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## Appeal Decision

Site visit made on 12 October 2015

by **Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI**

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

Decision date: 02 November 2015

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**Appeal Ref: APP/I1915/VV/15/3017321**

**Clements Farm, Brickendon Lane, Brickendon Liberty, Nr Hertford, Herts SG13 SFG**

- 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 R Bone (AT Bone & Sons) against the decision of East Hertfordshire District Council.
- The application Ref 3/14/1827 /FP, dated 10 October 2014, was refused by notice dated 25 February 2015.
- The development proposed is erection of an AD plant and associated silage compound.

### Decision

1. The appeal is dismissed.

### Background

2. Clements Farm, (138 hectares) is a part of a substantial farming and diversified enterprise and is described as the hub of the appellant's operations in the 405 hectares<sup>1</sup> located in and around Hertford. The enterprise also farms other land (approximately 1,400 hectares)<sup>2</sup> in the general locality and farther afield and the business includes an agricultural and amenity contracting business, a haulage operation and two livery yards. Descriptions of the land holdings in the evidence before me are not straightforward and the submitted plans do not appear to illustrate the geographic extent of the enterprise. But it appears that this part of the holding, Clements Farm, is primarily arable land with grassland and since 2007 has been used for overwintering of a small herd of beef cattle and some summer grazing. The intention is to increase the livestock element to about 100 suckler cows.
3. Clements Farm has several large agricultural buildings totalling about 3,150m<sup>2</sup> most of which have been constructed since 2009, effectively replacing the original farmstead on the far side of the lane. A further large building, which appears to be intended as a straw store, has recently been approved so that these existing and proposed buildings, together with various smaller structures, comprise a significant group in and around the farm yard. The proposed anaerobic digester (AD plant), supporting infrastructure and silage clamps, would be located to the south-east of the main concentration of buildings. A farm manager's dwelling has also been approved on the Clements Farm site.

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<sup>1</sup> Revised *Design and Access Statement*

<sup>2</sup> *Agricultural considerations*: Reading Agricultural Consultants

## Main issues

4. The main issues in this appeal are:
- whether the proposal constitutes inappropriate development in the Green Belt; and
  - if so, whether the benefits arising from the production of energy from a renewable resource clearly outweigh the harm by reason of inappropriateness together with any other harm, including any effects on the openness of the Green Belt, such that very special circumstances have been demonstrated.

## Reasons

### *Green Belt*

5. The National Planning Policy Framework (the Framework) says that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence<sup>3</sup>. Openness is generally defined by an absence of built form. Paragraph 89 of the Framework says the construction of new buildings is inappropriate in the Green Belt, other than specified exceptions including buildings for agriculture. Policy GBC1 of the *East Herts Local Plan Second Review April 2007* (EHLP) predates the Framework but the wording of the policy is consistent with Section 9: Protecting Green Belt land. For the purposes of my decision I shall refer to the Framework but in doing so it should also be read as a reference to the adopted policy.
6. It is the appellant's contention that the proposed development should be regarded as agricultural buildings because the plant would be integral to the established and proposed agricultural activity at Clements Farm and associated holdings. In particular the evidence says that the material or feed stock required would originate from on-site crops, waste straw and manure from Clements Farm or other holdings under the control of the appellant. European funding mechanisms require diversification in arable crops grown and this would facilitate the production of feed stock (maize) specifically as a feed crop for the AD plant. All the heat generated would be used on the farm to dry grain and to heat various buildings and about 15% of the electricity generated would be used on the farm, with the remaining electricity exported to the National Grid. Moreover the digestate would be used on the farm or associated holdings.
7. I acknowledge that the unit would be operated as part of the agricultural enterprise and I shall consider the benefits of this later in this decision. But the primary purpose of the AD unit is to produce energy and about 85% of the electricity, which is equivalent to the electricity for approximately 657<sup>4</sup> homes, would be exported to the National Grid. My attention has been drawn to an appeal decision<sup>5</sup> (Wotton) which considered this issue and concluded that the plant proposed in that case would be of a scale which would prevent the creation of renewable energy being ancillary or ordinarily incidental to the primary use of the land. The amount of electricity that would be generated on

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<sup>3</sup> Paragraph 79: The National Planning Policy Framework

<sup>4</sup> Paragraph 2.17 SBRice Consulting Ltd

<sup>5</sup> Appeal decision reference APP/C3620/A/13/2209321

this site and exported would be within the range, albeit at the lower end, of the generation proposed in the Wotton appeal. Consequently I consider that the Wotton appeal decision does not provide a cogent reason for concluding the AD plant as a whole should be considered as 'agricultural buildings'.

