



Appeal Decision

Site visit made on 15 June 2016

by **W G Fabian BA Hons Dip Arch RIBA IHBC**

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

Decision date: 14 September 2016

Appeal Ref: APP/J1915/W/16/3144108

Highfield Barns, Highfield Farm, Mangrove Lane, Brickendon, Hertfordshire SH13 8QJ

- 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 of the Town and Country (General Permitted Development)(England) Order 2015.
 - The appeal is made by Mr A Winer against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1494/ARPN, dated 14 July 2015, was refused by notice dated 10 September 2015.
 - The development proposed is change of use of an existing agricultural use (poultry) building to Class C3 (dwellinghouse).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Planning Practice Guidance (the Guidance) was amended in March 2015 by the introduction of paragraphs 108 and 109 in respect of prior approval for changes of use from agricultural buildings to dwellings. It clarifies 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. Instead the local planning authority can consider whether the location and siting of the building would make it impractical or undesirable to change use to a house. Paragraph 109 clarifies 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 not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.
 3. The Council in its statement for this appeal objects to the countryside location of the site with reference to its accessibility to shops, services and public transport and the impact that would arise from the residential conversion through domestic paraphernalia and activity. The Council suggests that there is conflict between the requirements of the Town and Country (General Permitted Development) (England) Order 2015 (GPDO) and the National
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Planning Policy Framework (the Framework) in particular at paragraph 55, in that paragraph W(10)(b) and the provisions of Class Q entitle the Council to take into account the Framework's provisions when considering whether or not prior approval is required.

4. However, it seems clear to me that the GPDO was written in the light of the Framework, which it postdates. The GPDO at W(10)(b) requires the local planning authority to have regard to the Framework, so far as relevant to the subject matter of the prior approval, as if the application were a planning application. The Framework states that its policies should be taken as a whole. At paragraph 49 it seeks to boost significantly the supply of housing and the GPDO has been made to assist with this aim. Prior approval for the residential conversion of agricultural buildings must inevitably lead to dwellings in the countryside that would otherwise be resisted by paragraph 55 of the Framework. The Guidance has been published to provide clarification on this matter.
5. As such I will consider this appeal only on the basis of the Council's reason for refusal.

Main Issue

6. The main issue in this appeal is whether the building was used solely for an agricultural use as part of an established agricultural unit, on 20 March 2013 or when it was last in use prior to that date, in accordance with the GPDO.

Reasons

7. The GPDO sets out in Schedule 2, Part 3, Class Q – agricultural buildings to dwellinghouses, at Q1, that development is not permitted by this class if (a) the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20th March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date of development under Class Q begins.
8. The GPDO at paragraph X. Interpretation of Part 3 confirms that for the purposes of Part 3 – 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and 'agricultural use' refers to such uses: 'established agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture.
9. The Town and Country Planning Act 1990 (TCPA) provides interpretation at Section 336. Agriculture is defined as including horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of the land for other agricultural purposes, and "agriculture" shall be construed accordingly.
10. The planning history of the appeal site up until 2003 or so is recorded in an appeal decision (APP/J1915/A/03/1134591) issued in April 2004; this related to the planning permission granted for residential conversion of Highfield Farm

and specifically to removal of a condition requiring demolition of existing buildings, which included the building subject to this appeal. That appeal was allowed. It records that the use of the whole site ceased in April 2002 and that it had been a research unit in connection with animal feeds and health care, which the Council considered to have been sui generis. The inspector commented that 'the nature and appearance of the 4 buildings is wholly agricultural.....the appellant has indicated that the prospective owners would be using the buildings for agricultural purposes.' The decision also confirms that the appeal site is within the Green Belt.

11. The appeal building is the largest of four agricultural type buildings and is the furthest one from Highfield Farm itself, which has now been wholly converted to around fifteen dwellings. It is accessed by a track that passes the residential development and skirts the car park for it, leading to the buildings. Only the three larger buildings lie within the appeal site boundary, the fourth is a modest stable type building closest to the dwellings. The appeal building is described on the submitted sales particulars from 2009 as one of two redundant insulated timber frame poultry buildings with corrugated fibre cement roofs. The third building, which lies between these two, is an open sided concrete portal framed building clad with corrugated fibre cement panels. All three buildings have concrete floors and an apron of concrete hardstanding all round. The particulars describe 0.49 hectares of grassland enclosed by post and rail fencing.
12. The appellant's agent's letter accompanying the application, in July 2015, stated that Mr Winer purchased the property on 26 July 2010 as an established agricultural unit and cited these particulars as confirming this. However, I note that although the sales agents are 'Sworders Agricultural' the description was as two redundant poultry sheds and an agricultural building, no reference is made to previous agricultural use. The letter sets out that the appellant 'raises livestock (chickens and pigs) on the land and within some of the other agricultural buildings. He regularly has to make the 30 mile round trip to the site from his current home twice each day to feed and tend to his animals.'
13. The letter continues that he purchases chickens in batches of 50 from a local farmer and these are raised for ultimate sale to the general public. The eggs are sold to local farm shops and the general public. The company 'Highfield Hens' domain name was registered on 30 July 2012. The letter confirmed that the appeal building had always been used by the appellant to store chicken and pig feed, as well as for hay storage.
14. The property is a registered smallholding and has been insured through the National Union of Farmers as a smallholding¹. Additionally, the appellant has provided a letter from his accountant IPS Consultancy Services, dated January 2016, which confirms that tax accounts have been prepared for 'Highfield Farm' and 'Highfield Hens' for the years 2011/12 - 2014/15, with profit being shown to increase year on year despite re-investment. No copies of accounts are provided for the three year period. An affidavit, dated 2 February 2016, from a former employee is also submitted. This confirms full time employment for cleaning out chickens and duties in connection with selling the eggs to the public from September 2012 to March 2013. It also confirms ongoing visits to

¹ A copy of the insurance certificate on this basis for 2010-2011 is included with the submissions, but not for subsequent years.

the premises since then and records that the business operation has continued unchanged.

