

---

## Appeal Decision

Site visit made on 12 October 2016

by **Anthony J Wharton BArch RIBA RIAS MRTPI**

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

**Decision date: 25 October 2016**

---

### **Appeal Ref: APP/J1915/F/16/3141465**

#### **Danes, 34 Little Berkhamstead Lane, Little Berkhamstead SG13 8LU**

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr Simon Blayne against a listed building enforcement notice (LBEN) issued by East Hertfordshire District Council.
  - The enforcement notice was issued on 26 November 2015.
  - The contravention of listed building control alleged in the notice is: the unauthorised removal of 6 fireplaces and the replacement of those chimneypieces sited with (sic) the following rooms and as shown on the attached plans (a) Main Hallway, (b) Main Drawing Room, (c) Small Living Room, (d) Dining Room, (e) Master Bedroom, (f) Bedroom 3.
  - The requirements of the notice are to: Remove the above mentioned unauthorised fireplaces and reinstate replica fireplaces to match, like for like, those removed (shown as existing fireplaces in the Heritage Design and Access Statement dated June 2015 and attached herewith.  
For the avoidance of doubt, the replacement fireplace within bedroom 2 (referred to in the design and access Statement) is not the subject of this enforcement notice.
  - The period for compliance with the requirements is 6 Months.
  - The appeal is made on grounds (e) and (g) as set out in section 39(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
- 

### **Appeal B - Ref: APP/J1915/Y/15/3141466**

#### **Danes, 34 Little Birkhamstead Lane, Little Berkhamstead SG13 8LU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Simon Blayne against the decision of East Hertfordshire District Council.
  - The application Ref; 3/15/1166/LBC dated 1 June 2015 was refused by notice dated 14 October 2015.
  - The development proposed is: Replacement of chimneypieces in rooms specified in the Design and Access Statement. (Note: These are the same chimneypieces as referred to above in Appeal A).
- 

### **Decision**

1. Both Appeals A and B are dismissed (see formal decisions below).

### **Background information and matters of clarification**

2. The appeal building 'The Danes' was listed in Grade II in November 1966 and lies within the Little Berkhamstead Conservation Area (LBCA). It dates back to the early 18<sup>th</sup> Century with extensions and other alterations carried out in the early 19<sup>th</sup> and 20<sup>th</sup> Centuries. It is of seven bays and three storeys, the third of which is a

20<sup>th</sup> Century addition. It is still recognisable from its list description where it is noted that the interior elements (and thus the original fireplaces/chimneypieces) were not inspected. The house is located within a 13 acre estate to the west of Little Berkhamstead and is surrounded by mature trees and shrubs. It is south facing and is still approached via two tree-lined gravel driveways which lead to the front and to the rear of the house.

3. 'Danes' has a detailed planning history. Work relating to the rendering of the external walls (in the 20<sup>th</sup> Century) is recognised to have caused harm to the historic fabric. In February 2014 KDK Archaeology Ltd carried out a historic building recording of 'Danes' on behalf of the appellant in relation to various works which were proposed. These included replacement of the cement render with lime render; the renewal of dated sanitary fittings and tiles; remodelling of some rooms and upgrading of heating and other services.

4. The initial application (3/14/0765/LB) for the works also proposed the removal of several fireplaces. Following objections by the Conservation Officer (CO) amended plans were submitted indicating that existing fireplaces would remain. The amended application was approved but the fireplaces, the subject of the LBEN were removed. Application 3/15/1166/LBC (now Appeal B) was then submitted. The KDK report was most thorough and included photographic records of the interior including fireplace surrounds.

5. The appellant's Heritage and Design and Access Statement (HDAS), in relation to application 3/15/1166/LBC, illustrates the pre-existing fireplaces and their replacements in the respective rooms of the house. However, as indicated by Historic England (HE), in their consultation response to the Council of 6 July 2015, the statement did not assess the interest of the original chimneypieces and only dated one (in the main hall) as being 19<sup>th</sup> Century with a 20<sup>th</sup> Century overmantel above. HE recommended that the Council did not approve the listed building consent application.

6. Following refusal of consent an assessment of the original chimneypieces and their replacements was carried out by AHP Architectural History Practice (AHP). This assessment appears to have been based upon the photographic evidence provided in the HDAS but also includes an outline history and description of the building. As far as the interior is concerned AHP refers to the interior being as '*equally muddled*' as the exterior and that it is impossible to deduce, with certainty, the original plan. However from photographic records it is contended that, with the possible exceptions of the cornices to the larger rooms, the decorative features and fittings to the main rooms were all late 19<sup>th</sup> or 20<sup>th</sup> Century in character.

7. In the assessment of the significance of the house it is concluded that, although it is unlikely that the house contains any pre-18<sup>th</sup> Century fabric, the house is still of some evidential value and that it also has some historical value. But, due to the mainly 20<sup>th</sup> Century alterations, it is concluded that the building is of limited aesthetic value and, equally, of little communal value. With regard to the National Planning Policy Framework (NPPF) criteria (in assessing significance) it is contended on behalf of the appellant, that the building is of low Archaeological Significance; of medium Architectural Significance; of low Artistic Significance and of medium Historic Significance.

8. An 'Assessment of fireplaces' was carried out in 2015 by Lee Prosser, Historic Buildings, Landscape Archaeology (LPHBLA). The report describes each of the fireplaces the subject of the LBEN and numbers them in accordance with a previous historic building assessment. In summary the report concludes as follows:

- G5 Main Hall: C18th style, date unknown, modifications and C20th additions.
- G6 Main Drawing Room: C18th Style, date unknown.
- G3 Small Living Room: late C19th, composite with additions.
- G7 Dining Room: 1830s in style, with C20th augmentations.
- F3 Master Bedroom: possibly a copy of G7, modern slips.
- F6 Bedroom 3 - 1870s.

9. In reaching my conclusions in these appeals I have had regard to the National Planning Policy Framework (NPPF) and in particular to section 12 which covers 'Conserving and enhancing the historic environment'. I have also had regard to the relevant parts of Planning Practice Guidance in relation to conservation and have had special regard to the requirements of section 16(2) of the Planning (Listed buildings and Conservation Areas) Act 1990 (PLBCAA).

### **Appeal A on ground (e) and Appeal B**

#### *Main issues*

10. The main issues in both appeals is the effect that the removal of the original fireplaces and their replacement with new fireplaces has had on the integrity and character of the listed building and on its features of special architectural and historic interest. There is no impact on the setting of the listed building and the works do not affect the LBCA.

#### *Reasons*

11. From all of the submitted evidence relating to the 6 fireplaces and from my inspection of the replacements, I share the Council's; Historic England's (HE); The Society for the Protection of Historic Buildings (SPAB) and the Parish Council's (PC) concerns about the effect that the works have had on the character of the listed building and its special features (namely the fireplaces).

12. Whilst acknowledging that 'Danes' has been radically altered over the years, it is clear from the KDK report that although the house might have had mediaeval origins it is predominantly a C18th house which has been much altered in the C19th and C20th Centuries. All of these alterations clearly added to the historic and architectural evolution of the house and together they presented an overall effect which (despite no internal inspection) led to the listing in 1966.

13. I therefore agree with the CO's comment that the significance of this heritage asset derives from its historic, evidential and aesthetic values found in its design, evolution and architectural features. Some aspects of its evolution had a negative impact on its significance (for example the cement rendering) but, overall, it has retained sufficient architectural and historic features to render it worthy of its listed status.

14. Although the exact dates of the various fireplaces have not been established it is clear from the submissions that the original ones in the Main Hallway (G5) and the Main Drawing Room (G6) were of mid C18th design. Clearly the overmantel was a C20th addition but the KDK report refers to both of these fireplaces being 'mid-18<sup>th</sup> century lugged fireplaces'. The LPHBLA report also refers to the fireplaces as being C18th style. Thus these two architectural features relate to a particular period of the evolution and history of the house. Under application 3/14/0765/LB, these two fireplaces along with the others were identified as being of special architectural and historic interest.

15. The historic and evolutionary story continues with regard to the Small Living Room fireplace (G3). Although there was a C20th coal burner in place the original

chimney piece is described as late 19<sup>th</sup> century with timber surround, tiled hearth and ogee moulding. The fireplace would have reflected the changes to the house during this period. The same can also be said of the Dining Room Fireplace (G7) and the Master Bedroom Fireplace (F3), although the latter is said to be a possible copy and with modern slips.

16. The KDK report indicates that the part of the house in which bedroom 3 is located would have been completed between the early C19<sup>th</sup> and early C20<sup>th</sup> and the fireplace is described as a 19<sup>th</sup> century timber surround with timber mantel shelf on scroll brackets. Again this continues the evolutionary story of these particular architectural features to the house and, in conclusion on the original fittings, I agree with the Council that these chimney pieces did form part of the special architectural and historic interest of the building and their loss has had a detrimental impact on the integrity and character of the listed building.

17. I now turn to the replacement fireplaces and whether or not these are acceptable so as to justify removal of the original pieces. The descriptions in the HDAS statement are taken from the retailer's description. The Main Hallway (G5) and Main Reception (G6) pieces are referred to as 'St. James stone'. These are described as being of '*simple sensuous lines*' and the design, based on one by James Gibbs is of an early C18<sup>th</sup> design. However, I agree with the CO that, although this design has '*architectural pedigree*', they are not the same as the original mid-C18<sup>th</sup> century design. In my view these two fireplaces do not just lack authenticity; they appear as stark new additions which could just as well be located in any other pastiche design or modern dwelling.

18. I also agree with the CO that the Small Living Room fireplace (The Burford) appears to be out of proportion within this particular room and I do not agree with the contention that this chimney piece '*reflects the Regency Classicism*' that would have influenced the remodelling of the house. Again I find that it detracts from, rather than enhancing, the architectural and historic qualities of this part of the house and do not fully understand the justification for this particular design in this location.

19. I find the arguments relating to the 'Lincoln' design (Dining Room Fireplace G7) and the references to Sir John Soane to be equally perplexing. This design, like the others has nothing in common with the architectural and historic evolution of '*Danes*'. In my view neither do the two new fireplaces in the Master Bedroom (F3) and Bedroom 3 (F6).

20. Overall, therefore, I do not consider that the replacement fireplaces can justify the loss of the original chimney pieces. They do nothing to replicate the character, appearance or dates of the original fireplaces. I consider that the new fireplaces are seen as modern replacements, chosen from a catalogue and with only a few date references relating back to the history of '*Danes*'. Having noted the detailed submissions relating to the new installations, it seems to me that the arguments in their favour are more a post-rationalising of the fact that they were installed without consent rather than as a full and accurate historical justification.