8. The generation of energy does not fall within the definition of agriculture in 5366 of the Act<sup>6</sup>. Consequently the AD plant would not fall within the specified exceptions in paragraph 89 of the Framework as it would not be a building or buildings for agriculture. It would therefore constitute inappropriate development. The appellant has suggested that the development could be described as a 'mixed development', but whether this description would be more apt is not determinative because a mixed development would similarly be regarded, in the light of the Framework, as inappropriate development.
9. Paragraph 87 of the Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 says in turn that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

#### *Openness*

10. The proposed AD plant and associated supporting infrastructure and silage clamps are to be sited to the south-east of the main group of farm buildings in a largely open field. There would be seven principal structures including 3 tanks varying between 18m and 30m in diameter and 6m in height. The fixed height and bulk would be increased by the flexible membrane above the tanks which would store the biogas. The plans show that at their apex the membranes could be up to about 4m in height above the main circular structures. The tanks would all be set partially into the existing ground along the west site and this would also involve a 2m high concrete retaining wall linking with a 2m earth bund completely enclosing the area of the tanks. In addition there would be a control room, technical building housing the combined heat and power unit and covered storage for dried digestate, a gas flare and silage clamps to store the maize and rye.
11. The proposed installation would be hidden from view from the road, Brickendon Lane, located a short distance to the west. The main structures would be screened by the existing agricultural buildings when viewed from the entrance and by a belt of trees alongside the road. Copse and tree belts are a feature of the undulating landscape and these would reduce the visibility of the site other than from the north. The level of the land falls from the site to Brickendon Brook then rises to Brickendonbury, a Grade II listed, 18th century, country house. The house now appears to be used as offices and a conference centre and stands within formal parkland. There are clear views from the grounds of the house of the existing group of modern farm buildings and the appeal site. I have no doubt that the installation would significantly add to the bulk of built development and would be a substantial feature of the undulating rural character of the countryside and significantly reduce openness. Moreover

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<sup>6</sup> 5336 Town and Country Planning Act 1990 "Agriculture includes... dairy farming, the breeding and keeping of livestock ... the use of land as grazing land. and "agricultural" shall be construed accordingly.

whether or not the installation would be visible there would be, as a matter of fact, a permanent loss of openness. The appellant acknowledges this.

12. Consequently this loss of openness would add to the harm that I have identified by reason of inappropriate development.

### *Benefits*

13. It is common ground that national guidance supports the delivery of renewable and low carbon energy and that this is central to the economic, social and environmental dimensions of sustainable development. Moreover a core principle of the Framework is support for the transition to a low carbon future and the development of renewable energy. In these circumstances the Framework says an application should be approved if its impacts can be made acceptable<sup>7</sup>. There is support for renewable energy in the Government's Planning Practice Guidance and the *Anaerobic Digestion Strategy and Action Plan*. The latter sets out a commitment to substantially increase the production of energy from waste, through the anaerobic digestion process.
14. The provisions of various Acts<sup>8</sup>, Directives<sup>9</sup>, Strategies<sup>10</sup> and statements<sup>11</sup> relating to renewable energy, including the 2007 Energy White Paper,<sup>12</sup> are similarly supportive. Amongst other matters, these set out and identify progress towards achieving the legally binding target of reducing UK emissions by at least 34% by 2020 and 80% by 2050, as well as achieving the UK's obligation of 15% of energy consumption from renewable energy resources by 2020. They reflect the Government's commitment to renewable energy. These are important matters which weigh heavily in the planning balance.
15. The plant would create three products, electricity, heat, and digestate. The latter two would be utilised within the agricultural enterprise. The appellant says that the proposed plant would be able to make use of the farm waste (farm yard manure, waste straw and grain screenings) that is currently either spread on the land or sent to other AD plants. The digestate produced at the end of the process would replace about 50% of the phosphates currently imported onto the farm and would provide environmental benefits in an area identified as a Nitrate Vulnerable Zone. The farm would utilize all the heat generated by the biogas. The heat would be used to dry grain and the digestate, to heat the buildings and to provide domestic hot water and heating for the approved farm dwelling. Supporting evidence indicates that the plant would save about 3,216 tonnes of CO<sub>2</sub> and the electricity exported to the National Grid would be a benefit as it would reduce the need for electricity generated from fossil fuels.
16. Consequently the renewable energy that would be generated would be a significant benefit of the proposal that weighs substantially in favour of permission.

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<sup>7</sup> Paragraphs 93 and 98: National Planning Policy Framework

<sup>8</sup> The Climate Change Act 2008

<sup>9</sup> Renewable Energy Directive 2009/28/EC

<sup>10</sup> Including the UK Renewable Energy Strategy (2009) and the UK Renewable Energy Roadmap and its updates

<sup>11</sup> Department of Energy & Climate Change Annual Energy Statement (2013)

<sup>12</sup> 'Meeting the Energy Challenge' DTI (May 2007).