15. I saw at my visit that the appeal building had had an end bay removed and temporary waterproof construction installed. It was very clean and tidy; and appeared relatively underused, with much of the space unoccupied. Inside the first partitioned off section were some chiller type units and stainless steel counter tops with a limited number of trays of eggs stacked on them and sacks of sow feed stacked nearby. Within the main shed area were two empty low segmental rearing pens with heat lamps above them, some items of agricultural type towable equipment, some empty pallets, a few rolls of wire mesh, some sacks of fertiliser and some sacks of sawdust. Outside within the grassed area alongside the building were some lambs penned in by electric fencing. In the adjacent open building were two pens with a total of around 50 hens in them.
16. The appellant has provided a letter, dated January 2015, from Yeats Ltd confirming the supply of free-range eggs to their farm shop from 2011 onwards. This gives no details of the quantity of eggs supplied, which could amount to a few trays only (a maximum of around 50 eggs per day, given the number of chickens that I saw in the two pens shown to me on site). A letter, dated March 2015, from Frost Free Range Hens confirms that the appellant regularly buys chickens (usually in batches of 50) from them to rear for sale to the general public via his website. This provides no detail as to the frequency of these purchases of chickens. The website printout also provided advertises point of lay hens of around eight different breeds, for sale to the public. No detail is provided as to the number of chickens bought from the appellant, nor is there any detail of the turnover resulting from the appellant's website.
17. The Brooks Farm Forest YMCA confirmed by letter in April 2015 that since 2012, the appellant has regularly moved their stock to other farms and collects animals for them from elsewhere using his vehicle and livestock trailer. This seems to me possibly to show philanthropic activity by the appellant; it is unclear as to the connection between this and the appeal site.
18. It may well be that the appellant's level of use was more intense at March 2013 than it now appears. The definition of agriculture provided in the TCPA includes the rearing of livestock for food, in this case the production of eggs and it appears that a degree of profit has been made from this. As such I accept that the building subject to this appeal is in agricultural use. However, I must also consider whether the building forms part of an established agricultural unit, as is also required for Class Q Permitted Development at Q1 (a). As such, this must be a matter of judgement based on fact and degree; I turn to this matter below.
19. None of the evidence submitted nor the account of activities undertaken seems to me to amount to evidence that demonstrates the existence of an established agricultural unit, as required by the GPDO. It is not apparent from the submissions that the appeal property ever formed part of one, even prior to the appellant's purchase of it in 2010. The former use as a research facility ceased in 2002 and the buildings were subsequently recorded as redundant. The appellant did not purchase them until 2010. While he has been using them for an agricultural purpose, rearing poultry for eggs, there is no other evidence before me to demonstrate that there has at any previous time been an

agricultural use as part of an established agricultural unit. The rearing of hens for food has been taking place on a seemingly very small scale, for a period in total of around five years, and for only a little more than two years as at March 2013. According to the sales particulars provided, the appeal site amounts to only around half a hectare of land and there is nothing to show that it is connected with any greater size of agricultural land or unit.

20. Taking all the evidence put before me and all other matters raised into consideration, I conclude that on balance the building that is the subject of this appeal was not used solely for an agricultural use as part of an established agricultural unit, on 20 March 2013 or when it was last in use prior to that date, in accordance with the GPDO. Therefore, the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO.
21. The appeal should be dismissed.

Wenda Fabian

Inspector

Appeal Decision

Site visit made on 22 February 2017

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

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

Decision date: 14 June 2017

Appeal Ref: APP/J1915/W/16/3161312

Vintage Court, Cambridge Road, Puckeridge, Herts, SG11 1SA

- 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 The Blake Family against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/0438/FUL, dated 23 February 2016, was refused by notice dated 19 April 2016.
 - The development proposed is demolition of existing retail unit and erection of a three storey extension consisting of two retail units at ground floor, 2no. two bed & 4no. one bed residential units at first and second floor level and a two bed residential unit within the roof space.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Accordingly the main issues are the effect of the scheme on (a) the living conditions of existing occupiers with particular regard to privacy and outlook; (b) the character and appearance of the area and (c) groundwater and controlled water.

Reasons

Living conditions

3. The extended building would effectively have an 'L' shaped footprint. The side elevation of the existing building contains a number of windows. The submitted plans indicate that these relate to the bedrooms and living rooms of existing units. The rear elevation of the addition would contain three windows at first and second floor level. These would be the sole aspect for two of the new units. In particular, due to the resultant footprint of the building, the bedroom windows of these and existing units would be in close proximity to one another. As such there would be inter visibility between two of the proposed units and the existing dwellings.
 4. The addition would be three storey in height. The side element would be in close proximity to bedrooms at first and second floor and a living room window at ground floor of the existing units. The new building would be taller and immediately adjacent to these windows. As such it would be visible and dominant when viewed from the windows of the existing units.
 5. I therefore conclude that the proposal would have a harmful effect on the living conditions of existing occupiers with particular regard to outlook and privacy.
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It would be in conflict with East Herts Local Plan Second Review (LP) policy ENV1 which amongst other things sets out that new development should respect the amenity of occupiers of neighbouring buildings and ensure that they are not harmed by inadequate privacy. It would also be in conflict with the National Planning Policy Framework (the Framework) which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

6. The scheme would be an addition to the existing building, which is three storey in height at the rear. The element that fronts the adjacent petrol forecourt is currently described as a two building with a ground floor antiques business. Therefore the addition would increase both the footprint and height of the front part of the building.
7. It would provide an addition to the building that would include retail space at ground floor for the antiques business and the garage. Above this seven new residential units would be included. In order to accommodate this the footprint would increase along the site frontage and the building height would increase. The addition would be treated with a gable end above the garage retail area and the side element would have a hipped roof. In both cases the material and window detail would match the existing building.
8. The area is identified as rural and within the green belt. However, it currently contains a large building. In addition it sits within built form in this locality of varying scale, form and appearance. In addition the building would be set behind the existing canopy and forecourt area of the Petrol Filling Station. This would serve to lessen its impact. Therefore, overall, a well designed building of the scale proposed would not be unduly prominent in this context.
9. I therefore conclude that the proposal would not harm the character and appearance of the area. It would therefore not be in conflict with LP policy ENV1 in so far as it requires all development proposals to be of a high standard of design, reflect local distinctiveness and be compatible with the layout and massing of the surrounding area.

