as Mill End which includes former mill buildings and former farm buildings, the latter having been converted to residential use. In addition to these buildings, Mill End includes housing of various periods and styles. Many of these are built close to, or adjoining the street frontage but 'Lillymead'



which is a late 20<sup>th</sup> century detached house is set back behind a front garden. The site is to the side of that property and between it and the converted former farm buildings which are known as 'The Granary'. A public footpath which extends from Mill End is between the site and The Granary. An existing attached garage would be demolished to make way for the proposed dwelling which would reflect the design of the existing property very closely. It would be aligned with the existing property but the space between it and the road frontage would be diminished by the alignment of the road and the footpath.

5. Because the proposal would be of very similar appearance to the existing property and given the relative closeness of many of the buildings in the area to the highway, the proposal would be in keeping with the character of the Conservation Area. I conclude that the proposal would preserve the character and appearance of the Conservation Area and that it would accord with saved policy BH6 of the East Herts Local Plan Review (LPR) (2007).

#### *Living Conditions*

6. The proposal would be of the same height as the existing dwelling and of similar bulk. Its gable wall would be adjacent to side windows in The Granary and it would be to the south of that building. The two storey part of the proposal would be approximately 7.5 metres away from The Granary. It would not be a large or dominant building in the context of the adjacent residential development and its distance away from the windows of the adjacent property would be sufficient to ensure that sunlight and daylight would not be materially affected. The proposal would include a single storey side projecting element which would extend closer to the adjacent property but this would be of limited scale. For these reasons the proposal would not be unacceptably dominant when viewed from the windows in the adjacent property.
7. The appellant's Daylight and Sunlight Study confirms that the proposal would have a low impact on the light receivable by the neighbouring windows. One of the rooms facing the proposed dwelling has another window on its north side and the second room has two windows, one of which would have views towards the rear of the proposed dwelling as well as its side wall. For these reasons the proposal would not adversely affect the living conditions of the adjacent occupants of The Granary in terms of outlook. The proposal would accord with saved policy ENV1 of the LPR which requires that development proposals respect the amenity of occupiers of neighbouring buildings.

#### *Other Matters*

8. Standon Parish Council has raised concern regarding flood risk. The proposed dwelling would be within Flood Zone 1 as identified on the Environment Agency's flood map which is an area of low probability of flooding, although part of the front garden would be within Flood Zone 2 (medium probability). On this basis the Council considered the proposal to be acceptable in terms of flood risk and having considered the information provided by the appellant and the Environment Agency's response I see no reason to disagree with this view.
9. I have taken into account the other matters raised by interested parties including concern about over-development of the site, parking issues on Mill End, loss of privacy, and traffic noise and pollution but those matters do not alter my conclusions.

## **Conditions**

10. I have had regard to the National Planning Policy Framework and the Planning Practice Guidance in imposing conditions. I have imposed the conditions suggested by the Council with some alterations to the wording and with the exceptions as stated below.
11. I have imposed a condition requiring development to be carried out in accordance with the approved plan for the avoidance of doubt. The County Council's archaeologist has advised that the site is in an Area of Archaeological Significance and for this reason a condition requiring an archaeological investigation is necessary.
12. A condition requiring the approval of ground and finished floor levels is necessary to ensure that the overall height of the development is in keeping with neighbouring buildings and that flood risk to the dwelling is minimised.
13. Conditions requiring detailed approval of external facing materials, hard surfacing and boundary treatments are necessary to ensure that the appearance of the development is acceptable. I have not imposed a condition requiring the provision of landscape planting because although the officer's report identifies that additional planting would be desirable, this is not necessary to make the development acceptable in planning terms.
14. I have imposed a condition as suggested by the Highway Authority requiring the width of the adjacent footpath to be defined to ensure that this remains a safe route for pedestrians during construction works.
15. The Council's officer report refers to the need to use sustainable drainage measures and the appellant has confirmed that surface water would be drained to a soakaway on the site. In order to prevent surface water run-off which could contribute to flood risk I have imposed condition 8.
16. Finally I have imposed a condition as suggested by the Environmental Health Officer restricting the hours during which construction works can take place in order to safeguard amenity.
17. The Environmental Health Officer has suggested a condition requiring that any contamination found during construction is notified to the Council. No evidence has been provided to indicate that the site may be contaminated and on this basis I see no reason to impose this condition.