*Other considerations*

17. The appellant makes a distinction between those of direct and immediate benefit to the appellant's farming business and those of wider environmental benefit. I find this a useful approach and now address these in turn in my decision.
18. Taking the benefits to the farming business first, I note that Clements Farm is part of a substantial rural business including many separate parcels of land and various operations. In total the enterprise employs between about 30-35 staff but many of these are likely to work on other sites, or in other areas of the business such as haulage or contracting. Whilst the availability of employment is a benefit I have nothing before me that clarifies whether or not the AD unit would affect the availability of jobs either on Clements Farm or in the cluster of land parcels in the locality. In these circumstances I can give this benefit little weight.
19. In respect of the forthcoming alterations to farm payments I acknowledge that adjustments may need to be made to the cropping schedule. But although the growing of maize on Clements Farm and other holdings would provide feedstuff for the AD plant and comply with the funding requirements, there is no evidence suggesting that complying with revised funding requirements could not be achieved by other means. Nor is it clear where the feed crops would be grown within the larger enterprise or whether the plant would have sufficient manure reserves all the year round. This is because I understand that the majority of the cattle would only be at Clements Farm for about 6 months of the year and that summer grazing may take place at a distant location. In the absence of further evidence it is unclear whether this would be a sustainable location for the plant.
20. I note that the exportation of electricity would provide a guaranteed income from the Feed-in Tariff but this also has little weight as it is a private benefit to the enterprise and not a public benefit.
21. In terms of transport, an issue raised by third parties, the evidence shows that the effect on traffic movements to and from Clements Farm is estimated to be less than an average of one movement per day, though at peak times, such as harvest, this would significantly increase. However such peaks appear to be already a part of the existing ongoing cycle. The Council has raised no issues on highway grounds and because I saw the access has good visibility I see no reason to disagree. This consideration is a neutral matter in this appeal.
22. Other claimed direct benefits include the generation of a reliable source of renewable energy within the appellant's control reducing the need to take energy from the national grid, the production of 'natural' fertiliser and a sustainable way of using farm generated waste. I accept that these are benefits to the enterprise as a whole but the appellant has not demonstrated that these are direct benefits to Clements Farm itself. Whilst this may be the appellant's preferred option, there is no clear justification why this site has been selected or if an alternative site could be utilized that is outside the Green Belt. The appellant's enterprise appears to have an extensive land holding, although the details of where these are, other than in very broad terms, is not before me and it has not been demonstrated that this is the only location that could be used for the siting of the AD plant.

23. As regards wider benefits I have already accepted that the production of a reliable, renewable, low carbon source of energy accords with national and international priorities. I also give significant weight to the improvements in biodiversity and the reduced need for the importation of artificial fertilizers and the benefits to the ecosystem soil that would arise from reduced applications of phosphates. These are all benefits to which I attach significant weight.

### **The balancing exercise and conclusion**

24. Paragraph 91 of the Framework says that, when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. It also says that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
25. As I have acknowledged the AD plant would contribute towards cutting greenhouse gas emissions and would provide a reliable source of renewable energy. There would also be benefits to biodiversity and the natural ecosystem. There is a Government commitment to anaerobic digestion and such plants also provide a beneficial use of 'waste' products.
26. Set against these is the harm that would arise. These have been identified as harm by reason of inappropriate development and loss of openness.
27. In carrying out the balancing exercise, I attach substantial weight to the harm that would be caused to the Green Belt by reason of inappropriate development. Added to this is the separate harm by reason of the loss of openness. Against that is the benefit of renewable energy to which I give significant weight, but this weight is tempered because the need to site the AD plant on Clements Farm has not been demonstrated. The Framework and EHLP Policy GBC says that developers will need to demonstrate very special circumstances if projects are to proceed. In this case, although I acknowledge the benefit of renewable energy generation and the beneficial by-product of digestate, it seems to me that these benefits would be the same or similar wherever the AD plant was located. Consequently I consider that the very special circumstances to site the AD plant within the Green Belt have not been demonstrated and thus there is conflict with EHLP Policy GBCI and the Framework.
28. In coming to this conclusion I have taken account of the appeal decisions that have been relied upon by the appellant, the findings of the Landscape Visual Impact assessment which includes consideration of the effect on listed buildings in the vicinity, and the technical evidence that says odour would not be harmful to amenity. I note the support for rural diversification in the Framework but there is nothing to suggest that the existing business, which appears to be diverse, would be at risk should this proposal not be permitted.
29. Consequently, the appeal is dismissed.