Groundwater and controlled water

10. The appellant provided a Phase I/II Geoenvironmental report which was subsequently provided to the Environment Agency (EA) by the Council. The formal comments on this report confirmed that it provided sufficient information to allow proper assessment of the risk of pollution to ground water and controlled water. This would be subject to appropriately worded conditions had I been minded to allow the appeal. I have no reason to disagree with the views of the EA.
11. I therefore conclude that the proposal would not have a harmful effect on groundwater or controlled water. It would not be in conflict with LP policy ENV20 which seeks to resist development that may cause contamination of or prejudice groundwater.

Other matters

12. The site is located in a location that the Council describe as a '*rural area outside of the Green Belt*'. As such policies of restraint within the development plan are referred to, in particular GBC2 and GBC3 of the LP. The appeal

scheme would not represent a new building for any of the exceptions identified within GBC3. As such it would represent inappropriate development as defined by GBC2.

13. It is apparent that a five year supply of deliverable housing land cannot be identified in the area. There is no dispute between the parties on this issue. Paragraph 49 of the Framework states that in these circumstances relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the Framework states that there should be a presumption in favour of sustainable development. Where relevant policies are out of date permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits taking account of the Framework as a whole.
14. In this case the scheme would provide 7 dwellings that would represent a benefit. It would also provide reconfigured retail provision for the existing employment uses on the site. I have also found that there would not be harm to character and appearance as a result of the scheme. As such there would not be conflict with the economic and environmental aspects of sustainable development. However, the proposal would not represent a sustainable development when considered against paragraphs 7 and 8 of the Framework which require the economic, social and environmental dimensions of sustainable development to be considered together as there would be harm to the living conditions of existing occupiers which would conflict with the social aspect. In this regard there is clear conflict with the development plan. Therefore the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits such that the proposal would not represent sustainable development.

Conclusion

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

D J Board

INSPECTOR



Appeal Decision

Site visit made on 23 May 2017

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

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

Decision date: 13 June 2017

Appeal Ref: APP/J1915/W/17/3172132

33 The Forebury, Sawbridgeworth, Herts CM31 9BD

- 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 Edward Cochrane (Rambledale Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1421/FUL, dated 16 June 2016, was refused by notice dated 20 October 2016.
 - The development proposed is the construction of a detached four bedroom dwelling with associated car parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has been built and the appeal has been considered on this basis.

Main Issue

3. The main issue is whether the scheme preserves or enhances the character or appearance of the Sawbridgeworth Conservation Area.

Reasons

Character and appearance

4. The appeal site comprises a parcel of land mainly behind an electricity sub-station on The Forebury upon which a dwelling has been completed. Vehicular access is alongside the sub-station. The development lies within the Sawbridgeworth Conservation Area.
 5. Sawbridgeworth is a medieval town based on burgage plots with a variety of differently designed buildings with high quality architectural details and materials which reflect its growth and status over time. This includes the inns which define the coaching area and surviving agricultural and malting buildings identifying the towns industry. The historic medieval core of Sawbridgeworth is defined by Bell, Knight and Church Street all of which meet at The Square. Within this area, there is a dense-knit pattern with rear areas having been mostly developed which is visible down alleyways or side streets.
 6. In the vicinity of the appeal site, buildings further along Knight Street are defined by larger individually designed buildings which are generally set in
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large spacious plots, having deep gardens. In instances where development has occurred to the rear, it is smaller and less imposing in scale and appearance. An exception to this is the municipal designed library building adjacent to the appeal site but its two storey scale has been reduced by its parapet roof design, with hipped pitched roof behind. It is these historical and architectural qualities, including pattern and scale of development, that are of significance and value, and are of special interest to the Conservation Area. Although the appeal site is on the periphery of the Conservation Area, the plot of land would have contributed positively to its historical pattern of development and spacious qualities by reason of its low-key appearance due to its mainly undeveloped nature.

7. The dwelling would be set back into the plot behind a car parking and turning area, and the wire fenced electricity substation. There would also be a drop in ground levels between the dwellings in Knight Street and the appeal site and the roof would be pitched with hips to the side. However, the dwelling is large extending across much of the width of the plot and tall with a steeply pitched and high roof. The dwelling's width, its height and expanse of its roof make it a dominant and prominent building on its plot and with the street. This significantly detracts from the historical pattern of development in the area, where buildings attractively stand out on Knight Street by reason of their scale and design, and more low-key development exists to the rear. By reason of its scale and size, the appeal dwelling upsets this context by failing to be visually subservient.
8. Furthermore, the porch sits unsympathetically within the front façade of the dwelling because it is aligned off-centre leaving unequal areas of facing brickwork either side, including within the porch itself. Third party representations highlighted the use of modern materials in the construction of the dwelling. The dwelling's leaded windows are not prevalent within the Sawbridgeworth Conservation Area and by reason of their modern design and finish, are not of a high standard. They emphasise the dominant nature of the dwelling by virtue of their incongruous design.
9. Planning permission has been granted for a dwelling on this site. However, this dwelling was lower in height with a better balanced elevation having a more centrally located porch and symmetrical arranged windows of similar sizes. Details also showed a slate-roof with a chimney. Consequently, the permitted dwelling should have been of smaller scale and massing, and of more interest visually, and therefore there are significant differences between the two schemes.
10. There has been a previous dismissed appeal decision for a dwelling on this site in February 2014. The overall ridge height of that dwelling would have been slightly lower than that here. It would have been significantly larger by reason of incorporating a forward positioned utility/double garage and therefore direct comparison with the scheme before me is difficult. Nevertheless the Inspector's assessment of the qualities of the Conservation Area supports my findings. In particular, generous rear gardens to properties along knight Street originating from the sizeable burgage plots.
11. In conclusion, the development fails to preserve the character and appearance of the Conservation Area for the reasons indicated. Accordingly, the scheme is contrary to policies HSG7, ENV1 and BH6 of the East Herts Local Plan Second

Review 2007, which collectively and amongst other matters, requires development in Conservation Areas to be of a high standard of design and layout, sympathetic in terms of scale, height, form, materials and siting in relation to the general character and appearance of the area, reflect local distinctiveness, be compatible with the structure and layout of the surrounding area, including historically significant development features such as street pattern.

