

## DEVELOPMENT MANAGEMENT COMMITTEE – 24 FEBRUARY 2016

<b>Application Number</b>	3/15/2408/FUL
<b>Proposal</b>	Detached dwelling with new vehicular access and pedestrian access and related landscape works
<b>Location</b>	Land adjacent to Cherry Tree Hall, 19 Datchworth Green, Datchworth. SG3 6TL
<b>Applicant</b>	Mr and Mrs C and J Hughes
<b>Parish</b>	Datchworth
<b>Ward</b>	Datchworth and Aston

<b>Date of Registration of Application</b>	16 December 2015
<b>Target Determination Date</b>	26 February 2016
<b>Reason for Committee Report</b>	Called in by Councillor D Andrews at the request of Councillor T Jackson
<b>Case Officer</b>	Lisa Page

### **RECOMMENDATION:**

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

#### **1.0 Summary**

- 1.1 The application seeks planning permission for the erection of one detached dwelling on the site which is located in Datchworth, a Category 2 Village wherein in-fill housing development within the 'built-up area' may be permitted subject to the specified criteria within policy OSV2 of the Local Plan being met. This is in accordance with the NPPF that also allows for 'limited infilling in villages'.
- 1.2 Officers consider that this site is within the built-up area of the village. It lies between 2 existing residential dwellings, within the historic centre of the village. The site is well located in relation to village services and Officers consider the proposal to amount to a sustainable form of development. The development is therefore considered appropriate in principle.
- 1.3 In considering the detailed layout and design of the application, Officers are also satisfied that the development would not result in any significant harm to the character and appearance of the site and its surroundings, and its impact would be acceptable in terms of highways, landscaping, ecological and neighbour amenity issues.

## **2.0 Site Description**

- 2.1 The site is a rectangular shaped parcel of land located on the south side of the Category 2 village of Datchworth, as shown on the attached OS plan. It fronts the southern boundary of the village green and is bounded by existing residential properties on either side – to the east by Cherry Tree Hall (No.19), a Grade II listed dwelling, and to the west by Green End Barn. To the south of the site lie agricultural fields, outside the built up area of the village.
- 2.2 The site is generally level and is currently maintained as garden land to Cherry Tree Hall and is enclosed by mature trees and hedgerows, which provide screening from the village green. Three of the trees on the site are subject to a Tree Preservation Order (TPO).

## **3.0 Background to Proposal**

- 3.1 In October 1985, planning permission was granted for the re-erection of a barn on the site to the west of the current application site (now known as Green End Barn). That permission (Ref: 3/85/1281/FP) was granted, subject to a Section 52 agreement restricting the erection of residential development on the eastern part of the site (the current application site).
- 3.2 The current application seeks planning permission for one detached dwelling with access via a shared driveway with Cherry Tree Hall, together with a detached triple garage.

## **4.0 Key Policy Issues**

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

<b>Key Issue</b>	<b>NPPF</b>	<b>Local Plan policy</b>
The principle of residential development	Paragraph 89	SD2, GBC1 and OSV2
Impact on character and appearance of the area, neighbour amenity and setting of listed building	Paragraph 14	ENV1
Landscaping		ENV2,ENV11

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

## **5.0 Emerging District Plan**

5.1 In relation to the key issues identified above, the policies contained in the emerging District Plan do not differ significantly from those contained in the adopted Local Plan and the NPPF as identified above. The main proposed change is that Datchworth would have a defined 'built up area' in the new Plan and the application site is currently proposed to be outside that boundary. However, given the Plan's early stage in preparation, and the existence of an objection to the currently proposed boundary for the village, little weight can be accorded to the emerging Plan.