21. In conclusion, therefore, I find that the works carried out have resulted in harm to the integrity and character of the listed building as well as to its special architectural and historic features: namely the original fireplaces. The works are contrary to the policies set out in section 12 of the NPPF and, although the harm is less than substantial (paragraph 134), there are no public benefits which outweigh the harm caused. I understand the predicament in which the appellant will now find himself but the Council did not consider it appropriate to grant listed building consent for the works in the first instance and I agree with their stance. It cannot, therefore,

be justifiable to grant consent at this appeal stage and so Appeal A on ground (e) and Appeal B must both fail.

### **Appeal A on ground (g)**

22. An appeal on this ground is made on the basis that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out.

23. Despite the various reports/submissions made in relation to the LBEN Appeal there is no full argument put forward as to why the requirements are excessive. The Council's case is that the unauthorised fireplaces are out of character and unsympathetic to the historic significance of the building. Replacement fireplaces on a like for like basis with those removed would restore these elements of the building to the condition before the works were carried out.

24. Clearly there is no indication as to the whereabouts of the original fireplaces but in situations such as this, where there is an accurate record of what the fireplaces looked like, it is possible to replicate originals. This is normally accepted practice by Councils, by Historic England and by The Society for the Protection of Ancient Buildings.

25. In conclusion, therefore on this ground I do not consider that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. Appeal A also fails on ground (g).

### **Other Matters**

26. In reaching my conclusions in these appeals I have taken into account all of the other matters raised by the Council, interested persons and parties and on behalf of the appellant. These include the full planning history; the full grounds of appeal in both cases; the LPHBLA report; the KDK Archaeology Ltd report; the various craftsmen's and contractors statements; the HDAS (by Broadbent Design); the AHP (Chimney Replacement) report; the photographic submissions and various drawings.

27. However, none of these carries sufficient weight to alter my conclusions on the main issues and grounds of appeal. Nor is any other factor of such significance so as to change my decisions that both appeals should be dismissed.

### **Formal Decisions**

#### **Appeal A**

28. Appeal A is dismissed and the listed building enforcement appeal is upheld. Listed building consent is refused for the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **Appeal B**

29. Appeal B is dismissed and listed building consent is refused for 'Replacement of chimneypieces in rooms specified in the Design and Access Statement' at The Danes, 34 Little Berkhamstead Lane, Little Berkhamstead, Herts SG13 8LU.

*Anthony J Wharton*

Inspector



## Appeal Decision

Site visit made on 27 September 2016

by **Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

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

Decision date: 28<sup>th</sup> October 2016

---

**Appeal Ref: APP/J1915/W/16/3152399**

**17 High Road, Stapleford, Hertfordshire SG14 3NW**

- 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 A.B. Knight (London) Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/15/2093/FUL, dated 16 October 2015, was refused by notice dated 17 December 2015.
  - The development proposed is the demolition of existing restaurant/hotel and the erection of 5 no. new detached residential dwellings, together with the formation of new vehicular accesses from High Road, associated off-street car parking, private garden amenity space, landscaping and other associated development.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal site is located in the Metropolitan Green Belt. Both the appellant and the Council indicate that the proposal would not be inappropriate development in the Green Belt as it would constitute limited infilling in a village. I concur with that position.
3. Amended plans have been submitted as part of the appeal documents. Three of these plans show amendments to the number of bedrooms in each proposed dwelling (drawing nos. 004A, 007A and 009A) in response to the third reason for refusal. Three revised versions of the proposed site plan have also been provided (drawing no. 002 with revisions B, D and E). These show amendments to the parking and turning areas in front of each property in response to the fourth reason for refusal and concerns expressed by the highway authority, as well as an 8 metre buffer at the rear to Stapleford Marsh Ditch in response to the Environment Agency. Supporting technical drawings have also been submitted showing proposed visibility splays for each dwelling. Given the limited nature of the amendments, it has not been necessary to re-consult with interested parties. For the avoidance of doubt, I have taken the amended plans into consideration as part of my decision.

### Main Issues

4. The main issues are:
    - (a) The effect of the proposed development on the character and appearance of the surrounding area;
-

- (b) Whether the proposed development provides an acceptable dwelling mix;
- (c) The effect of the proposed development on local community facilities and employment;
- (d) The effect of the proposed development on the safe and efficient operation of the highway network; and
- (e) The planning balance having regard to the undersupply of housing and the benefits of the proposal.

## **Reasons**

### *Character and appearance*

5. Stapleford is a small village on the A119 between the larger settlements of Watton-at-Stone and Hertford. The appeal site is located on the High Road and consists of a restaurant/hotel with outbuildings that is currently not in use. At my site visit, the main building was boarded up and the site frontage enclosed by tall security hoardings.
6. The existing restaurant/hotel building is an imposing structure on the High Road by virtue of its design and height and the spacing provided around the property. It evidently has some architectural and historic interest and makes a positive contribution to the street scene, although is not formally recognised as a heritage asset either designated or non-designated. Nos 1 to 15 High Road immediately to the north of the appeal site are uniform semi-detached properties, but have an attractive Arts and Crafts detailing such as tall chimneys. The remainder of the High Road is varied in architectural character and scale. Existing plot widths vary along the road, but gaps between buildings are reasonable.
7. The proposed development would be of a similar scale and footprint to existing buildings along the High Road and would follow the established building line. However, there would be little space between each detached building which would result in a cramped layout in the street scene. Furthermore, the generic architectural design of the proposed houses does not reflect the variety or detailing in architecture along the road and would result in a very ordinary and bland appearance. As a replacement for the existing restaurant/hotel building, the development would not emulate or improve on the current character and appearance of the area.
8. I recognise that the appeal site is currently in need of enhancement by virtue of its redundant use. I also appreciate that the Council did not identify the existing building to be of architectural and historic merit when dealing with the previous planning application (3/13/2186/OP). However, this does not negate the harm I have identified. I have also been made aware of a revised planning application that seeks to retain the existing building, but have not been provided with any details or whether a decision has been made. In any case, I have dealt with this appeal on its own merits.
9. Concluding on this main issue, the proposed development would significantly harm the character and appearance of the surrounding area. Therefore, it would not accord with Policy OSV2 of the East Herts Local Plan Second Review 2007 ('the Local Plan'), specifically Section (II)(h) and (j) which seeks housing

development in Stapleford that is sensitively designed and respects the character of the village without detracting from its appearance. It would also not accord with Policy ENV1 which, amongst other things, seeks development of a high standard of design and layout that is compatible with the surrounding area and complements the existing pattern of development. It would not meet the aims of the National Planning Policy Framework (NPPF) in terms of good quality design that responds to local character.

#### *Housing mix*

10. The Council indicates in the officer's report that in terms of local housing need, the highest demand within the district is for 2 and 3 bedroom units. This is based on the 2013 update of the Strategic Housing Market Assessment (SHMA), although I have not been provided with a copy. The appellant highlights a more recent SHMA from 2015 which identifies that four bedroom units are the second greatest in terms of need (22% of all new houses) behind the need for three bedroom units (46% of all houses).
11. Amended plans have been submitted by the appellant with the appeal showing the five dwellings with four bedrooms each rather than the original five each. The appellant highlights that this more closely aligns with local need. The Council has not commented on these amendments.
12. Even with the revised plans, the units would be larger than the greatest required need across the district which is for three bedroom units. While I accept the development is small-scale and only provides five units, providing a standard size unit across the whole development does not take account of the variations in local need. Thus, the development would not meet a local need and would therefore be contrary to Policy OSV2(II)(b) of the Local Plan.
13. In terms of affordable housing, a recent Court of Appeal decision<sup>1</sup> has reinstated government policy for small scale housing development, which stipulates that provision should not be sought for schemes of 10 units or less. Thus, while Policies OSV2(II)(c) and HSG3 seek affordable housing provision, the more up to date government policy on the matter indicates that it should not be sought. However, this does not negate the requirement to provide an acceptable housing mix in terms of unit sizes.
14. Concluding on this main issue, the proposed development would provide an inadequate housing mix. Therefore, it would not accord with Policy OSV2 which seeks housing development that meets a local need nor meet the aims of the NPPF which requires local authorities to deliver a wide choice of homes.

#### *Local facilities and employment*

15. Stapleford has few community facilities or employment sites, with only a primary school, church and village hall noticeable at my site visit. The village has an hourly bus service between Stevenage and Hertford on weekdays between the morning and early evening and a service every two hours between similar times on Saturdays. Journey times to Watton-at-Stone and Hertford are around 5 to 10 minutes.

---

<sup>1</sup> The Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441



16. Policies ST8 and EDE2 of the Local Plan require evidence that an existing business or employment site has been subject to efforts to market and retain the existing use on site in order to demonstrate that the use is no longer possible. There appears to be no guidance on the amount of evidence required or the length of time, although the policies refer to 'clear evidence' and 'explored fully'.
17. The previous planning application (3/13/2186/OP) was refused in May 2014 where one of the reasons for refusal related to a lack of evidence to show that the current use or a similar use was not possible. The appellant has provided evidence to show that the site was marketed for over a year following this refusal of planning permission with little interest in retaining the existing use or a similar commercial facility. Evidence has also been provided of the financial accounts of the last operator of the restaurant/hotel which indicate viability difficulties. Trading ceased in August 2015 before the site was sold to the appellant in September 2015. In the absence of any guidance from the Council, I consider that there is clear evidence of considerable efforts over an extended period of time to market and retain the existing use. The appellant has provided information on additional marketing that has occurred up to September 2016, with no further interest in continuing the existing use. I have taken this further information into account, but even without it, my findings would have been the same on the marketing and retention of the existing use based on the evidence originally submitted with the appeal.
18. The loss of the restaurant/hotel would be a significant reduction in community facilities and employment sites based on the limited range within the village. It is apparent from third party representations that the restaurant/hotel is valued locally and has been well-utilised over the years for various purposes. Third parties refer to efforts to designate the building as an Asset of Community Value, although I have no further evidence on how far these efforts have progressed. The number of employees around the time that the most recent business ceased operations was modest, but not insignificant given the village location where few work opportunities exist.
19. However, despite these factors, there have been difficulties in finding a new commercial use for the site and there have been viability problems. The existing restaurant/hotel use provided a fairly limited contribution to the day-to-day needs of the village compared to, for example, a shop or post office. Furthermore, the close proximity of Watton-at-Stone and Hertford with a range of community facilities and employment facilities, reasonably served by public transport, is an important consideration. All of the above helps to mitigate the significance of the loss.
20. Concluding on this main issue, the overall effect of the proposed development on local community facilities and employment would be acceptable. Therefore, it would accord with Policy STC8 of the Local Plan taking into account the likelihood of another like use being found, the viability of the existing use, the contribution it made to day-to-day needs and the proximity of facilities and employment in nearby settlements. It would also accord with Policy EDE2 in terms of the likelihood of retaining employment use on site. The NPPF promotes the retention of community facilities (paragraph 22), but also refers to the unnecessary loss of valued facilities particularly where this would reduce a community's ability to meet its day-to-day needs (paragraph 70). As it has been difficult to retain the existing restaurant/hotel facility and it provided a

limited contribution to day-to-day needs, I consider that the proposal is broadly in line with these parts of the NPPF.