Other matters

12. In terms of the National Planning Policy Framework (the Framework), the scheme results in less than substantial harm to a heritage asset. In this situation, paragraph 134 of the Framework states the harm should be weighed against the public benefits of the proposal.
13. For the reasons already indicated, there is an adverse effect on a heritage asset, for which considerable importance and weight has to be attached. In this regard, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Once occupied, the dwelling would provide a dwelling for present and future generations meeting the locality's housing needs. However such a benefit would be small by reason of only one dwelling being created and in any case, the principle of a dwelling on this site has been established through a planning permission. Accordingly, the less substantial harm, identified under the Framework, would not be outweighed by any public benefits.
14. My attention has drawn to two allowed decisions for single dwellings in Orpington in 2015 and 2016. However the appeals do not relate to sites in a Conservation Area and both cases demonstrate that rarely are any proposals alike because circumstances and policies vary and consequently different assessments and decisions arise. Indeed, every proposal/scheme has to be considered on its own particular planning merits.

Conclusion

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

Jonathon Parsons

INSPECTOR



Appeal Decision

Site visit made on 12 June 2017

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

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

Decision date: 20th June 2017

Appeal Ref: APP/J1915/W/17/3168262

The Annexe The Lodge, Dene Lane, Aston, Hertfordshire SG2 7EP

- 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 Burton against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1891/FUL, dated 18 August 2016, was refused by notice dated 25 October 2016.
 - The development proposed is the conversion of existing annexe and double garage to form an independent residential dwelling unit including a single storey link extension and alterations to form new openings.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the existing annexe and double garage to form an independent residential dwelling unit including a single storey link extension and alterations to form new openings at The Annexe The Lodge, Dene Lane, Aston, Hertfordshire SG2 7EP, in accordance with the terms of the application, Ref: 3/16/1891/FUL, dated 18 August 2016, subject to the following conditions.
 - 1) The development shall be begun within three years of the date of the permission.
 - 2) The development shall be carried out entirely in accordance with the following approved plans/drawings: 1149:03A, 1149:01A, 1149:02A, Site Plan at a scale of 1:1250 and Topographical Survey TS16-153W/1 and TS16-153W/2

Application for Costs

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

Main Issue

3. The main issue in this appeal is whether the proposal would be inappropriate development in the Green Belt.

Reasons

4. The appeal site is located towards the northern end of Dene Lane, a rural thoroughfare on the outskirts of Aston. It encompasses a former lodge house (The Lodge) which has been cumulatively extended. Located to the west of The Lodge is a brick built double garage and a timber annex structure. Both are

detached buildings. Dene Lane becomes a footpath to the south of the appeal site with a thick hedge marking the boundary.

5. The appeal scheme would involve the construction of a linking extension between the existing annex and the garage. The newly extended structure would then be the subject of a conversion and change of use to an independent dwelling. Parking would be provided in the existing driveway and the area around the pond would become the garden of the new dwelling.
6. The appeal site is located in the Green Belt. Policy GBC1 of the East Hertfordshire Local Plan Second Review 2007 (LP) states that planning permission will not be given for inappropriate development in the Green Belt unless there are special circumstances that clearly outweigh the harm by reason of inappropriateness and any other harm. The Policy goes on to list the type of development that is not inappropriate. This includes the limited extension or alteration of existing dwellings and the re-use of rural buildings. The Council allege that as The Lodge has already been substantially extended, the linking extension now proposed would cumulatively amount to a disproportionate addition, which would be inappropriate development that is by definition harmful to the Green Belt.
7. Paragraph 89 of the National Planning Policy Framework (the Framework) states that the extension or alteration of a *building* is not inappropriate provided it does not result in disproportionate additions over and above the size of the original building. This is a material change from the wording in the now superseded Planning Policy Guidance Note 2 – Green Belts (PPG2), which refers to the extension of *dwellings* as not being inappropriate development. The wording in Policy GBC1 flows from PPG2. The Council have taken the term 'dwelling' to include domestic outbuildings.
8. However, the redrafting in the Framework, with the substitution of *dwelling* for *building*, now means that in principle, the Framework permits the extension of a building in the Green Belt provided that extension would not be disproportionate. I have not been presented with substantive evidence, including case law, to suggest I should not take the term 'building' on its usual definition and common meaning. The annex and garage are part of a dwelling but they are also buildings in their own right. As such, they are subject to Paragraph 89 of the Framework.
9. The consequence of the above is that part (d) of Policy GBC1, which pre-dates the Framework, is inconsistent with it. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. As Policy GBC1 is partially inconsistent with the Framework any conflict with the inconsistent part of the policy is a matter of limited weight. Moreover, the policies in the emerging Local Plan are not at a stage of preparation where they can be given decisive weight.
10. The extension to the annex and garage, which are distinct buildings, would be very modest with the Council suggesting it would amount to around 7.4 square metres in size. The appellant suggests this would be about 10% of the combined floor area of the garage and annex. There is nothing before me to suggest the garage or annex has already been extended. As a consequence, the proposed 10% uplift in floor area could not reasonably be considered a disproportionate addition. This is especially so as the extension would have a subservient scale and massing to the existing buildings. The consequence of this is that the proposed extension would not be inappropriate development.