## **Conclusions**

18. For the above reasons I conclude that the appeal should be allowed.

*Nick Palmer*

INSPECTOR

### **Schedule of 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 plan: 100\_P02B.
- 3) No development or ground works shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The results of the investigation shall be submitted to the local planning authority.
- 4) No development shall take place until details of existing and proposed ground levels and finished floor levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until details of hard surfacing materials and boundary treatments have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until the boundary of the adjacent public right of way (FP1 & 2) has been established by the erection of temporary fencing and signing in accordance with details which have been submitted to and approved in writing by the local planning authority. The public right of way shall remain undisturbed and unobstructed at all times during development.
- 8) Surface water drainage from the development shall be directed to a permeable or porous area or surface within the site.
- 9) Demolition or construction works shall not take place outside 07:30 hours to 18:30 hours Mondays to Fridays and 07:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.



---

## Appeal Decision

Site visit made on 3 February 2015

**by Nick Palmer BA (Hons) BPI MRTPI**

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

Decision date: 16 February 2015

---

**Appeal Ref: APP/J1915/A/14/2219920**

**1 Maylins Drive, Sawbridgeworth, Hertfordshire CM21 9HG**

- 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 Jack Millard against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0377/FP, dated 27 February 2014, was refused by notice dated 1 May 2014.
  - The development proposed is the extension of the existing bungalow and its subdivision to two self-contained properties.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the extension of the existing bungalow and its subdivision to two self-contained properties at 1 Maylins Drive, Sawbridgeworth, Hertfordshire CM21 9HG in accordance with the terms of the application, Ref 3/14/0377/FP, dated 27 February 2014, subject to the conditions set out in the attached schedule.

### Main Issue

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

### Reasons

3. Maylins Drive is a narrow private road which serves a number of residential properties. These comprise bungalows and two storey houses which are sited informally in relation to the road frontage. The bungalows opposite the appeal site and adjacent to it are sited close to the road frontages and close to their side boundaries. The fronts of the facing properties are also close to each other due to the narrowness of the road. The first part of the road is thus quite densely built up but there is a more spacious character further along the road.
4. The Council states that the garden areas for each bungalow would be approximately 80 sq m with 65 sq m of that being to the rear. There is no recommended minimum area for private amenity space. Although the garden areas for each dwelling would be modest there is no evidence to suggest that they would be inadequate in relation to the size of the dwellings.
5. The open front gabled extensions would project slightly forward of the existing building but the front walls would be set back allowing a car to be parked in front of each unit. The gabled roof would be extended on both sides but there would be hipped additions to the ends which would reduce the bulk of the

extensions. The resulting development would be closer to its side boundaries but this would not be out of character with the other adjacent dwellings.

6. Although the dwellings would occupy smaller plots than the others in the immediate area, this would not noticeably affect the character and appearance of the area in terms of the built form and its relationship with its side and front boundaries.
7. For these reasons the proposal would not adversely affect the character and appearance of the area. It would accord with policies ENV1 and HSG7 of the East Herts Local Plan Second Review (2007) which require a high standard of design and layout to reflect local distinctiveness and to relate well to surrounding buildings. Those policies are consistent with one of the core planning principles of the National Planning Policy Framework (the Framework)<sup>1</sup> which is to take account of the different roles and character of different areas.
8. Interested parties have expressed concern about the potential for overlooking from the side windows. The imposition of a condition requiring the provision of fencing or another boundary treatment would overcome this.
9. One car parking space is proposed for each bungalow. Taking into account the proximity of the site to the centre of Sawbridgeworth and to public transport services, this level of provision would be adequate. There is no space available on Maylins Drive for visitor parking but there are other roads nearby where on-street parking is possible.
10. I have taken into account all other matters raised, including the roof design and its proximity to the front and side boundaries but they do not alter my conclusions.