#### *Highway safety*

21. The A119 High Road past the appeal site has a speed limit of 40mph and based on my site visit observations is a reasonably busy road between larger settlements. As such, it is important for vehicles to enter the road from the site in a forward gear to lessen the risk to highway safety. There are laybys beyond the site for off-road parking, but little on-road parking due to the nature of the road. The proposed development thus requires any parking to be provided within the site boundaries.
22. A series of additional plans have been submitted following the Council's decision that seek to address concerns with highway safety. They show that three off-road parking spaces can be provided per property, which includes a garage, with adequate space to turn around and enter the road in forward gear. The Highway Authority has confirmed that it is satisfied with the amended plans in terms of parking spaces and turning area and I consider the arrangements to be acceptable.
23. While not mentioned in the reason for refusal, the Highway Authority has also sought clarification on the visibility splays from the driveway of each proposed dwelling. The road past the site in either direction is generally straight, but visibility from the three existing site accesses is under the expected technical standard for a 40mph road, particularly for the two accesses on the north-western edge of the site serving garages and overspill parking. The additional plans and transport statement demonstrate that the proposed visibility splays for Plots 3, 4 and 5 are similar or better than the existing visibility splay at the main site entrance, while for Plots 1 and 2 on the north-western edge of the site the visibility to the north would be poorer than the main site entrance. However, the splays for Plots 1 and 2 would be better than existing visibility from the garage and overspill parking accesses which are in the same location, and I note the appellant's comments about residential use involving fewer traffic movements than a restaurant/hotel use. I also note that the Highway Authority is satisfied with the proposed visibility.
24. The Highway Authority has also raised concerns on the location of the southbound bus stop, affixed to a lamppost on the south-west corner of the appeal site which would be next to the driveway for the Plot 5 dwelling. The appellant is willing to comply with a condition seeking the relocation of the bus stop and lamppost to a more suitable and safe location.
25. Concluding on this main issue, the proposed development, based on the amended plans received with the appeal, would have an acceptable effect on the safe and efficient operation of the highway network. Therefore, it would accord with Policy TR7 of the Local Plan in terms of parking arrangements.

#### *Planning balance*

26. The appellant emphasises that the Council cannot demonstrate a five-year supply of deliverable housing sites, something the Council has not sought to dispute. Therefore, in line with Paragraph 49 of the NPPF, relevant policies for the supply of housing should not be considered up to date and the presumption in favour of sustainable development set out in Paragraph 14 applies.

Paragraph 14 states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as whole or specific policies in the NPPF indicate development should be restricted.

27. I consider that Policy OSV2 is a relevant policy for the supply of housing as it sets out criteria in Section (II) against which infill housing development will be judged. Criterion (b) under Section (II) refers to housing proposals meeting a local need, while criteria (h) and (j) seek to control the effect of such proposals on the character and appearance of the village. Therefore, in the context of this appeal, Policy OSV2 is not up to date. The amount of weight I can give this policy is reduced, but nevertheless it still carries some weight as it seeks to guide decisions on housing development in villages like Stapleford.
28. Conversely, I consider that Policy ENV1 is not a relevant policy for the supply of housing as it does not specifically seek to create or constrain housing delivery. This policy is also broadly consistent with the NPPF, so can be afforded considerable weight.
29. Addressing the adverse impacts of the proposed development first, there would be an inadequate mix of unit sizes to address local housing need, but the harm is limited given that Policy OSV2 is not up to date. The harm to the character and appearance of the surrounding area is significant given the loss of the existing building and the cramped and bland design of the proposed development. The harm is tempered to some extent by Policy OSV2 not being up to date, but the conflict with the development plan, particularly Policy ENV1, remains important. For this reason, significant weight can be afforded to the adverse impacts of the proposed development on the character and appearance of the surrounding area.
30. Turning to the benefits of the development, there is a considerable shortfall in housing provision within the District as indicated by the Council's Annual Monitoring Report of December 2015 which has been submitted as evidence by the appellant. The proposed delivery of five houses in a fairly accessible location would provide some benefit considering the shortfall. There would also be some benefit to the local economy through the development's construction and longer term contribution to the vitality of the local rural community. The reuse of previously developed land also has some environmental benefit. However, these benefits are modest compared to the significant harm to the character and appearance of the surrounding area.
31. Therefore, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. In the circumstances, the presumption in favour of sustainable development does not apply and the proposal would not represent sustainable development.

### **Conclusion**

32. The proposed development would have an acceptable effect on local community facilities and employment and highway safety, and would provide modest social, economic and environmental benefits. However, there would be significant harm to the character and appearance of the surrounding area as well as an inadequate housing mix, and thus the proposal would not represent

sustainable development. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Tom Gilbert-Wooldridge*

INSPECTOR

## Appeal Decision

Site visit made on 24 October 2016

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 14<sup>th</sup> November 2016

---

**Appeal Ref: APP/J1915/W/16/3154728**

**Priory Farm House, High Street, Widford, Hertfordshire SG12 8RA**

- 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 George Julian John Pawle and Ms L M Thursfield against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/0325/FUL, dated 1 February 2016, was refused by notice dated 21 April 2016.
  - The development proposed is demolition of existing barn, reconstruction of barn, new gravel driveway and new post and rail fence.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the development would be appropriately located, with particular regard to the effect on the character and appearance of the area, including the Widford Conservation Area (the CA).

### Reasons

3. The development includes the demolition of a barn, which has already been removed, the 'reconstruction' of a barn and the formation of a gravel drive, which would delineated by verges planted with hedging and post and rail fencing. The site forms part of a paddock, which is to the south of Priory Farm House (the house), a grade II listed building, and is east of a farmyard that is currently being redeveloped for residential purposes (the residential scheme). The paddock is situated towards the eastern extremity of the Widford CA, which is predominantly residential in character. There is an east/west public right of way passing to the south of the paddock and this would act as the link between the drive and Hunsdon Road.
4. The barn's use would be associated with the keeping of horses in the paddock. The drive would provide access to the house and would be an alternative to the courtyard access route that would be retained in association with the residential scheme. This courtyard access being the subject of a right of way that has been granted to the occupiers of the house<sup>1</sup>.
5. The paddock forms part of the undeveloped edge to Widford and it would appear historically that the house has always been accessed via the farmyard,

---

<sup>1</sup> First paragraph in section 4 of the appellants' appeal statement

---

given the absence of an access to this dwelling via Hunsdon Road or High Street. The formation of the access and the installation of the associated fencing would give rise to some urbanising encroachment into the paddock. While I appreciate that hedge planting would be provided on both sides of the drive, that planting, when combined with the fencing, would introduce a formality of hard and soft landscaping into the area and this would be unrepresentative of and harmful to the area's appearance.

6. The formation of the drive would require the removal of a Field Maple, and while this tree by itself is not of a particularly high quality, it nevertheless forms part of a hedgerow and contributes to the overall quality of this hedge. The removal of this tree would therefore add to the harmful appearance of the development.
7. I find that the development would be harmful to the character and appearance of a field that is free from built development. As this field forms part of the eastern margin of the CA, which is free from built development, the development would neither preserve nor enhance the character or appearance of the CA.
8. The barn would be modest in scale and it would have a quite functional design. However, this building would be largely screened from view by the retained hedgerow and would be a replacement structure. I therefore find that the barn would be an appropriate form of development for this location and that its provision would preserve the CA's character and appearance.
9. The drive and barn would be sufficiently distant from both the house and the House of Orange, the latter being another grade II listed building, for this development not to impinge directly upon the settings of either of the listed buildings. The settings of the listed buildings would therefore be preserved.
10. For the purposes of Policy GBC3 of the East Herts Local Plan Second Review of 2007 (the Local Plan) the site lies within the open countryside, where new development is generally discouraged unless it comes within the scope of exceptions identified in this policy. I consider that only exceptions (b) and (h) of Policy GBC3 are relevant to this case. Exception (b) relates to development relating to small scale outdoor recreation activities and is applicable to the replacement barn. The drive comes within the scope of being considered under exception (h), namely development of 'other essential small scale facilities, services or uses of land which meet a local need, are appropriate and which assist in rural diversification'.
11. It is submitted that the occupiers of the house require an alternative to the courtyard access route. However, no evidence has been provided demonstrating that the courtyard access route would either be physically unavailable or would be an impractical one. I therefore consider that the submitted evidence does not show that there is a needs justification for the drive's provision or that it would fulfil a local community need.
12. I am also not persuaded that there would be any particular benefit to the occupiers of the residential scheme, in terms of safeguarding their living conditions, as a consequence of diverting the vehicle movements associated with the house's occupation. This is because the house, as a single dwelling, would be unlikely to generate volumes of traffic that would be cause disturbance to the occupiers of the new dwellings.

13. For the reasons given above I have found that the formation of the drive and the associated boundary treatment works would be harmful to the character and appearance of the countryside, while failing to preserve or enhance the character or appearance of the CA. The development would therefore conflict with Policies ENV1, ENV11 and BH6 of the Local Plan, in that it would have an adverse impact on the character and appearance of open land and involve some tree/hedgerow loss that is contributing to the character and appearance of the CA. There would also be conflict with Policy GBC3 of the Local Plan insofar as it has not been demonstrated that the drive's provision would involve a use of land that would fulfil an essential use of land necessary to meet a local need.
14. I consider the harm to the CA would be less than substantial when considered within the context of paragraphs 133 and 134 of the National Planning Policy Framework. However, there would be no public benefits arising from the development outweighing the harm to the CA that I have identified.

**Other Matter**

15. I accept that the development would have no adverse effect on the living conditions for neighbouring occupiers. However, this would be a neutral effect and is something that I find to be outweighed by the harm that I have identified.

**Conclusions**

16. While I have found that the replacement barn would be of an acceptable appearance, the provision of the new drive would be harmful to the character and appearance of the area. I therefore conclude that the appeal should be dismissed.