11. Turning to the proposed conversion of the buildings. Paragraph 90 of the Framework permits the re-use of buildings in the Green Belt provided the buildings are of a permanent and substantial construction, the development would preserve openness and it would not conflict with the purposes of including land in the Green Belt. This wording is similar to part (h) of Policy GBC1 of the LP. I observed that the buildings are of a permanent and substantial construction and substantive evidence has not been provided to suggest otherwise.
12. The conversion would be facilitated by a modest extension but this extension would not be disproportionate for the reasons already given and thus it would not harm the openness of the Green Belt. The land around the buildings, which would act as the domestic curtilage, is already garden land and consequently its re-use as a single domestic curtilage to serve as the garden of the new dwelling would not erode the openness of the Green Belt. The new curtilage could be used more intensively but it is well screened by the boundary hedge and is a generous area relative to the size of the dwelling it would serve. Consequently the intensification would not be harmful and the Council have not suggested permitted development rights need to be withheld in the event of an approval.
13. The appeal buildings are already in situ and used for domestic purposes and thus the proposal would not conflict with the purposes of including land in the Green Belt by, for example, resulting in urban sprawl in a strategic part of the Green Belt or from a failure to safeguard the countryside from encroachment. The proposed conversion would not have a materially greater impact on the openness of the Green Belt relative to the use of the existing annex and garage. As such, the conversion would not be inappropriate development when considered against Policy GBC1(h) of the LP and Paragraphs 80 and 90 of the Framework.
14. I therefore conclude that the proposal overall would not be inappropriate development in the Green Belt. As a consequence it is unnecessary to demonstrate very special circumstances. The Council have not alleged any other harm. The proposal therefore adheres to aspects of Policy GBC1 and Section 9 of the Framework.

Other Matters, Conditions and Conclusion

15. I have had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and conclude that the development would preserve the character and appearance of the nearby conservation area.
16. I have had regard to the Planning Practice Guide and the Council's list of suggested conditions. In addition to the standard commencement period it is necessary, in the interests of safeguarding the character of the area and the Green Belt, for the development to be implemented in accordance with the approved drawings.
17. The appeal scheme would be contrary to aspects of the development plan. Nevertheless, material considerations indicate planning permission should be forthcoming in this instance. In particular the proposals adherence to Framework. Accordingly, 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

Site visit made on 12 June 2017

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

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

Decision date: 20th June 2017

Costs application in relation to Appeal Ref: APP/J1915/W/17/3168262 The Annexe, The Lodge, Dene Lane, Aston, Hertfordshire SG2 7EP

- 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 and Mrs Burton for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the conversion of existing annexe and double garage to form an independent residential dwelling unit including a single storey link extension and alterations to form new openings.
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Decision

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

Reasons

2. 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. Paragraph 049 of the PPG¹ states that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. This includes unreasonably refusing a planning application or the prevention or delaying of development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The issue in dispute in this instance was whether the proposed extension amounted to inappropriate development in the Green Belt. The Council considered it would be inappropriate development because the existing dwelling (The Lodge) has already been the subject of notable extensions. As a consequence any further extensions to the dwelling, inclusive of any outbuildings, would be disproportionate and thus contrary to Policy GBC1 of the East Hertfordshire District Local Plan Second Review 2007 (LP) as it would be inappropriate development which is, by definition, harmful to the Green Belt.
5. Conversely, the applicants consider the starting point for the assessment of whether the proposed extension would be disproportionate or not is the existing buildings – the annex and garage – which have not been extended. Given the

¹ Reference ID: 16-049-20140306

modest size of the proposed extension the applicants opine that the proposed extension could not be a disproportionate addition to these buildings.

6. The applicants' interpretation, which I share, is rooted in the National Planning Policy Framework. Paragraph 89 of the Framework states that an extension or alteration of a building is not inappropriate development in the Green Belt provided it would not result in a disproportionate addition to the original building. Alternatively, the Council's interpretation flows from Policy GBC1, which was based on the now superseded Planning Policy Guidance Note 2 – Green Belts (PPG2), which states that an extension of a dwelling would not be inappropriate development, provided it would not result in a disproportionate addition to the original building.
7. The Framework has not precisely carried over the wording from PPG2. The substitution of the word *dwelling* for *building* when given its proper meaning has resulted in a material change whereby a building in the Green Belt could be extended and this would not amount to inappropriate development if the extension was a proportionate addition to that building. Policy GBC1 is therefore partially inconsistent with the Framework. The Council did not consider the consistency of Policy GBC1 and the Framework, which is a requirement of Paragraph 215 of the Framework. This is a significant omission by the Council.
8. The Council recognised the revised wording in the Framework in Paragraph 2.2 of its statement. However, it then substituted *building* for *dwelling* in Paragraph 2.3 of the same document. The substitution of one word for another goes beyond what can be considered a reasonable interpretation of policy. The conflation of the two terms has resulted in the Council misapplying Green Belt policy. This is because the starting point for a consideration of whether the appeal scheme would be a disproportionate addition is the buildings that would be extended and not The Lodge, which is a separate building. This is a substantive failing that directly led to the application being unreasonably refused. The applicants therefore expended unnecessary expense submitting the appeal. The Council's decision was therefore unreasonable in the context of Paragraph 049 of the PPG.

Conclusion

9. My overall conclusion is that in this instance the Council acted unreasonably in refusing the appeal scheme for the reason it did. 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

10. 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 and Mrs Burton, 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. The applicants are 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.