### **Conditions**

11. The Council has suggested conditions and I have considered these against paragraph 206 of the Framework and the Planning Practice Guidance. I have imposed condition 2 for the avoidance of doubt. Condition 3 is necessary to ensure the appearance of the development is acceptable.
12. There is no evidence of previous use of the site that would result in contamination but the Council's environmental health officer advises that a condition requiring an assessment of potential contamination would be necessary as a precaution. I have imposed condition 4 in accordance with that advice.
13. A condition restricting the hours of demolition and construction work is necessary to safeguard residential amenity. Finally, a condition requiring the approval and provision of boundary treatments is necessary to ensure privacy for the future occupants and adjacent occupants.

### **Conclusions**

14. For the above reasons I conclude that the appeal should be allowed.

*Nick Palmer*

INSPECTOR

---

<sup>1</sup> NPPF paragraph 17

### **Schedule of 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: BRD/13/040/002 and BRD/13/040/003.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted 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) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 5) Demolition and construction works shall not take place outside 07:30 hours to 18:30 hours Mondays to Fridays and 07:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 6) No development shall take place until details of the design, materials and type of boundary treatments to be erected have been submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be completed before the dwelling is occupied and shall thereafter be retained.



## Appeal Decision

Site visit made on 9 February 2015

by **J L Cheesley BA(Hons) DIPTP MRTPI**

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

Decision date: 19 February 2015

---

**Appeal Ref: APP/J1915/D/14/2229799**

**White House, Albury Road, Little Hadham, Ware, Hertfordshire SG11 2DW**

- 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 J Hector against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0602/FP was refused by notice dated 1 October 2014.
  - The development proposed is single-storey side extensions, addition of new first floor incorporating two-storey rear extension.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider the main issues to be:

the effect of the proposal on the character and appearance of the existing dwelling and wider area; and

the effect of the proposal on the habitat of bats, a European Protected Species.

### Reasons

#### *Character and Appearance*

3. The appeal site lies within the built up area of Little Hadham, identified as a category II village in the East Herts Local Plan Second Review (2007). Local Plan Policies GBC3 and ENV5 allow for limited extensions to existing dwellings where they would not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area. Local Plan Policy ENV6 requires extensions to dwellings to accord with Policy ENV5. Policy ENV1, amongst other matters, requires development to reflect local distinctiveness.
4. I consider that the Local Plan policies referred to above are broadly in accordance with the National Planning Policy Framework as far as they meet the Framework's core principles; particularly that planning should be taking account of the different roles and character of an area.
5. The appeal site lies within a row of dwellings in a rural setting. The dwellings are predominately bungalows, many of which are chalet bungalows of various designs. An overriding characteristic of this part of Albury Road is for upper floors to be within the roof space.

6. The proposal includes the conversion of the very small bungalow into a dwelling where the bulk of the centre of the building would be two-storey. This would increase the roof height by some 3.8 metres. At either side would be single storey projections, situated in very close proximity to the side boundaries of the premises. These would reach a height of some 6.2 metres.
7. From my observations, I consider that the proposal, due to its scale, bulk and design, would completely alter the discrete character and appearance of the existing dwelling. The extensions would overwhelm the property. As such they would be disproportionate additions not in keeping with the character and appearance of the existing dwelling. In addition, due to the bulk and width of the proposed extensions, particularly the side extensions close to the side boundaries, I consider that the proposal would appear as a cramped form of development that would not respect the scale, the more spacious form and layout of dwellings in the vicinity.
8. Due to the bulk of the building and in particular the two-storey section, the proposal would appear as a dominant and discordant feature in the streetscene where bungalows and chalet bungalows predominate. Thus, I consider that the proposal would have an adverse effect on the character and appearance of the surrounding streetscene. In this rural setting, this would be to the detriment of the openness and rural qualities of the surrounding area.
9. In reaching my conclusion, I have taken into consideration all matters raised including examples of extensions in the vicinity. For the above reasons, I conclude on this matter that the proposal would have an adverse effect on the character and appearance of the existing dwelling and wider area. Thus, the proposal would be contrary to Local Plan Policies GBC3, ENV1, ENV5 and ENV6.