## **6.0 Summary of Consultee Responses**

- 6.1 Hertfordshire County Highways comment that they do not wish to restrict the grant of planning permission. They comment that the proposed dwelling will not be accessed from the public highway and are content that one dwelling will not result in a material impact on the local highway network.
- 6.2 The Council's Landscape Officer recommends approval subject to conditions. He comments that there appears to be no unacceptable adverse impact on significant trees but recommends that an arboricultural method statement and tree protection plan be conditioned to ensure adequate protection of trees. In landscape terms he comments that the proposed new planting is appropriate and should mitigate for any initial adverse impact of the development upon its surroundings.
- 6.3 The Council's Environmental Health Team does not wish to restrict the grant of permission, advising directives in relation to noise and contaminated land.
- 6.4 The Environment Agency has not commented on the application (but no formal consultation required).
- 6.5 Hertfordshire Ecology has commented that the likelihood of Great Crested Newts at risk is low but that the trees on site may be suitable for roosting bats. They recommend a condition regarding times for tree/shrub removal to protect nesting birds.
- 6.6 The County Archaeologist notes that the site is an Area of Archaeological Significance. The submitted Heritage Statement suggests a moderate potential for late Iron Age and moderate to high

potential for Roman, medieval and post-medieval archaeological remains on the site. They comment that the position of the development is such that it should be regarded as likely to have an impact on heritage assets and a condition is recommended to properly to provide for this.

6.7 No comments have been received from Environmental Services (Waste Services) or Thames Water.

## **7.0 Parish Council Representations**

7.1 Datchworth Parish Council objects to the application for the following reasons:

- A Section 52 legal agreement relates to the land which prohibits development on the site.
- Is within the Green Belt – does not sit within the built up area of the Village.
- Would change the open aspect of the Green which is a historic green in the centre of the village with low density housing.
- Use of land is agricultural not residential.
- The applicant has made representation to revise the proposed Village boundary in the Draft District Plan. The Parish dispute the proposed revisions.
- Is contentious and raises issues with access across land in ownership of the Parish.

## **8.0 Summary of Other Representations**

8.1 Letters of representation have been received from 4 individual households which, in summary, raise the following issues:

- Site is within the Green Belt and would be inappropriate development. No very special circumstances exist.
- Will impact on openness.

- Site represents a significant gap important in the form and setting of the settlement and would detract from the appearance of the village and the green.
- Will adversely impact the setting of adjacent listed building.
- Question whether the proposal does address the lack of 5 year housing supply.
- No plans of garaging.
- Concern of access road to accommodate construction traffic.
- Vehicles from the dwelling may park on the Roman Road – block access and problem for matches on cricket pitch.
- Question there is consent for access across the village green.
- A Section 52 legal agreement relates to the land which prohibits development on the site.
- Will set a precedent for in-fill development

## **9.0 Planning History**

Ref	Proposal	Decision	Date
3/85/1281/FP	Re-erection of Barn to form a single dwelling	Approval subject to Section 52 agreement	10.10.85

## **10.0 Consideration of Relevant Issues**

### Principle of development

- 10.1 The site lies within the village of Datchworth, a Category 2 village within the Green Belt, wherein policies GBC1 and OSV2 of the Local Plan allow for in-fill housing development in the built up area of the village. Within the Local Plan, Category 2 Villages do not have a defined boundary, and it is a matter of judgement therefore as to what constitutes the 'built-up area' of the village.
- 10.2 The proposed site is located towards the southern edge of the village and is bounded on either side by existing residential properties – to the

east Cherry Tree Hall, and to the west by Green End Barn. It would therefore represent an in-fill development between those two existing properties. In accordance with the definition of infill development within the Local Plan, the proposal would not 'constitute the linking of two separate built-up areas within a settlement, separated by a significant gap' and nor would it constitute the 'consolidation of an isolated group of buildings. The village green is surrounded on all sides by linear residential development in a traditional pattern and the proposed development of the site would very much follow that pattern, whilst enabling the open spacious character of the southern side of the Green to be retained.