*Grahame Gould*

INSPECTOR

## Appeal Decision

Site visit made on 20 September 2016

by **J C Clarke BSc(Hons) BTP MRTPI**

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

Decision date: 1 November 2016

---

**Appeal Ref: APP/J1915/W/16/3152203**

**Livestock and agricultural, Edwards Green Farm, Brickendon, Hertford, Herts SG13 8NT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Ray Peters against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/0450/ARPN, dated 23 February 2016, was refused by notice dated 13 April 2016.
  - The development proposed is described as 'Change of use of agricultural building to dwellinghouse'.
- 

### Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, paragraph Q.2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) for a change of use of agricultural building to dwellinghouse at land at Livestock and agricultural, Edwards Green Farm, Brickendon, Hertford, Herts SG13 8NT in accordance with the terms of the application Ref 3/16/0450/ARPN, dated 23 February 2016, and the plans submitted with it.

### Application for costs

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

### Procedural Matters

3. Under Class Q of Schedule 2, Part 3 of the GPDO ('Class Q'), the change of use and conversion of an agricultural building and land within its curtilage to a single dwellinghouse is excluded from being 'permitted development' if one or more of the circumstances in paragraph Q.1(a) to Q.1(m) inclusive apply. According to the evidence which is before me, none of these circumstances apply to the proposal which is subject to appeal. This means that it can, in principle, constitute 'permitted development' subject to satisfying the prior approval procedures set out in paragraph Q.2 of Schedule 2.
  4. The Council's decision notice refers to the appeal proposal as being for a '*...change of use...*' of the building subject to appeal to a dwellinghouse. It is, however, clear from the submitted drawings and supporting information that
-



the proposal also includes building operations which would be carried out to convert the building to this new use. I have therefore treated the appeal proposal as being for development which would fall within both Class Q(a) and Class Q(b).

5. My decision uses the description of development in the Appellant's information submitted with the application as it was not set out in the application form itself.
6. The prior approval application subject to appeal was submitted under the provisions of paragraph Q.2 of Schedule 2. Of the provisions set out in this paragraph the Council's reason for refusal only relates to those set out in paragraph Q.2(1)(e), which states '*...whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order...*'. The Council has not raised any concerns regarding transport and highway matters, noise impacts, contamination risks, flooding or the design or external appearance of the building. Paragraph Q.2(e) therefore forms the basis of my main issue.

### **Main Issue**

7. The main issue is whether the location or siting of the building subject to appeal makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling.

### **Reasons**

8. The basis of the Council's refusal of prior approval is that the proposal would result in a dwelling in an isolated location away from key services and infrastructure such as public transport, schools and shops, and the occupiers of the dwelling would be dependent on transport by private motor vehicle to access services or infrastructure.
9. In this context, I agree that the site is outside any existing settlement and the nearest village, just under 1 mile away at Brickendon, has very limited facilities. The nearest train station and primary school are further away and it is likely that occupiers of the proposed dwelling would be reliant on the private car to gain access to shops and other services.
10. Set against this point, however, the Planning Practice Guidance (PPG) confirms, in relation to the Class Q permitted development rights, that '*...The permitted development right does not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs...<sup>1</sup>*.
11. The PPG goes on to confirm that '*...When considering whether it is appropriate for the change of use to take place in a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. That an agricultural building is in a location where the local planning authority would*

---

<sup>1</sup> Paragraph: 108 Reference ID: 13-108-20150305

*not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval...<sup>2</sup>.*

12. The building subject to appeal is located on the edge of the farm yard within the Appellant's land holding, and forms part of a group of buildings which also includes 2 dwellings, other farm buildings and a building which was being converted at the time of my site visit to a dwelling under prior approval reference 3/15/1854/ARPN. This location has good road access and readily available sources of power and other utility services. Whilst at the time of my site visit operational farm activities were taking place in the adjacent farm yard, the building is not unduly close to any poultry or other livestock buildings, silage storage or buildings in which to my knowledge dangerous chemicals are stored. Due to its location within an established group of buildings the proposal would not have a harmful 'urbanising' effect as claimed by the Council and its location is not one which I find to be impractical or undesirable for residential use in the terms set out in the PPG.
13. The Council has referred to paragraph W.10 of Part 3 of the GPDO, which requires it, when determining an application under Class Q, to have regard to the National Planning Policy Framework (the 'Framework') so far as relevant to the subject matter of the prior approval, as if the application were a planning application. In this context, however, the PPG specifically advises against applying a 'sustainability of location' test such as that undertaken by the Council in this case. Whilst the PPG is not a statutory instrument it sets out the Government's current and up-to-date guidance concerning the GPDO, and must therefore be given substantial weight.
14. Whilst the Council states that the Government did not 'clarify' the terms of the GPDO when it was amended in April 2015, the PPG provides adequately clear advice concerning the correct approach to apply. Whilst the interpretation of the GPDO is a matter for the courts, and the Council has stated that it intends to challenge the approach set out in the PPG, there is no case law in place which indicates that the approach in the PPG should not be followed. Although the Council has referred to legal advice that it has received, the extract that I have seen of this appears (from its paragraph numbering) to be incomplete and I can accordingly only give it limited weight.
15. I also consider that the relationship between the GPDO, PPG and the economic, social and environmental dimensions of sustainability set out in the Framework is more subtle than that implied by the Council. The Class Q provisions support the objective, set out in the Framework, of boosting the nation's supply of housing but it is hard to see how they would do this if they did not result in housing being delivered in sites where it would not otherwise be accepted.
16. In addition, the Council's stance that the location of the building subject to appeal makes it undesirable in principle for conversion to residential use is hard to reconcile with paragraph 55, bullet point 3 of the Framework under which, if the building were to become redundant an appropriately designed scheme for its conversion to housing could be acceptable without any test of 'sustainability of location' being applied. I do not consider that the requirements of paragraph W.10 of the GPDO materially reduce the substantial weight that must be given to the PPG.

---

<sup>2</sup> Paragraph: 109 Reference ID: 13-109-20150305

17. The Appellant has drawn attention to several appeal decisions in which Inspectors have allowed appeals where the relevant local authority has, as in this case, in effect applied a 'sustainability of location' test in Class Q prior approval cases. Whilst I have considered the case before me on its own merits I can see no reason to follow a different approach to these other Inspectors in relation to the question of 'sustainability of location'. I also note that the Council did not resist the earlier application for the residential conversion of the building subject to appeal (application 3/15/2571/ARPN) for any reason related to its location. It also did not resist the residential conversion of the building which is across the farm yard from the appeal building on such grounds.
18. Having regard to the advice in the PPG and the other factors set out above, I do not consider that the location or siting of the building subject to appeal are such as to make it either impractical or undesirable for it to change from agricultural use to a dwelling.

### **Conditions**

19. The Appellant should note that, under paragraph Q.2(3) of Schedule 2, Part 3 to the GPDO, the granting of prior approval is subject to the condition that the change of use and building operations must be completed within a period of 3 years starting with the prior approval date. Paragraph W(12) requires that the development must be carried out in accordance with the approved details, which in this case include the application form, the Appellant's supporting information received by the Council on 23 February 2016, drawing numbers EGF/2/1 and EGF/2/2 and the submitted A4 size location plan.
20. Under paragraph W(13) of Schedule 2, Part 3 of the GPDO, additional conditions may be imposed provided that they are reasonably related to the subject matter of the prior approval. The Council has not requested that any additional conditions be imposed in this case and no such conditions were imposed upon prior approval 3/15/1854/ARPN which allowed the building which is immediately across the farmyard from the building subject to appeal to be converted to a dwelling. There is no evidence before me which convinces me that a different approach is needed in the current case.

### **Conclusions**

21. I have found that the location or siting of the building subject to appeal do not make it impractical or undesirable for it to change from agricultural use to a dwelling. I therefore allow the appeal.

*Jonathan Clarke*

INSPECTOR

---

## Costs Decision

Site visit made on 20 September 2016

by **J C Clarke BSc(Hons) BTP MRTPI**

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

Decision date: **1 November 2016**

---

### **Costs application in relation to Appeal Ref: APP/J1915/W/16/3152203 Livestock and agricultural, Edwards Green Farm, Brickendon, Hertford, Herts SG13 8NT**

- 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 Ray Peters for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of approval required under a development order for 'Change of use of agricultural building to dwellinghouse'.
- 

### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. The national Planning Practice Guidance (PPG) advises that, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
  3. The PPG advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority is required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour.
  4. Examples of substantive unreasonable behaviour referred to in the PPG include (1) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and (2) not determining similar cases in a consistent manner.
  5. As the application subject to appeal was submitted under Class Q of Schedule 2, Part 3 of the Town and County Planning (General Permitted Development) Order 2015 (the 'GPDO') it could only be considered in relation to matters set out in the GPDO and related guidance. A section of the PPG provides detailed guidance on the operation of Class Q.
  6. The Appellant's costs application claims that the Council did not promptly or fully release legal advice on which it based its decision. Whilst the PPG and legislation concerning the award of costs do not set any obligation on a local
-

planning authority to release such legal advice<sup>1</sup>, the costs application also has an underlying theme that the Council's refusal of prior approval was inconsistent with the PPG, other appeal decisions and previous decisions made by the Council in relation to similar cases. I have considered the application on the basis of these matters.

7. In my appeal decision, I acknowledge that the proposed dwelling would be in an isolated position as set out in the Council's reason for refusal. However, I have also found that as the Council decision in effect applied a test of 'sustainability of location' it was directly contrary to the advice of the PPG<sup>2</sup> that the Class Q.2 permitted development right does not apply such a test.
8. As stated by the Council, paragraph W.10 of Part 3 of the GPDO requires it, when determining an application under Class Q, to have regard to the National Planning Policy Framework (the 'Framework') so far as relevant to the subject matter of the prior approval, as if the application were a planning application. However, in my decision I have found that the relationship between the GPDO, PPG and the Framework is more subtle than that implied by the Council and this factor does not reduce the substantial weight that the Council should have given to the PPG.
9. Of the appeal decisions concerning other sites referred to in the costs application, most were in the same local authority area as the application subject to the appeal before me, and whilst all cases must be treated on their merits, they all support the approach in the PPG in relation to 'sustainability of location'. Whilst some of them post-date the Council's decision on the appeal proposal, those that were available at the time would have served to emphasise to the Council the importance of complying with the PPG guidance.
10. Whilst the Council has argued that the Government did not take the opportunity to 'clarify' the terms of the GPDO when it was amended in April 2015, as the PPG is clear in the approach that it should have adopted it should not have given substantial weight to this point. Although the Council has referred to legal advice, as this does not appear to have been provided in full and has not been tested in any court of law it does not demonstrate that the Council acted reasonably in contravening the advice of the PPG.
11. For reasons which are set out above, I find that the Council's decision had the effect of preventing or delaying development which should clearly be permitted, having regard to its accordance with the PPG.
12. Furthermore, the Council's resistance of the appeal proposal due to its remote rural location runs directly counter to its decision to approve a similar conversion of a building on the same farm complex (reference 3/15/1854/ARPN) and the fact that it did not refuse the earlier proposal relating to the building subject to appeal for the same reason (reference 3/15/2571/ARPN). As there is no material difference between the desirability of the location for dwelling use in the context of these proposals, the Council failed to determine similar cases in a similar manner.
13. I note that the Appellant is represented by an agent, meaning that as a result of the behaviour described above he will have had to expend unnecessary or

---

<sup>1</sup> This finding does not over-ride any separate statutory obligations that the Council may have in relation to the release of information.