#### *Bats*

10. The Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010 (as amended) require due regard is paid to protected species. Bats are protected species under this legislation. Local Plan Policy ENV16 seeks to prevent development that may cause harm to protected species.
11. A Bat Assessment Report dated 13 May 2014, indicated that at least one bat had roosted in the loft within the previous 6 months. The summary to that report concluded that at least two bat nocturnal surveys are required to clarify the roosting status of the building, including the number of bats roosting. I have not been provided with any nocturnal surveys. In the absence of nocturnal surveys, I am unable to determine the impact of the proposal on European protected species and thus unable to determine that due regard has been paid to their protection. Thus, the appeal fails in this respect.

#### *Conclusion*

12. I have found that the proposal would have an adverse effect on the character and appearance of the existing dwelling and wider area and I am unable to determine that due regard has been paid to the protection of bats. For these reasons, I dismiss the appeal.

*J L Cheesley*

INSPECTOR





---

## Appeal Decision

Site visit made on 4 March 2015

**by Ron Boyd BSc (Hons) MICE**

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

**Decision date: 25 March 2015**

---

**Appeal Ref: APP/J1915/D/14/2221355**

**5 Dolphin Way, Bishop's Stortford, Hertfordshire CM23 2AH**

- 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 & Mrs Cowen against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0654/FP, dated 10 April 2014, was refused by notice dated 4 June 2014.
  - The development proposed is two-storey side, first-floor rear, and single-storey front and rear extensions and new first-floor flank window.
- 

### Decision

1. The appeal is allowed and planning permission is granted for two-storey side, first-floor rear, and single-storey front and rear extensions and new first-floor flank window at 5 Dolphin Way, Bishop's Stortford, Hertfordshire CM23 2AH in accordance with the terms of the application, Ref 3/14/0654/FP, dated 10 April 2014, 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 materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
  - 3) Before the first occupation of the extension hereby permitted the window in the western flank wall to the ground-floor study and that in the eastern flank wall to the first-floor bedroom shall, below a height above the adjoining internal floor level of 1.7m, be fitted with obscured glass and fixed permanently shut, and shall be permanently retained in that condition thereafter.
  - 4) The development hereby permitted shall be carried out in accordance with the following approved plan: C/2899/13/PL-01.

### Main issue

2. I consider this to be the effect the proposed development would have on the character and appearance of the street scene.

### Reasons

3. The appeal property is a detached three-bedroom house on the north side of Dolphin Way, being one of 7 similarly designed houses on this side of the road (Nos. 1-7). It has a flat-roofed single garage attached to its western flank elevation with a single car port in front of the garage. Both the car port and the front of the garage are coincident with the dwelling's western boundary

with the neighbouring No. 6. The proposal is to provide a ground-floor extension across the full width of the front elevation in line with the existing front entrance porch, a two-storey western side extension, a first-floor rear extension and a single-storey extension to the eastern side of the rear elevation. There would be a new first-floor window in the existing eastern flank elevation.