Graham Chamberlain
INSPECTOR

Appeal Decision

Site visit made on 24 May 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 05 July 2017

Appeal Ref: APP/J1915/W/17/3169571

**Waterford Quarry, Bramfield Lane, Waterford, Hertford, Hertfordshire
SG14 2QF**

- 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 Brendan Mitchell (BP Mitchell Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2173/FUL, dated 21 September 2016, was refused by notice dated 13 December 2016.
 - The development proposed is horse stabling and exercise manège on a restored former landfill site.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development in the banner heading above from the planning application form. However, I have corrected a minor error in the spelling of manège.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework)¹ and any relevant development plan policies;
 - The effect on the openness of the Green Belt and the purpose of including land within it; and,
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development, effect on openness and Green Belt purposes

4. The appeal site covers approximately 0.2 hectares but is part of a reclaimed landfill site covering some 56.4 hectares. It lies to the south of Bramfield Lane

¹ Published 2012

not far from the rural settlement of Waterford. Although part of the site, the appellant advises that the appeal land itself did not receive landfill. Much of the wider site has been restored to grassland. The appeal site is in the south east corner of a field with immature woodland providing some screening to the south. The character of the area is rural with open fields stretching into the distance and some areas of woodland. The appeal site lies within the Metropolitan Green Belt.

5. It is proposed to construct a row of stables with a manège to exercise and train horses. Policy GBC1 of the East Herts Local Plan Second Review April 2007 (LP) states that the construction of new buildings within the Green Belt will be inappropriate unless certain exceptions are met. One of those exceptions refers to *'essential small scale facilities for outdoor sport and outdoor recreation.'*
6. The LP pre-dates the Framework by some years. In such circumstances, paragraph 215 of the Framework advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The exception contained in policy GBC1 of the LP is similar to an exception contained in the second bullet point of paragraph 89 of the Framework, which also refers to the provision of facilities for outdoor sport and outdoor recreation.
7. Whilst the Framework exception does not include a requirement for such a facility to be 'essential', it does require that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Therefore, policy GBC1 is not fully consistent with the Framework. Consequently, I give it more limited weight and will consider the matter primarily in terms of relevant policy in the Framework, which is a significant material consideration in all planning decisions.
8. In relation to paragraph 89, the proposed stables would be a building, as would the fence around the manège, as the term 'building' refers to any structure or erection and therefore includes fences. The facility would be for outdoor sport and recreation and its design appears appropriate for that purpose.
9. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open. Additional bulk and physical presence may affect openness which can also have a visual aspect, although the absence of visual intrusion or public views does not in itself mean that there is no impact on openness.
10. The stable building would be approximately 30 metres long, up to 5.5 metres wide and 3.3 to the ridge of its pitched roof. It would also have hardstanding to the front. Although relatively low and timber clad, the introduction of a building of that size and bulk onto a site with no significant existing built forms would have an adverse effect on openness.
11. Moreover, the creation of the associated manège, with its 1.5 metre high fence enclosing an area of some 1,600 square metres, would also adversely affect openness but to a more limited degree. In addition, although private rather than commercial, the use of the facility would involve cars and horse boxes accessing the site and parking in what is currently an open agricultural field. Although the vehicles would be likely to be limited in number and present for a temporary period, they would add to the harm to openness.

12. Policy GBR1 'Green Belt' of the emerging East Herts Draft Plan (2016), rather than specifying its own criteria, refers instead to the relevant provisions of the Framework. Although, as it is yet to be examined, that emerging plan can be given only limited weight, it does indicate the direction of travel of the Council in relying on the principles stated in the Framework with regard to Green Belt policy.
13. The appellant refers to a legal judgement², although no copy has been supplied, and its conclusion regarding the relevance of a material change of use in deciding if a proposal would be inappropriate development. My findings on 'inappropriate development' are not dependent on 'change of use' in its technical sense. Therefore, I do not consider the judgement, as elucidated by the appellant, to be directly relevant to my analysis of this appeal.
14. Cumulatively, I conclude that the proposal would result in a material loss of openness in the Green Belt and constitute encroachment into the countryside, thereby contravening one of the five purposes of the Green Belt, as set out in paragraph 80 of the Framework. Consequently, the proposal would fail to meet the relevant exception in paragraph 89 of the Framework. Given that, it follows that it would also conflict with policy GBC1 of the LP, albeit I have given that policy limited weight. Therefore, the proposal would be inappropriate development in the Green Belt.

Other considerations

15. Policy CFLR6 of the emerging development plan allows for small scale equine development subject to various criteria, including minimising visual intrusion. Paragraph 19.7.3 of the supporting text of that policy indicates that commercial equine development in the Green Belt would need to demonstrate 'very special circumstances', in accordance with the NPPF, but it makes no mention of private or domestic equine development. From this the appellant deduces, presumably on the basis of omission, that a distinction is being drawn between horse stabling for commercial use and that for private use, as in the appeal proposal. However, criterion 'g)' of the policy itself plainly states that proposals must not conflict with other policies within the plan. Therefore, any proposal, be it commercial or domestic, would still need to comply with policy GBR1 of the emerging development plan, which in turn refers out to the Green Belt provisions of the Framework. Therefore, I disagree with the appellant's interpretation. In any event, as stated above, that emerging development plan is yet to be examined and can, therefore, be given only limited weight.
16. Reference is also made by the appellant to Policy LRC5 of the LP, which refers to the provision of suitably located facilities for informal recreation in the Green Belt, where appropriate and providing there are no significant adverse effects on the natural environment or local amenity. The material loss of openness in the Green Belt, which I have identified, would be a significant adverse effect on the natural environment, so the proposal would conflict with the policy. In any case, the terminology of policy, as elaborated, would not appear to be wholly consistent with the Green Belt provisions of the Framework and, therefore, I give it limited weight.
17. Paragraph 81 of the Framework encourages local planning authorities to, amongst other things, look to provide opportunities for outdoor sport and

²The Rookery Estates judgement [2016] EWHC 595 (Admin)

recreation in the Green Belt. The proposal would provide such an opportunity. That is a positive factor in its favour, although as the facility is said to be solely for private use and for a maximum of four horses, the opportunity would be restricted to a relatively low number of people. Therefore, I give it limited weight.