<sup>2</sup> Paragraph: 108 Reference ID: 13-108-20150305

wasted expense in the form of agents' fees and associated costs in submitting the appeal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

**Costs Order**

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr Ray Peters the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
15. The applicant is now invited to submit to East Hertfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Jonathan Clarke*

INSPECTOR

---

## Appeal Decisions

Site visit made on 10 October 2016

by **J Flack BA Solicitor**

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

Decision date: 27 October 2016

---

### **Appeal A: APP/J1915/W/16/3154335**

**Queen Alexandra House, 2 Bluecoats Avenue, Hertford SG14 1PB**

- 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 Bluecoats JV LP against the decision of East Herts Council.
  - The application Ref 3/16/0646/FUL, dated 17 March 2016, was refused by notice dated 10 May 2016.
  - The development proposed is change of use of B1 offices and internal and external alterations to create seven residential C3 units.
- 

### **Appeal B: APP/J1915/Y/16/3154330**

**Queen Alexandra House, 2 Bluecoats Avenue, Hertford SG14 1PB**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Bluecoats JV LP against the decision of East Herts Council.
  - The application Ref 3/16/0647/LBC, dated 17 March 2016, was refused by notice dated 10 May 2016.
  - The works proposed are change of use of B1 offices and internal and external alterations to create seven residential C3 units.
- 

### **Decisions**

1. **Appeal A:** the appeal is dismissed.
2. **Appeal B:** the appeal is dismissed.

### **Main Issue**

3. The main issue in this case is whether the proposed development and works would preserve the Grade II listed building known as Queen Alexandra House or any features of special architectural or historic interest that it possesses.

### **Reasons**

4. Queen Alexandra House is one of 8 identical buildings constructed as dormitory houses in 1904 - 06 for the former Christ's Hospital School. Arranged in two rows on either side of a central avenue, these are impressive three storey buildings designed in a vigorous and richly detailed Queen Anne style. They take the form of a square block fronting the avenue, with a long but narrower rectangular projection behind this, the latter originally providing open dormitory accommodation.

5. The school closed in 1984, and the dormitory blocks are now in office and residential uses. The Council recently granted planning permission and listed building consent<sup>1</sup> for a scheme (the approved scheme) to convert Queen Alexandra House from offices to 6 residential units, and I saw on my visit that a programme of works is well-advanced.
6. The acceptability of the approved scheme has been established by the grant of permission and consent, and my assessment therefore addresses the differences between this and the appeal proposal.
7. The only alteration to the exterior of the building would be the enlargement of a window in the south elevation to form a door. The Council raises no objection to this element of the proposal, and I see no reason to disagree, given its minor scope and noting that it would be sensitively designed and employ matching materials. It follows that the proposal would not diminish, and thus would preserve, the character and appearance of the Hertford Conservation Area within which the building is situated. Nor does the Council object to the proposed alterations to the ground floor layout within the dormitory projection comprised in the approved scheme. I have no cause to take a different view, noting that the amendments would be minor. Moreover, whilst the Council's reasons for refusing the applications cited the effect of the proposed insertion of vents and flues, the parties now concur that this could be satisfactorily resolved by a condition requiring the submission and approval of details. I concur, noting that this approach has been successfully followed in relation to the approved scheme, and the appeal proposal would require the insertion of only one additional boiler flue and two additional vents.
8. The sole remaining focus of the Council's objections to the appeal proposal is the alterations to the plan of the dormitory projection. The appeal proposal would provide a 2 bedroom flat and two 1 bedroom flats within the second floor of the building, rather than the 1 bedroom flat and 3 bedroom flat proposed by the approved scheme.
9. I saw on my visit that this area of the dormitory projection contains no decorative detailing and fittings of note. However, its provision as a single dormitory space was a key element of the design of the building. I saw that the space has been altered in the past by the insertion of a staircase and enclosing partitioning in one rear corner. However, this has had only a minor impact: the space otherwise possesses a largely open and undivided appearance which continues to speak eloquently of the building's history and designed purpose, rendering these plainly legible. It thus makes an important positive contribution to the building's significance.
10. Although the height of the successive floors of the dormitory projection decreases, this is obviated at second floor level by the partial elevation of the ceiling into the roofspace. This is a distinctive element of the design of this space, providing a sense of the building's institutional character, and I do not consider that the contribution made by the dormitory projection at second floor level is appreciably less than at ground and first floor levels. The design also results in the partial exposure of the roof trusses and tie bars. These visually appealing structural elements, and the way in which they can be seen

---

<sup>1</sup> 3/15/1878/FUL and 3/15/1879/LBC



and read together in one view, also make a materially positive contribution to significance.

11. Any conversion of the building to residential use would involve additional subdivision to some degree. However, the approved scheme would involve limited new partitions within the second floor of the dormitory projection. A substantial proportion would remain open, forming a very large kitchen, living and dining room space, and some of the new partitioning beyond this towards the rear would comprise low level walls with glazed inserts above.
12. The appeal proposal would involve a much more intensive subdivision of the space. Although two of the resulting rooms would retain the original width of the building, there would be no remaining perception of the original long and open rectangular nature of this space. The appellant suggests that the bedrooms and bathrooms could be designed as 'pods', with low ceilings. Although this could be secured by condition, it would allow very limited perception of the space occupied by these rooms in combination with that of the associated two kitchen, living and dining spaces. Moreover, it would do nothing to counter the impact of the full height wall between these two spaces, which would form the party wall between two of the flats and be positioned close to half way along the length of the dormitory projection. Although conditions could also secure the minor repositioning of the party wall so that it would be adjacent to, rather than absorbing, one of the roof trusses, the wall would have an oppressive and awkward relationship with the truss and the present view of all the trusses together would be lost.
13. The appellant points out that the proposed subdivision is in theory reversible, but I attach very little weight to this given that the partitioning is an integral part of a permanent residential conversion scheme. I acknowledge that the internal spaces of the building would be viewed only by the building's occupiers and their visitors, but this also carries little very weight given that listed buildings are designated in recognition of their inherent special interest, not the extent to which this is appreciable by the public. I appreciate that the proposal involves the further subdivision of only one floor of the eight dormitory houses, but I am not persuaded that this renders the proposed works unimportant, given particularly that I have limited information on the internal layout of the other dormitory houses and the proposal is primarily to be judged on the basis of its impact on the subject listed building.
14. I therefore consider that, to a unacceptably greater extent than the approved scheme, the proposal would diminish the positive qualities of the dormitory projection's second floor that I have identified, and their contribution to the listed building's significance. The proposal would thus fail to preserve the special architectural and historic interest of the listed building, the desirability of which is a matter to which I am required to have special regard by sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The proposal would also be contrary to the requirement of saved Policy ENV1 of the Local Plan<sup>2</sup> that all development proposal be of high quality design and layout.
15. For the purposes of the National Planning Policy Framework, the listed building is a designated heritage asset. Within its overall context, I consider that the

---

<sup>2</sup> East Herts Local Plan Second Review, April 2007

proposal would lead to less than substantial harm to its significance, although extending some way beyond a merely minor detriment. Paragraph 134 of the Framework requires that such harm be weighed against the public benefits of the proposal.

16. The addition of a single flat to the housing stock of the Council's area would be a public benefit, but of very limited scope. The appellant points to the benefits of the proposal in securing the restoration and renovation of the building. However, I accord very limited weight to the proposal in this respect as it seems to me that the proposal is essentially a scheme of conversion, there being no evidence before me to counter the Council's statement that the building was in good repair as offices.
16. The appellant has produced estate agents' letters, citing experience of marketing units within two of the other dormitory houses which the appellant has also converted. They state that the second floor three bedroom unit comprised in the approved scheme would be unattractive to potential elderly purchasers or families with young children due to the absence of a lift, and would also not be affordable by younger buyers. However, no detailed supporting evidence is provided to support these views. These do not in any case cover all categories of potential buyers, and the situation of the development is attractive, one of the letters stating that there are very few developments offering a similar specification in the immediate locality, which is well-connected to the town centre and rail services. It is clearly important that a secure beneficial use is secured for the building. However, the public benefit it is appropriate to accord the appeal proposal in this respect is very limited, as the estate agents' letters and other evidence before me fall considerably short of demonstrating that the approved scheme would not be viable.
17. I therefore do not consider that the proposal would amount to securing the optimum viable use for this listed building. Noting also that the Act requires that considerable importance and weight are to be given to the desirability of preserving the listed building, I conclude that the public benefits of the proposal are very modest and do not outweigh the material harm which would be caused to the designated heritage asset. Moreover, the great weight to be apportioned to the conservation of designated heritage assets anticipated in paragraph 132 of the Framework affirms this conclusion: it follows that the proposal would be contrary to the historic environment policies of the Framework.
18. I have taken into account all other matters raised in the evidence before me, but nothing arises which disturbs my conclusions on the main issue. The appeals are therefore dismissed.

*J Flack*

INSPECTOR

---

## Appeal Decision

Site visit made on 7 November 2016

**by Graham Chamberlain BA (Hons) MSc MRTPI**

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

**Decision date: 14<sup>th</sup> November 2016**

---

**Appeal Ref: APP/J1915/W/16/3155559**

**Palace House, Winding Hill, Much Hadham, Hertfordshire SG10 6HW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr A Eastwood against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/0669/HH, dated 21 March 2016, was approved on 12 May 2016 and planning permission was granted subject to conditions.
  - The development permitted is the creation of a first floor within a garage for domestic storage purposes and provision of workshop and lobby area at ground floor.
  - The condition in dispute is No 3 which states that: The use of the building that forms the subject of this application shall be used for purposes ancillary to the residential use of the dwelling known as Palace House, and for no other purpose.
  - The reason given for the condition is: To ensure the Local Planning Authority retains control over any development and in accordance with Policy GBC3 of the East Herts Local Plan Second Review April 2007.
- 

### Decision

1. The appeal is allowed and planning permission Ref: 3/16/0669/HH for the creation of a first floor within a garage for domestic storage purposes and provision of workshop and lobby area at ground floor at Palace House, Winding Hill, Much Hadham, Hertfordshire SG10 6HW granted on 12 May 2016 by East Hertfordshire District Council, is varied, by deleting Condition No 3 and substituting for it the following condition:
  - 1) The building to which this permission relates shall only be used as a domestic garage and for no other purpose.