- 10.3 In sustainability terms, the site lies central to the facilities in the village, wherein there is access to local services and amenities including a pub, restaurant and shop and other community services including public recreation facilities and the village hall. The site is very well located to those services and amenities, and is within less than a few minutes level walking distance. The site has a similar, and in most cases a better, relationship and distance to the village's services and amenities than other dwellings in the village. Officers are therefore satisfied that the proposal represents a sustainable form of development within the village.
- 10.4 Officers acknowledge that the village is proposed to be designated as a Group Two Village in the emerging District Plan and that the site is currently proposed to be shown outside the village boundary. However, given the current status of the District Plan, and the objection to it in relation to this matter, only limited weight that can be given to this. The proposal should therefore be considered in accordance with the current policies in the adopted Local Plan.
- 10.5 Overall, Officers are satisfied that the site is within the built-up area of the village and that the proposed development accords with the other criteria of Policy OSV2 of the Local Plan. Whilst, in terms of policy OSV2 (II) (b), it could be argued that the site could provide a greater number of smaller dwellings to meet local housing need, it is considered that this would result in a harmful impact on the character and appearance of the surroundings and on the mature trees and landscaping of the site. The provision of one dwelling is therefore considered appropriate to meet local housing need in this case. The proposed dwelling would not block important views within the village, or of open countryside beyond the village and, for the reasons set out below, would not detract from the appearance of the village. The principle of the proposed development is therefore acceptable, although a number of other detailed issues also need to be considered and these

are set out below.

#### Impact on character and appearance of the area

- 10.6 The site forms an enclosed parcel of land associated with the residential property of Cherry Tree Hall, but one which lies between two existing detached dwellings. The proposed dwelling would be a little forward of Cherry Tree Hall but otherwise would follow the alignment and building lines set by those existing neighbouring properties.
- 10.7 In terms of scale and density, the proposed development would also follow that set by the neighbouring properties. This is considered to be a sympathetic approach and the proposal demonstrates that it reflects local distinctiveness in this respect. An appropriate level of amenity and spacing within the proposed development would be provided in accordance with policy ENV1 and the development would be of a high quality design and appearance, incorporating handmade tiles, feather edge timber boarding, handmade brick plinth and timber doors and windows.

#### Setting of nearby listed buildings

- 10.8 The siting of the dwelling follows the existing pattern of development in the area and adequate spacing to the existing dwelling is retained, even accounting for the proposed access along the frontage of No. 19. The detailed appearance of the proposed dwelling is considered to be of high quality and it is considered that no harm to the setting of the Grade II Listed Building of Cherry Tree Hall would occur.

#### Landscaping

- 10.9 The layout of the dwelling and its access is such that there would be no unacceptable adverse impact on significant trees and, due to the layout of the development, it is not considered that there would be any future pressures to remove trees or carry out works to them.
- 10.10 The proposed new tree planting along the site boundaries comprises appropriate species for the location and, in the long term, should mitigate for any initial adverse impact of the development upon its surroundings.

#### Highways matters and parking

- 10.11 The proposed dwelling would share the existing access road to Cherry Tree Hall, extending that access across the frontage of that property.

There is no requirement, therefore, to access the site from the village green. The Highway Authority has raised no objection to the proposal and the new driveway would not have any significant impact on the character and appearance of the surrounding area due to the mature landscaping on the northern edge of the front garden to Cherry tree Hall. The Highway Authority is satisfied that the proposed development will have no material impact on the local highway network.

- 10.12 An adequate level of off-street parking is provided, within the 3 bay detached garage/carport structure and driveway. The development accords with policy TR7 of the Local Plan and the emerging parking policy in the District Plan and will not encourage off-street parking within surrounding streets.

#### Neighbour amenity impact and amenity for future occupiers

- 10.13 The layout of the dwelling, distance to the boundary and level of existing landscaping is such that there would be no unacceptable overlooking, loss of light or similar to Green End Barn and Cherry Tree Hall.
- 10.14 The access along the frontage of Cherry Tree Hall is at a distance of 30 metres at the closest point to that property and, given that the proposal is for one dwelling, it is not considered that there would be any adverse impact to the occupiers of this dwelling or nearby dwellings, from the additional comings and goings of vehicles and persons.
- 10.15 In terms of the amenity for future occupiers, Officers are satisfied that the layout of the development is such that there would be good internal and external amenity provision.