*Sufje Tamplin*

INSPECTOR

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## Appeal Decision

Site visit made on 3 November 2015

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 17/11/2015

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Appeal Ref: APP/I1915/D/15/3129014

8 Heath Row, Bishop's Stortford, Hertfordshire CM23 5EF

- 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 M Simon Bennett against the decision of East Hertfordshire District Council.
  - The application Ref 3/15/0764/HH, dated 14 April 2015, was refused by notice dated 9 June 2015.
  - The development proposed is a two storey side extension and single storey front entrance porch.
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### Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension and single storey front entrance porch at 8 Heath Row, Bishop's Stortford, Hertfordshire CM23 5EF in accordance with the terms of the application, Ref 3/15/0764/HH, dated 14 April 2015, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: HR/001 (Site Location Plan); HR/004 Rev A and HR/003 Rev A.

### Main Issue

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

### Reasons

3. The appeal site comprises a detached two bedroom dwelling at the corner of Heath Row and Mansion Drive. It is designed with a projecting two storey gable that extends across approximately two thirds of the width of the building and is similar in design to two neighbouring dwellings on Heath Row to the south. Opposite the appeal site, there are terraced and semi-detached dwellings, and to north, an extensive parade of shops at Snowley Parade.
4. The proposal would result in a two storey side extension flanking onto Mansion Drive and Snowley Parade across this road. In the Heath Row street scene, the completed dwelling would have two storey gable projections either side of a

porch and a small part of the reconfigured main roof would be flat at ridge level above a hipped roof. However, the extended dwelling would remain set back approximately 5.7m from Heath Row and the extension would be approximately 1.8m from the boundary with Mansion Drive. The extended dwelling would also be well separated from the dwelling at the bottom of its garden on Mansion Drive. In the locality, buildings are large in form with semi-detached and terraced dwellings, and the shopping parade nearby. Given this significant built-up appearance and character, the size and scale would not be incongruous.

5. The extension would alter the appearance of the dwelling but the additional bay would provide some balance to the front facade by largely matching that already existing. It would also not be disproportionate by reason of the two storey extension being about a third of the size of the original dwelling. For this reason, Council's argument regarding the loss of the simple proportions of the dwelling is not determinative, especially given the variety of building forms in the area.
6. In summary, the extended dwelling would not be unduly dominant and conspicuous by reason of size, scale, design and prominence because of its siting *off* the boundaries of the site and its specific context. Accordingly, the proposal would comply with Policies ENVI, ENV5 and ENV6 of the East Herts Local Plan Second Review 2007, which collectively and amongst other matters, require extensions to be of a high standard of design reflecting local distinctiveness and to not disproportionately alter the size of the original dwelling.
7. Turning to conditions, a condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of proper planning and for the avoidance of doubt. Apart from the time-commencement condition, no other condition has been recommended by the Council.
8. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Jonathon <Parsons*

INSPECTOR



## **Appeal Decision**

Site visit made on 6 November 2015

by **Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI**

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

Decision date: 17/11/2015

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### **AppealRef:APP/3195/0/15/3128963**

#### **28 Church Road, Bengeo, Hertford, Herts SG14 3DP**

- 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 R Christer against the decision of East Hertfordshire District Council.
  - The application Ref 3/15/0814/HH, dated 17 April 2015, was refused by notice dated 11 June 2015.
  - The development proposed is two storey side extension, single storey rear extension, demolition of 8 sq m rear bay projection at ground floor. Existing garage to be removed.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the whether the proposal would preserve or enhance the character or appearance of the Hertford Conservation Area.

### **Reasons**

3. The appeal site comprises a semi-detached dwelling on the north side of Church Road which is located within the Hertford Conservation Area. Externally, the dwelling is largely as originally built in 1907, with the exception of a rear single storey extension. Its walls have been pebble dashed and its roofs are a mixture of plain tiles and slate to the rear. The original timber sash windows have been retained along with some brick features exposed through the pebbledash and roofs overhang the dwelling's walls.
4. The frontage of the appeal dwelling consists of a two-storey bay projection, with gable, positioned at the end of the building next to a driveway and a recessed two storey facade with sloping pitched roof abutting the neighbouring semi-detached dwelling at 30 Church Road, Within the roof of the recessed facade, there is a first floor window straddling the eaves line with a small pitched gable above. The neighbour semi-detached dwelling is of matching form and design and both dwellings are attractive by reason of their symmetry and balance.
5. As the site is within a Conservation Area, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.



**The Planning  
Inspectorate**

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Our Ref: APP/J1915/W/15/3133235

Mrs Carol Copper  
163 Northolt Avenue  
BISHOP'S STORTFORD  
CM23 SDT

04 November 2015

Dear Mrs Copper,

**Town and Country Planning Act 1990**

**Appeal by Mrs Carol Copper**

**Site Address: 163 Northolt Avenue, BishopsStortford, Hertfordshire, CM23 SDT**

Thank you for your letter withdrawing the above appeal(s).

I confirm no further action will be taken.

Any event arrangements made for the appeal will be cancelled.

A copy of this letter has been sent to the local planning authority.

Yours sincerely,

**Anton Godfrey**

Anton Godfrey

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