### Application for Costs

2. An application for costs was made by Mr A Eastwood against East Hertfordshire District Council. This application will be the subject of a separate Decision.

### Preliminary Matters

3. The appellant has questioned whether the proposed development requires planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 and 192 of the Act. Any such application would be unaffected by my determination of this appeal.
-

## **Background and Main Issue**

4. Planning permission was granted for the proposed development subject to conditions. Condition 3 requires the building to be used for purposes ancillary to Palace House. The reason for the condition refers to saved Policy GBC3 of the East Herts Local Plan Second Review 2007 (LP). This policy seeks to safeguard rural areas beyond the Green Belt. The original approval of the appeal building (Ref. 3/0671-86FP) limited its use to a domestic garage in view of its setting. As such, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

## **Reasons**

5. The appeal site encompasses a modern building sensitively designed in a traditional style. In this respect the form and external materials echo the local vernacular, particularly the timber boarding and rectangular plan. Internally, the building is more functional with exposed block work and structural steels visible. The use of a traditional form has resulted in a large vaulted ceiling.
6. The building adjoins a large open meadow to its south and west. To the east is Palace House and to the south east St Andrews Church. This arrangement has created a very attractive rural scene that can be appreciated from local vantage points including Winding Hill and the High Street. In my view, this is an area that adds greatly to the visual quality and setting of the village and is thus sensitive to change.
7. The appeal scheme is to insert a first floor into the large vaulted ceiling of the building. There would be no external alterations. The additional floor would be used for domestic storage of household items. The appellant intends to sell Palace House and move into another house nearby. The appellant wishes to retain the appeal building as a general domestic garage, which would include domestic storage as well as a place to continue to keep and work upon his classic cars as a hobby.
8. The Council do not object to the insertion of the first floor or the domestic uses proposed. To this end they have attached a condition requiring the building to be ancillary to Palace House. This would of course present a problem for the appellant if Palace House were sold as he could not use the building and adhere to the condition.
9. An intensive or inappropriate use of the building would be undesirable due to its sensitive location. To this end I share the view of the Council that some form of condition is necessary to ensure the building is used for the low key domestic purposes sought by the appellant.
10. The original grant of planning permission only restricted the use to a 'domestic garage'. The condition did not tie the use to the occupation of Palace House. Moreover, reference has been made to an Inspector's decision which subsequently found the building to be outside the residential curtilage of Palace House<sup>1</sup>. I have no reason to disagree and the fact the application appears to have been made on an incorrect form does not alter this. In effect, the appeal building can currently be used as a domestic garage unrelated to Palace House but not for any purpose involving a trade or business or any other use that would not be domestic in scale and character.

---

<sup>1</sup> The Council's reference for this application is 3/07/2090/FP

11. I have seen no compelling argument that it is necessary to go beyond the scope of this original condition to safeguard the setting of the appeal site. In particular, it is unnecessary for the building to be used for purposes ancillary to the occupation of Palace House. There is no need for the building to be tied in this way to achieve the Council's aim.
12. The appellant intends to use the building, in part, for the storage and sorting of domestic items. In my view this falls within the scope of the domestic garage use already permitted. In my experience, garages used for domestic non-commercial purposes, whether within a residential curtilage or not, often include an element of storage and will often function in a low key way as a workshop. As such, it is not necessary to expand the scope of the original condition beyond that of a domestic garage, which in my view encompasses the activities the appellant intends to undertake within it. I also note that the building is already used for low key domestic storage and as a workshop and therefore it would be difficult to enforce a condition requiring that it was not.
13. In reaching this view I note the Council's concerns that an unrestricted use of the building for storage could result in a harmful intensification in activity at the appeal building, a concern I share. Nevertheless, by preventing a commercial use of the building by requiring it to be a domestic garage the use would remain low key and thus similar to the existing approved activity. This is even with the additional floor space proposed. This would safeguard the character and appearance of the area as well as highway safety and the living conditions of the occupants of properties nearby.
14. I therefore conclude that Condition 3 should be substituted so that it is in line with the condition imposed on the original planning permission. Such a condition is necessary to protect the character and appearance of the building and its setting. I have therefore deleted Condition 3 in full and replaced it with a modified version.

### **Conclusion**

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

*Graham Chamberlain*  
INSPECTOR

## Costs Decision

by **Graham Chamberlain BA (Hons) MSc MRTPI**

**Decision date: 14<sup>th</sup> November 2016**

---

### **Costs application in relation to Appeal Ref: APP/J1915/W/16/3155559 Palace House, Winding Hill, Much Hadham, Hertfordshire SG10 6HW**

- 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 A Eastwood for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the grant, subject to conditions, of planning permission for the creation of a first floor within a garage for domestic storage purposes and provision of workshop and lobby area at ground floor.
- 

### **Decision**

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

### **Reasons**

2. The application for an award of costs was made and responded to in writing. Irrespective of the outcome of the appeal, the National Planning Practice Guidance (PPG) states that an award of costs may only be made against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application for costs can be summarised as follows. The Council has acted unreasonably by attaching a condition that is unnecessary and more onerous than that applied originally. Moreover, the appeal scheme did not require planning permission and the reason given for the condition on the decision notice is unclear. As such, the imposition of the condition has resulted in an unnecessary appeal.
4. The reason given for the condition on the decision notice could have been more precise. Nevertheless, having regard to the aims and content of the Policy referred to in the decision notice, alongside the Planning Officer's report, I am satisfied the reason for the disputed condition is not so unduly vague and general as to be unreasonable. In fact, I share the view of the Council that some form of planning condition limiting the use of the appeal building is necessary to safeguard the setting of the area.
5. The Council's pre-application advice that planning permission is required for the proposed first floor was given on an informal basis. It was, and is, open to the appellant to test this advice through an application for a Lawful Development Certificate if they consider the appeal scheme does not require planning permission. Rather than follow this cause of action a planning application was

submitted to the Council. There is clearly no fault in pursuing this but nor can there be in the Council determining the application as presented to them.

6. I share the view of the appellant that the condition imposed by the Council went beyond what was necessary to make the development acceptable. This was compounded by the fact that the disputed condition went beyond the scope of the condition originally imposed on the building<sup>1</sup>. Nevertheless, the underlining reason for the condition, to safeguard the setting of the appeal site, is sound.
7. Moreover, the application submission has sown some confusion as it was submitted on a householder application form, which implies an ancillary link between the appeal site and Palace House. Whilst this is not the case, the Council's oversight in this respect is understandable and therefore I am satisfied it did not act unreasonably in seeking to secure what it perceived to be an existing ancillary link.
8. It must also be noted that the appeal building and Palace House are currently in the same ownership and thus I am not satisfied that a condition that requires one building to be used ancillary to another would be technically flawed. The contention here is that this is unnecessary, which is a matter of planning judgement. Whilst I don't agree, I do not consider it was unreasonable for the Council to apply its professional planning judgement that an ancillary link is necessary to make the development acceptable.
9. My overall conclusion is that the Council did not act unreasonably in imposing the disputed condition. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Graham Chamberlain,*  
INSPECTOR

---

<sup>1</sup> Condition 3 of planning permission 3/0671-86FP

---

## Appeal Decision

Site visit made on 8 November 2016

by **J A B Gresty MA MRICS**

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

Decision date: 15<sup>th</sup> November 2016

---

**Appeal Ref: APP/J1915/D/16/3156736**

**72 Whempstead Road, Benington, Hertfordshire SG2 7DE**

- 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 Punia Gurinder against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/0701/HH, dated 23 March 2016, was refused by notice dated 25 May 2016.
  - The development proposed is a two-storey front and side extension and associated drive and front garden landscaping.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

### Reasons

3. The appeal property is situated in a good sized, irregularly shaped plot outside the built boundaries of the small village of Benington. The property is one of a line of dwellings which forms a ribbon of development on this side of the road. Whilst there are many dwellings in the local area, the surrounding landscape is characterised by fields enclosed by hedgerows and prominent blocks of woodland. Although the line of houses in which the appeal property is situated has a largely semi-suburban character and appearance, the surrounding countryside is predominantly rural in character and appearance.
  4. The property is a substantial, two-storey house with a single-storey arm which links the main body of the house to a large double garage. Cumulatively the two-storey and single-storey buildings span across more or less the whole width of the plot.
  5. The appeal proposal is for extension of the house at both ground floor and first floor levels. The development would largely replace the single-storey arm with a two-storey extension which would project forward of the front elevation of the single-storey arm to be in line with the front wall of the main house. To the rear, the extension would project back to just beyond the existing rear projection of the two-storey house. The result would be to increase the width of
-



the two-storey element of the house by more than 50% , greatly increasing the visual bulk of the house at first floor level. On completion, about two-thirds of the width of the plot would be occupied by two-storey development. Taking into account the size of the house, and the size of the garage which would remain unchanged, the extended house would appear very large in relation to its plot and the collective bulk of the house and garage would be prominent when viewed obliquely across next door's front garden of No 70 from Whempstead Road to the north.

6. Whilst No 70 is a large property which has recently been extended with second floor accommodation built into its roof space, it occupies a relatively small proportion of its plot compared to the appeal property. Consequently there is clear open space to the side of the house at No 70. Other nearby properties in the line of houses, including No 74 on the other side of the appeal property, are noticeably smaller than the appeal property.
7. Overall, the extended house would appear large and bulky in relation to its plot. In this respect it would be at odds with the prevailing pattern of development on this part of Whempstead Road. Policy GBC3 of the East Herts Local Plan Second Review (LP) seeks to restrict development in the countryside and indicates that permission for construction of new buildings in this location will not be given except in certain circumstances, including limited extension to existing dwellings in accordance with LP Policy ENV5. Outside the main settlements and larger villages, LP Policy ENV5 requires extensions of dwellings, whether individually or cumulatively, not to disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area.
8. The appeal property has been extended considerably in the past and the proposed development would result in the floor area of the original house being increased by some 122% from about 212 square metres to some 470 square metres. Whilst the LP does not specify what constitutes a disproportionate increase in the size of a dwelling, the considerable visual bulk of the extended house is an indication that in this case the cumulative 122% increase would be disproportionate, contrary to the requirements of LP Policy ENV5. Further, the bulky appearance of the extended house would have a significantly adverse effect on the visual openness of this part of Whempstead Road, resulting in erosion of the rural character and appearance of the surrounding countryside, contrary to the requirements of LP Policy ENV5.