4. The Council refused the application for the reason that the proposed two-storey extension, which would be either coincident with or within 0.5m of the boundary with No. 6, would result in a cramped form of development producing a visual terracing effect to the detriment of the street scene. I do not share the Council's concerns in these respects.
5. The two-storey element of the front elevation of No. 6 is some 4m from the boundary with No. 5 and its proposed two-storey extension. No. 6 is aligned at about 40 degrees to No.5. To my mind this degree of separation and difference in alignment, which would result in part of the rendered first-floor flank elevation of No. 6 being seen in views from the east even with the proposed two-storey side extension to No.5 in place, together with the opposing hipped gables of the two dwellings, would preclude the pair being seen as terraced.
6. The 4m separation would be largely occupied by the single-storey side extension to No. 6. This would not be inconsistent with the street scene, where those properties that have not been extended in two-storey form to their boundaries are separated from their neighbours by a similar gap to that between 5 and 6, but largely occupied by a single-storey garage.
7. In the light of the above I conclude that the proposed development would be compatible with the character and appearance of the street scene. I consider such lack of harm to be a material consideration sufficient to outweigh, in these particular circumstances, the general rule, referred to in Policy ENV6 of the Council's Local Plan Second Review April 2007, (the Local Plan) that flank walls of extensions at first floor level should be set back a minimum of 1m from the boundary with neighbouring property. In other respects I find no conflict with the aims of the Local Plan Policies referred to in the Council's decision notice.
8. I have taken into account all the matters raised in the evidence but have found nothing to outweigh my conclusion in respect of the main issue which has led to my decision in this appeal. Accordingly I conclude that the appeal should succeed.
9. I have considered the conditions suggested by the Council in the light of the Government's Planning Practice Guidance and Appendix A of Circular 11/95. I consider those I have set out with my decision above to be reasonable and necessary. They deal with: materials to be used in the external surfaces of the development, in the interests of a satisfactory appearance; treatment of specified flank wall windows, in the interests of the living conditions of the occupants of neighbouring dwellings; and require that the development be carried out in accordance with the approved plan, for the avoidance of doubt and in the interests of proper planning.

*R. T. Boyd*

Inspector



---

## Appeal Decision

Site visit made on 4 March 2015

**by Ron Boyd BSc (Hons) MICE**

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

**Decision date: 21 March 2015**

---

**Appeal Ref: APP/J1915/D/14/2222972**

**1 Fairway, Ware, Hertfordshire SG12 9JP**

- 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 Andreas Simou against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/0678/FP, dated 14 April 2014, was refused by notice dated 6 June 2014.
  - The development proposed is described as 'first floor side extension'.
- 

### Decision

1. I dismiss the appeal.

### Main issue

2. I consider this to be the effect the proposed development would have on the character and appearance of the street scene.

### Reasons

3. The appeal property is a late 20<sup>th</sup> Century four-bedroom detached house fronting the eastern side of Fairway, a small estate of similar houses off the southern side of Warner Road. No. 1 is on the corner of Fairway's junction with Warner Road. There is a single-storey hipped pitched-roof extension to the property between the two-storey gabled northern elevation of the house and the boundary with Warner Road. The proposed development is to continue the two-storey form of the house over this side extension terminating in a full-height gable 1m back from the highway boundary.
4. From its junction with Walton Road, Warner Road runs directly westwards before terminating in a cul-de-sac abutting the eastern boundary of the Chadwell Springs Golf Course immediately west of Fairway. Established properties along the south side of Warner Road are set well back from the highway. The importance of this set back has been acknowledged in the siting of the Fairway dwellings adjoining Warner Road, these being the appeal property and No. 12 opposite. The two-storey elements of both houses are some 6m from the boundary with Warner Road thus retaining the open character of the street scene and the long views from the east towards the openness of the Golf Course which are a defining characteristic of the area. Whilst both properties have side extensions, that to No. 12 being a garage,

their single-storey forms do not amount to unacceptable intrusions into the street scene.

5. However, the proposed first-floor extension would reduce the set back of the two-storey building from the highway to 1m. I conclude that it would be an unacceptable intrusion, diminishing the view from the east and detracting from the open character and appearance of the street scene. As such it would be in conflict with Policies ENV1 (a-c), ENV6 (b) and paragraph 58 of the National Planning Policy Framework which requires development to respond to local character and reflect the identity of local surroundings.
6. I have taken into account all the matters raised in the evidence, including the reference to the extension to No. 3 Fairway, which I note does not intrude into the Warner Road street scene, and that there would be no unacceptable impact on the living conditions of the occupants of neighbouring dwellings. However, neither of these, nor any of the other matters raised, is sufficient to outweigh my conclusion in respect of the main issue which has led to my decision on this appeal. For the reasons given above I conclude that the appeal should fail.

*R. I. Boyd*

Inspector