#### Ecology

- 10.16 There are no biological records at the site. Although there are records of great crested newts (GCN) in the area, the likelihood of GCN at risk from the proposal is considered low. The proposal is also unlikely to impact upon roosting bats as the proposal does not involve the removal of any established trees. It is noted that, apart from the three protected trees on the site, trees could be removed without permission in any event. A condition is recommended to ensure that tree and hedge removal occurs outside of the bird breeding season to ensure due diligence to nesting birds, and a directive is recommended to highlight to the developer their responsibility in respect of bats. In summary, Officers do not consider that there would be a significant impact on any protected species in accordance with policy ENV16 of the Local Plan.

### Other matters

- 10.17 A number of representations have highlighted a legal agreement made under Section 52 of the Town and Country Act 1971 relating to the land which is the subject of this application. (Section 52 agreements were abolished by the Town and Country Planning Act 1990 and replaced with Section 106 agreements with which Members will be familiar). Officers have seen and carefully considered that Section 52 agreement in terms both of its legal and planning status.
- 10.18 The Section 52 agreement states that, upon implementing the erection of a barn on the site (now known as Green End Barn), no further residential development should take place on the land which is the subject of this application. Whilst that Section 52 agreement is still in place, its relevance to this planning application some 30 years later would be subject to scrutiny in the light of current planning policy. And it is considered that such a restrictive covenant would not survive the changes which have occurred since the 1980s.
- 10.19 The current application should be considered in the light of current planning policy as set out above in regard to the adopted Local Plan and the NPPF requirements.
- 10.20 Officers can appreciate that third parties who have been furnished with a copy of the Section 52 agreement will have assumed from the legal agreement that no development would take place on the application site. However, for the reasons set out above your Officers are of the view that the Section 52 agreement is effectively redundant as it is no longer enforceable given the different planning policy context now existing.

### **11.0 Conclusion**

- 11.1 The proposal represents an appropriate form of development which is in accordance with the Local Plan and the NPPF (being considered to be within the built-up area of Datchworth). The proposal is considered to represent a sustainable form of development with good access to village services and facilities. The layout and detailed design of the development respects the character, visual quality and landscape of, and is satisfactorily integrated into the village.
- 11.2 The impact of the development is also acceptable in highways, ecological, landscape and amenity terms. The original Section 52

agreement is no longer considered to be of relevance given the passage of time and the different planning policy context now existing.

- 11.3 Officers therefore recommend that planning permission be granted subject to the following conditions.

**Conditions:**

1. Three year time limit (1T121)
2. Programme of Archaeological Work (2E02)
3. Approved plans (2E103)
4. Materials of construction (2E111)
5. New doors and windows (2E34)
6. Tree/hedge retention and protection (4P05)
7. Landscape design proposals (4P12) a, b, e, f, h, l, j, k, l
8. Landscape works implementation (4P13)
9. The removal of trees and shrubs shall not be undertaken during the bird breeding season (March-September inclusive), unless a search area is undertaken by a suitably experienced Ecologist, the results of which shall be submitted to and approved in writing by the Local Planning Authority, and if active nests are found then clearance must be delayed until the last chick has fledged.

Reason: To protect nesting birds in accordance with Policy ENV16 of the East Herts Local Plan Second Review April 2007.

**Informatives:**

1. Other legislation (010L1)
2. Street Naming and Numbering (19SN)
3. Bats (32BA)
4. Highways works (05FC2)

### Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The balance of the considerations having regard to those policies is that permission should be granted.

## KEY DATA

### Residential Development

Residential density	2 units/Ha	
	Bed spaces	Number of units
Number of existing units demolished	0	0
Number of new house units	1	
	2	
	3	1
	4+	
Total		1

### Residential Vehicle Parking Provision

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	
2	1.50	
3	2.25	2.25
4+	3.00	
Total required		2.25
Proposed provision		3+

Emerging Parking Standards (endorsed at District Plan Panel 19 March 2015)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.50	
2	2.00	
3	2.50	2.50
4+	3.00	
Total required		2.50
Proposed provision		3+