18. The appellant suggests that the proposal would have social benefits, including increased participation in outdoor sports and activities and encouraging healthier lifestyles. The Design and Access Statement refers to the intended use as limited to the appellant and his immediate family and I recognise that the proposal would be of value and personal benefit to them. The planning system is more generally concerned with the wider public interest, unless exceptional personal circumstances or need can be evidenced. However, 'social' implies a benefit to wider society, which the private nature of the proposed development would not offer. Therefore, I also give that aspect minimal weight.
19. As the Council make the point that it may, in theory, be possible to erect a fence of the height proposed under permitted development rights, I have considered that as a 'fallback' position. However, given that the purpose of the fence is directly connected to the development as a whole, I consider it is unlikely to be implemented on its own. Even if was, in isolation, it would not cause the same level of harm as the proposed development. Consequently, I give that factor minimal weight.

Conclusions

20. I have already identified that the proposal would be inappropriate development. The Framework indicates, at paragraph 87, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have found that there would be material harm to openness and encroachment into the countryside.
21. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. As I have identified harm to the Green Belt I must give it substantial weight.
22. The other considerations, analysed in some detail above, were given minimal or limited weight. Therefore, in my view, the other considerations do not, either individually or cumulatively, clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

Appeal Decisions

Site visit made on 18 May 2017

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC
an Inspector appointed by the Secretary of State for Communities and Local Government
Decision date: 7th June 2017

Appeal Ref: APP/J1915/W/17/3166771 (Appeal A)
70 Fore Street, Hertford SG14 1BY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr S Hibbert against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2196/ADV, dated 21 September 2016, was refused by notice dated 8 December 2016.
 - The advertisement proposed is 'illuminated fascia and hanging signs'.
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Appeal Ref: APP/J1915/Y/17/3166773 (Appeal B)
70 Fore Street, Hertford SG14 1BY

- 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 Mr S Hibbert against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2229/LBC, dated 22 September 2016, was refused by notice dated 8 December 2016.
 - The advertisement proposed is 'illuminated fascia and projecting signs'.
-

Decisions

1. Appeal A and Appeal B are dismissed.

Procedural Matters

2. Appeal A and Appeal B relate to the same site. Whilst I have considered each proposal on its own merits, given that they are similar proposals, and in the interests of brevity, I have dealt with them in one document.
3. A fascia and hanging sign have been erected at the appeal site and the appellant explains that the appeal applications are intended to relate to those advertisements. The Council has determined the appeal applications on that basis. I intend to do the same.

Main Issues

4. Whether the fascia and hanging signs :
 - preserve the special architectural or historic interest of the grade II listed building and its setting; and
 - preserve or enhance the character or appearance of the Hertford Conservation Area.
-

Reasons

5. The appeal site includes a grade II listed building, situated within a terrace of historic buildings, which form a prominent street frontage in the town centre. Despite having been altered throughout its history, including the possible addition of a shop front and its alteration throughout time, its historic fabric, elegant proportions and balanced composition, as a whole, contribute to the listed building's significance as a heritage asset.
6. The setting of the listed building includes its close relationship with the other historic buildings in the terrace. Although with some variation in height, detailed design and roof form, they display some similarity in age, general form and scale; matters that together contribute to the listed building's setting.
7. The Conservation Area includes the town centre, with its commercial and retail uses and its stock of historic buildings, to which the appeal site positively contributes. Signage is generally low key and relates appropriately in size, design and materials to the buildings on which it is situated. This contributes to the generally restrained character of the street scene.
8. Regardless of its actual size, the fascia sign is large in relation to the appeal building. It sits very close to the first floor windows, such that it appears squashed and oversized. Further, it projects forward of the frontage of the building and appears bulky and prominent, which is apparent in views when progressing along Fore Street.
9. The hanging sign is also large in relation to the limited space between the two first floor windows. In addition, its internal illumination, its modern lettering and means of attachment to the appeal building, render it out of place with the historic features of the listed building. As it sits close to an existing metal bracket, the small space between the two first floor windows appears cluttered. All in all, together, the fascia and hanging sign appear as modern oversized additions to the listed building and detract from its historic character. Further, they jar against the generally low key advertisements on buildings in the terrace and detract from the street scene. Even though the window displays may distract passers-by from scrutinising the appeals signs, that matter does not overcome my concern for the harm I have identified.
10. As I have found that the appeal building positively contributes to the Conservation Area, and that the appeals result in harm to the listed building and its setting, it follows that they fail to preserve the character or appearance of the Conservation Area.
11. In coming to these conclusions, I have had regard to signs approved in 2014, brought to my attention¹. However, that permission/consent does not include an illuminated hanging sign; a matter that differentiates those approvals from the appeals before me. I have also considered whether planning conditions, in particular relating to the use or removal of the existing bracket for a hanging sign, could overcome my concerns, but consider none could. I have also considered the views of the Council's case officer brought to my attention. However, those are not binding upon the Council and I have based my conclusions on the decision of the Council. I acknowledge that the appeal signs would enable the appellant to advertise a business. However, this could be

¹ 3/14/0580/LB and 3/14/585/AD

achieved in a manner that would not result in the same level of harm. All in all, these matters, together, do not alter my conclusions.

12. I conclude that the appeal advertisements fail to preserve the special architectural or historic interest of the appeal listed building and its setting and fail to preserve the character and appearance of the Hertford Conservation Area. They therefore do not accord with Policies BH14 and BH15 of the East Herts Local Plan Second Review (2007) (LP). Those policies, together, in relation to shopfronts and advertisements in conservation areas, aim to maintain the highest quality environment consistent with commercial and economic considerations. Whilst the Council's decision notice for appeal B, refers to LP Policy BH5, I find that policy, relating to unlisted buildings in conservation areas, not to be directly relevant to the appeals before me.
13. The appeal proposals would also fail to accord with section 12 of the National Planning Policy Framework (the Framework), which aims to conserve and enhance the historic environment.
14. In relation to appeal A, whilst I have identified that there is conflict with the above Development Plan policies, that matter is material rather than decisive to my decision. However, it serves to reinforce the findings that I have reached above.