### **Other Matter**

9. The appeal scheme includes realignment of the driveway to the property and a new entrance onto the highway. Details of landscaping and the proposed new gateway have not been submitted. However, I consider that this could be secured by way of condition and the lack of detail would not be reason to dismiss the appeal.

### **Conclusion**

10. At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and new development should respond to

local character. The Framework also indicates that the intrinsic character and beauty of the countryside should be recognised.

11. In this case the proposed works would reflect the design of the existing house but the extended house would appear disproportionately large and bulky in relation to its plot, resulting in a incongruous development which would have an unduly adverse effect on the visual openness and rural character of the area. Accordingly, on balance and for the above reasons, I conclude that the proposed development would not represent sustainable development as sought by the Framework and the appeal should be dismissed.

*J A B Gresty*

INSPECTOR

## Appeal Decision

Site visit made on 24 October 2016

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 8<sup>th</sup> November 2016

---

**Appeal Ref: APP/J1915/W/16/3153611**

**Land at 54 Hawkins Hall Lane, Datchworth, Hertfordshire SG3 6TE**

- 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 and Mrs K and D Nee against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/0718/FUL, dated 23 March 2016, was refused by notice dated 17 May 2016.
  - The development proposed is detached dwelling on land adjacent to No. 54.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the development on: the character and appearance of the street scene within Nutcroft; and the living conditions of the occupiers of 94 Nutcroft (No 94), with particular regard to whether or not the development would be overbearing.

### Reasons

3. The development would involve the construction of a two storey detached house within part of the side and rear garden of No 54. No 54 is a semi-detached corner property which has been enlarged with the addition of a comparatively large side extension with the result that that addition has become the principal dwelling with the original house in part being occupied as an annex. The house would front onto Nutcroft.

#### *The approach to this decision*

4. The Council acknowledges that it cannot demonstrate the availability of a five year supply of deliverable housing sites (an HLS). Accordingly, having regard to the provisions of paragraph 49 of the National Planning Policy Framework (the Framework), the Council's policies for the supply of housing cannot be considered as being up to date.
  5. Having regard to the provisions of paragraph 14 of the Framework I have therefore approached this appeal on the basis that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework, taken as a whole or specific policies within the Framework indicate that development should be restricted.
-

### *Character and Appearance*

6. The junction between Hawkins Hall Lane and Nutcroft is flanked by Nos 52 and 54, properties that were purposefully designed with spacious plots. That spaciousness has been somewhat diminished as a result of No 54's enlargement and the provision of the house would further erode the spaciousness of No 54's plot. In this respect the plot area of the new house would be a comparatively small one for the area and I consider that it would have a cramped appearance and would not sit comfortably with the streetscene, given the site's prominent position at the entrance to Nutcroft.
7. The house would read as being part of Nutcroft's streetscene, a road that is characterised by semi-detached and terraced two storey houses, with the pairs of semi-detached properties on the even numbered side of this street, for the most part, having a staggered siting relative to one another. While the front elevation of the house would have a similar alignment to that of what is now No 54's principal front elevation, part of the side (western) elevation would project forward of Nos 92 and 94. This siting would mean that the house would be readily apparent when seen from the west and because it would be a detached one, that would emphasise this development's uncharacteristic form within Nutcroft.
8. For the reasons given above I conclude that the development would be harmful to the character and appearance of Nutcroft's street scene. There would therefore be conflict with saved Policies ENV1, HSG7 and OSV2 of the East Herts Local Plan Second Review of 2007 (the Local Plan), insofar as the development would not be of a design and layout that would reflect the area's distinctiveness. There would also be conflict with the Framework, most particularly paragraphs 58 and 64 in that the development would not add to the overall character of the area.

### *Living Conditions*

9. While the house would be sited in advance of No 94's front elevation, I consider that the siting and height of the former relative to the latter would be such that the new property's presence would not be overbearing for the occupiers of No 94. While there would be some loss of light and outlook from No 94's side windows, having regard to the presence of the existing boundary fencing and planting, I consider that those losses would be of a scale that would not be harmful to the living conditions for the occupiers of No 94.
10. I therefore conclude that the development would not be harmful to the living conditions for the occupiers of No 94. There would therefore be no conflict with Policies ENV1 and OSV2 of the Local Plan because the living conditions (amenities) of the occupiers of a neighbouring property would not be significantly harmed. In this respect I find that there would also be no conflict with the Framework, most particularly the fourth planning principle (paragraph 17) insofar as a good standard of amenity would be secured for the occupants of a neighbouring property.

### **Other Matter**

11. While that the Parish Council has raised no objection to the development this does not persuade me that it would not be a harmful one.

## **Conclusions**

12. In the absence of an HLS the provision of a house would give rise to some limited social and economic benefits weighing in favour of this development. However, while I have found that the development would not be harmful to the living conditions for the occupiers of No 94, it would unacceptably harm the character and appearance of the street scene. There would therefore be conflict with the Framework and policies of the Local Plan, insofar as they address the appearance of new development, including infilling within a settlement. I therefore consider that the harm that I have identified significantly and demonstrably outweighs the benefits of the development and could not be overcome by the imposition of reasonable planning conditions.
13. The appeal is therefore dismissed.

*Grahame Gould*

INSPECTOR

---

## Appeal Decision

Site visit made on 8 November 2016

**by Christa Masters MA (hons) MRTPI**

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

**Decision date: 14<sup>th</sup> November 2016**

---

**Appeal Ref: APP/J1915/D/16/3159935**

**Lower Hacketts, 42 Brickendon Lane, Brickendon, Hertfordshire SG13 8NU**

- 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 James Barry against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/1087/HH, dated 10 May 2016, was refused by notice dated 8 July 2016.
  - The development proposed is the demolition of shed and car port adjacent to existing dwelling, and existing rear and side lean-to extensions. The construction of a new two storey hipped roof extension.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the demolition of shed and car port adjacent to existing dwelling, and existing rear and side lean-to extensions. The construction of a new two storey hipped roof extension at Lower Hacketts, 42 Brickendon Lane, Brickendon, Hertfordshire SG13 8NU in accordance with the terms of the application, Ref 3/16/1087/HH, dated 10 May 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans listed: PL099, PL100, PL101, PL102, PL103, PL104, PL105, PL106, PL107.
  - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used on the existing building.

### Application for costs

2. An application for costs was made by Mr James Barry against East Hertfordshire District Council. This application is the subject of a separate decision.

### Main Issues

3. The appeal site lies within the Green Belt. The main issues are therefore whether the proposal would be inappropriate development in the Green Belt, and if so whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to
-

the very special circumstances necessary to justify the development. In addition, whether the proposal would preserve or enhance the character and appearance of the Brickendon Conservation Area.

### **Reasons**

#### *Whether the proposal would be inappropriate development in the Green Belt*

4. The appeal property is a semi detached dwelling located within the settlement of Brickendon. It forms the end of a terrace of three cottages. The Framework establishes at paragraph 89 that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves the extension of a building. This is provided that it does not result in disproportionate additions over and above the size of the original building. Policy GBC1 of the East Herts Local Plan (LP) Second Review 2007 conforms with the thrust of the Framework in this regard.
5. There is agreement between the main parties that the proposal would result in a 52% increase to the size of the original dwelling house. The Framework does not give any guidance on what 'disproportionate' means in the context of paragraph 89. Therefore, the assessment is a matter of planning judgement for the decision maker.
6. The proposed side extension would be set back from the main front elevation of the property and as a result of the scale proposed, would ensure that it would be subordinate to the original building. For these reasons and taking into account the floorspace calculations agreed between the main parties, the proposal would in my view be a modest addition to the property which would not result in any disproportionate addition over and above the size of the original building. The development would therefore not be inappropriate. For these reasons, I conclude the proposal would accord with both the Framework as well as policy GBC1 of the LP.

#### *Whether the proposal would preserve or enhance the character and appearance of the Brickendon Conservation Area*

7. The appeal site is located within the Brickendon Conservation Area. From my site visit, it was apparent that the area is characterised by clusters of residential dwellings situated in a linear form of development. Although the property is set back from the main road frontage, the flank elevation where the extension would be positioned is particularly visible when travelling north along Brickendon Lane.
8. Policy ENV5 of the LP relates to the extension of dwellings. The application of the policy is dependent upon whether the site is within or outside of the main settlements and category 1 and 2 villages. The appellant states the site is within a category 2 village. The Council are silent on this matter. Without any evidence to the contrary, I have no reason to consider the approach adopted by the appellant to be incorrect. As such, the policy advises that extensions to existing dwellings will be permitted provided that the character, appearance and amenities of the dwelling and any adjoining dwelling would not be significantly effected to their detriment.
9. The proposal before me would remove an existing cat-slide kitchen single storey projection as well as utility room projection. An existing shed and garage on the site would also be removed. The removal of these existing features would

in my view result in significant visual benefits in terms of the street scene as a whole through their replacement with a well-designed extension. The width of the extension would in my view improve the symmetrical style of the host dwelling when considered in the context of the terrace as a whole. The extension would also be set back from the front elevation by 0.5m, thereby ensuring it would remain subservient to the host dwelling.

10. To conclude, the extension proposed is appropriate in terms of its height, scale and design to both the host property and the surrounding dwellings. The proposal would enhance the character and appearance of the Conservation Area. It would therefore accord with the thrust of policy ENV5 of the LP. Taking the above into account, the proposal would also be consistent with paragraph 135 of the Framework.

### **Conditions**

11. The Council has proposed a number of conditions which I have considered against the tests identified by the Framework. Those relating to commencement and plans are necessary in the interests of proper planning. Although not suggested by the Council, I also consider it is necessary to attach a condition relating to materials in the interests of the character and appearance of the area.

### **Conclusion**

12. For the reasons outlined above and taking all other matters into account, the appeal should be allowed.

*Christa Masters*

INSPECTOR



---

## Costs Decision

Site visit made on 8 November 2016

**by Christa Masters MA (hons) MRTPI**

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

**Decision date: 14<sup>th</sup> November 2016**

---

**Costs application in relation to Appeal Ref: APP/J1915/D/16/3159935  
Lower Hacketts, 42 Brickendon Lane, Brickendon, Hertfordshire SG13 8NU**

- 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 James Barry for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of an application for planning permission for the demolition of shed and car port adjacent to existing dwelling, and existing rear and side lean-to extensions. The construction of a new two storey hipped roof extension.
- 

### Decision

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

### Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's costs application relies substantially on the fact that the Council reported an incorrect figure within the Officers report for the percentage increased in built development on the site. This error was acknowledged by the Council after the application was determined.
4. Notwithstanding this, the Council maintained their objection to the proposal in terms of both the effect of the proposal on the Green Belt as well as the character and appearance of the Brickendon Conservation Area. In doing so, the Council gave a full explanation for this approach and policies to support their decision. I have reached a different view on these main issues. Taking these matters into account, it is my view that this fact alone has not caused the appellant to incur unnecessary or wasted expense in the appeal process. As a result, it does not demonstrate that the Council have behaved unreasonably.
5. In conclusion, I do not consider the Council has behaved unreasonably and I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described by the PPG, has not been demonstrated.

*Christa Masters*

INSPECTOR

---

## Appeal Decision

Site visit made on 8 November 2016

by **J A B Gresty MA MRICS**

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

Decision date: 15<sup>th</sup> November 2016

---

**Appeal Ref: APP/J1915/D/16/3159281**  
**229 Monks Walk, Buntingford, Hertfordshire SG9 9DY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Tracey Estaves against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/1141/HH, dated 12 May 2016, was refused by notice dated 8 August 2016.
  - The development proposed is a front porch extension.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the local area.

### Reasons

3. The appeal property is a two-storey, mid-terrace house. The terrace is formed by four similar houses dating from about the 1960s. The terrace is of plain design and is identified as having little architectural merit by the Council. However, there are several other terraces of similar design nearby and cumulatively they contribute to the character and appearance of the local area.
  4. The proposal is for a single-storey, front extension which would project about two metres from the front of the house and would span across more or less the whole width of the house. The top of the extension's mono-pitch roof would sit just below the first floor windows. Because of its size and bulk in relation to the size of the existing house, the extension would dominate the appearance of the front of the house and it would disrupt the regular, designed appearance of the terrace. In turn this would detract from the cumulative contribution of the terraces of similar design to the character and appearance of the local area. In these respects the proposed porch would not meet with the requirements of Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review.
  5. A similarly sized and designed front extension has been built at Nos 251 and 253 Monks Walk. However, the extension is shared between the two houses and spans about half of the front elevation of each of the two houses. Consequently the extension does not dominate the appearance of either of the two houses to
-

the same extent as the appeal proposal would. Notwithstanding this, the extension built at Nos 251 and 253 does not contribute positively to the appearance of the terrace that the two properties are situated in and it does not provide justification for the appeal proposal.

### **Conclusion**

6. At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and it should make places better for people. In this case the appeal property is relatively small and the proposed development would provide useful additional space for the appellant and her family. Also, the use of painted render to clad the external walls of the extension would reflect the appearance of the host building, helping the extension to blend in with the terrace as a whole. However, the size and bulk of the extension would result in harm to the appearance of the terrace and consequently it would detract from the character and appearance of the local area. Therefore, on balance and for the above reasons, I conclude that the proposed extension would not represent sustainable development as sought by the Framework and that the appeal should be dismissed.

*J A B Gresty*

INSPECTOR

## Appeal Decision

Site visit made on 8 November 2016

by **Christa Masters MA (hons) MRTPI**

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

Decision date: 14<sup>th</sup> November 2016

---

**Appeal Ref: APP/J1915/D/16/3159739**

**29 Byde Street, Hertford SG14 3AR**

- 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 Simon Bacon against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/1256/HH, dated 2 February 2016, was refused by notice dated 21 July 2016.
  - The development proposed is the construction a single storey full width rear extension with part lean-to roof with roof lights and part pitched roof.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the construction a single storey full width rear extension with part lean-to roof with roof lights and part pitched roof at 29 Byde Street, Hertford SG14 3AR in accordance with the terms of the application, Ref 3/16/1256/HH, dated 2 February 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans listed: P099, P100, P101, P102, P103, P104 REV B, P105 REV B, P106 REV B, P107 REV B.
  - 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension 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.

### Procedural Matter

2. The Council requested I view the appeal site from No 27 Byde Street in order to assess the change in levels. There was no access available to No 27 on the day of my site visit however I was able to gain access to the rear garden of No 25. There is a gate between the two properties and I was able to assess the change in levels from this position.

### Main Issue

3. The effect of the proposal on the living condition of the existing and future occupiers of No 27 Byde Street.
-

## **Reasons**

4. The appeal property is a mid terraced two storey dwelling located within an established residential area. When viewed from Byde Street, the front elevation of the property is similar in appearance to No 31. Nos 25 and 27 are also similar in appearance. There is a gentle slope downwards along the road from Fanshawe Street to Wellington Street and as a result, the neighbouring dwellings of No 25 and 27 are set at a slightly lower ground level than the appeal property. No 25 and No 27 also sit forward of the appeal site by some margin.
5. The rear elevation of No 27 is recessed back some distance from the rear elevation of the appeal property. There is an existing two storey element at the rear of the appeal property. The flank elevation to this in effect provides part of the boundary with No 27 and there is a small conservatory which is set in this space. The outlook from No 27 is therefore already restricted by this two storey boundary and the recessed nature of the rear elevation of the property.
6. The proposed structure would have a flat roof and would have a height of 3m, and would extend 4.2m in depth. The extension would be visible in part above the boundary treatment between the appeal property and No 27. However, as I have already set out above, the outlook from No 27 is already restricted. Even taking into account the level change between the two sites, I am unable to agree that the visibility of this flat roofed structure would have an intrusive and overbearing effect on the existing and future occupiers of No 27 as suggested by the Council.
7. The appellant states that a single storey extension could be erected without the need for planning permission. Such a structure could extend 3m in depth with an overall height of 4m from the ground level. I regard the likely erection of such a fallback as a material consideration. In my view, the height of this structure would have a greater impact on the existing and future occupiers of No 27 than the appeal proposal.
8. I therefore conclude the proposal would not result in material harm to the living conditions of the existing and future occupiers of No 27 Byde Street. It would, as a result, accord with policies ENV1 and ENV5 of the East Herts Local Plan (LP) Second Review 2007. Policy ENV1 relates to design and environmental quality and advises, amongst other things, that (d) development proposals should respect the amenity of occupiers of neighbouring buildings. Policy ENV5 relates to extensions to dwellings and advises, amongst other things that extensions should not significantly affect the amenities of adjoining dwellings to their detriment. My attention has also been drawn to policy ENV6 however there is nothing within this policy which is directly relevant to the main issue before me.

## *Other Matters*

9. The appeal site is located within the Hertford Conservation Area. I confirm that the design of the proposal is appropriate in terms of its height, scale and design to the surrounding area. The proposal would therefore preserve the character and appearance of the conservation area and taking the above into account, the proposal would therefore be consistent with paragraph 135 of the National Planning Policy Framework (the Framework).

10. Concerns have been raised by the occupiers of No 31 in terms of the effect of the proposal on light levels, outlook and positioning of the guttering. Taking into account the orientation of the dwellings, I can see no reason to disagree with the Council's conclusion that the effect of the proposal in terms of outlook and light levels on the occupiers of this property would be acceptable. From the plans and schedule of materials presented, I am satisfied that guttering could be provided within the appeal site. Concerns have also been expressed by the occupiers of No 33 regarding access to the rear of the property. However, the existing access through the main frontage of the property would not be effected by the appeal proposal.

### **Conditions**

11. I have had regard to the conditions suggested by the Council in light of paragraph 206 of the Framework. A condition limiting the life of the permission is necessary. I also agree it is necessary to specify the approved plans for the avoidance of doubt and in the interests of the proper planning of the area.
12. The Council have suggested a condition that all of the materials to be used shall match those on the existing building. However, the appellant has specified the use of double glazed upvc and aluminium windows whereas the existing windows at the property are timber framed. As such, I have amended the wording of this condition to require details of the materials to be used to be submitted to and approved by the local planning authority. This is in order to ensure the appearance of the development is satisfactory given the sites location within the Hertford Conservation Area.

### **Conclusion**

13. For the reasons outlined above and taking all other matters into account, the appeal is allowed.

*C Masters*

INSPECTOR

## Appeal Decision

Site visit made on 8 November 2016

**by Christa Masters MA (hons) MRTPI**

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

**Decision date: 14<sup>th</sup> November 2016**

---

**Appeal Ref: APP/J1915/D/16/3159558**

**6 Rib Vale, Benego, Hertford SG14 3LF**

- 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 Greenwood and Miss Guest against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/1632/HH, dated 18 July 2016, was refused by notice dated 7 September 2016.
  - The development proposed is two storey side and rear extensions.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The effect of the proposal on the living conditions of the existing and future occupiers of No 4 Rib Vale.

### Reasons

3. The appeal property is a detached two storey dwelling set along Rib Vale. The appeal proposal would provide a two storey side extension and rear extension. I was able to view the appeal site from No 4 Rib Vale as part of my site visit. There is a room on the first floor currently used as a home study which has a single aspect window on the flank elevation of the property which directly overlooks the appeal site. This window provides the only light source to the room and the existing outlook is of the flat roof of the car port and the street beyond.
  4. As a result of the scale and positioning of the side extension proposed, I share the concerns expressed by the Council that the proposal would result in material harm in terms of both loss of outlook and the amount of light the room receives. Whilst I note the appellant states any loss of light would be mitigated by moving the existing garage back from the boundary by 1m, I have no technical evidence to support this view. The weight I can attach to this statement is therefore limited.
  5. I also note that the appellant states that there are existing extensions in place along Rib Vale and also first floor flank windows facing two storey side extensions along Watermill Lane. I have not been provided with the full planning history details on these other sites, or any information concerning when the extensions or windows were installed. Nor do I have any information
-

regarding the rooms these first floor windows serve. In any event, each proposal must be considered on its own merits, as is the case here.

6. As a result, I therefore conclude the proposal would result in material harm to the living conditions of the existing and future occupiers on No 4 Rib Vale. It would be in conflict with policy ENV5 of the East Herts Local Plan Second Review (LP) 2007. This policy advises, amongst other things, that extensions to dwellings will be permitted provided that the amenities of the dwelling and any adjoining dwelling would not be significantly affected. The proposal would also conflict with the Framework, and in particular paragraph 17 which advises, amongst other things, that proposals should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
7. My attention has also been drawn to policy ENV6. This policy sets out criteria in relation to extensions. However, as highlighted by the appellant, the policy wording at (c) relates to two storey extensions to semi-detached and terraced properties. As the appeal property is a detached dwelling, I am not persuaded that the policy is directly applicable to the appeal proposal.

*Other Matters*

8. Concerns have also been raised that the proposal would result in a terracing effect along the street. However, taking into account the separation distances involved, I do not consider the proposal would result in any material harm in this regard.

**Conclusion**

9. For the reasons set out above, I conclude the appeal should be dismissed.

*Christa Masters*

INSPECTOR