Public Benefits

15. In accordance with paragraph 132 of the Framework, I accord great weight to the conservation of designated heritage assets. I consider that the harm to the significance of the listed building and the Conservation Area identified would be less than substantial, a matter to which I attach considerable importance and weight. However, in this case, no public benefits, as identified in paragraph 134 of the Framework, are before me, sufficient to outweigh that harm.

Conclusions

16. For the above reasons, and taking all other matters raised into consideration, I conclude that both appeals should be dismissed.

R Barrett

INSPECTOR



Appeal Decision

Site visit made on 21 June 2017

by **J Gilbert MA (Hons) MTP MRTPI**

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

Decision date: 05 July 2017

Appeal Ref: APP/J1915/D/17/3169983

11 Grange Park, Bishop's Stortford, Hertfordshire CM23 2HX

- 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 K & D Basavaraj against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2265/HH, dated 4 October 2016, was refused by notice dated 29 November 2016.
 - The development proposed is single-storey front and two-storey side extensions to existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for single-storey front and two-storey side extensions to existing dwelling at 11 Grange Park, Bishop's Stortford, Hertfordshire, CM23 2HX in accordance with the terms of the application, Ref 3/16/2265/HH, dated 4 October 2016, and the plans submitted with it, 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 following approved plans: p01 c; p02 c; p03 c; p04 c; p05 e; p06 e; p07 e; p08 a; e01; e02; e03; e04 and unnumbered location plan.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plans p05 e; p06 e; and p07 e.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. The Council has also amended the description on the decision notice to refer to raising the ridge height of the roof. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

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

Reasons

4. The appeal site is a large two-storey detached house set back from the street within front and rear gardens. It is only partially visible in long views along the street. In terms of shorter views, it faces its immediate neighbour, No 10 Grange Park (Orchards), at the end of the residential cul-de-sac. A public right of way, Whitehall Lane, runs along the side of Nos 10 and 11 behind existing high hedging and fencing.
5. Grange Park is typified by two-storey detached houses and detached dormer bungalows of individual design within well-proportioned and well-established gardens. The street rises up a moderate slope from Rye Street to the crest of a hill. As a result of its topography, layout, and its mix of architectural forms, Grange Park has a pleasant, relatively informal character.
6. The Council is concerned about the prominence of the roof from the street and the public right of way to the side of the property, by reason of raising the ridge height of the roof by 0.6 metres and the insertion of 5 rooflights on the front roof slope. The existing ridge height is indicated on the proposed plans, which confirm that there is no increase in the roof's ridge height proposed. With regard to the rooflights, the house has a large roof which would increase in size as a result of the proposed extensions. The evenly spaced and sized rooflights to both roof slopes would not be incongruous with the host dwelling and would not be highly visible from public vantage points given the site's relationship to the street and the public right of way. As such, I do not consider that either the roof height or the rooflights cause harm to the host dwelling and the character and appearance of the area.
7. I note the Council's disquiet regarding the lack of subservience of the two storey side extension to the existing house. While the proposal would increase the bulk of the first floor of the dwelling, the extension and the existing building would be broken up with timber cladding and glazing and would appear no larger within the street scene at the end of the cul-de-sac than the bulk and scale of the adjoining large property at No 10.
8. Policy HOU11 of the pre-submission version of the East Herts District Plan makes reference to extensions being subservient, but the plan has not yet been examined and I consequently give it limited weight. Policy ENV6 of the extant East Herts Local Plan Second Review (2007) does not refer to the need for extensions to be subservient, instead requiring development to complement the building and its setting, and to ensure appropriate space is left between the extension and the boundary with a neighbouring property. I consider that the two-storey side extension complements the host building within its ample gardens and is compliant with the requirements of extant policy ENV6.
9. The Council also asserts that the proposed first-floor façade cuts into the pitched roof and creates a significant area of flat roof, high eaves and an asymmetric roof from the side elevation. While I acknowledge that the

changes proposed to the dwelling are significant, the remodelling of the house is being treated in a holistic manner. While the relationship between the flat roof and pitched roof and the raised eaves would be visible from the street, as is the existing gable currently, this does not in itself make the proposal unacceptable. In my view, it would not be unduly prominent and the contemporary, asymmetric design would be in keeping with the rest of the host building and with the varied architectural nature of the street. As a result, it would not be intrusive or detract from the qualities of the locality.

10. I find that subject to a condition requiring the control of external materials for construction, the proposal would not cause harm to the character and appearance of the area. It would, therefore, accord with policies ENV1, ENV5, and ENV6 of the East Herts Local Plan Second Review (2007). The former is a general policy which aims to secure a high standard of design in all new development. Policy ENV5 sets out the general principles for extensions to houses, while Policy ENV6 contains criteria which should be met by domestic extensions. The proposal would also be compliant with a core planning principle of the National Planning Policy Framework, which seeks to secure high quality design.

Conclusion

11. In addition to a condition on materials, conditions should be imposed to require the standard time limit for commencement and to set out the approved plans, in the interests of certainty. Subject to these conditions and for the reasons given above, the appeal succeeds.

J Gilbert

INSPECTOR

Appeal Decision

Site visit made on 24 May 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 21 June 2017

Appeal Ref: APP/J1915/W/17/3169035

113 Burnham Green Road, Burnham Green, Welwyn AL6 0NH

- 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 Connolly against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2308/FUL, dated 10 October 2016, was refused by notice dated 21 December 2016.
 - The development proposed is demolition of existing house and erection of replacement dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework)¹ and any relevant development plan policies;
 - The effect on the openness of the Green Belt; and,
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

3. The appeal site comprises a relatively modest detached bungalow set back from the road. It has a garage and utility room to the east, joined to the main house by a small glazed side extension. A conservatory has been added at the rear and there is a dormer window in the southern slope of the roof. The site lies within the Metropolitan Green Belt. It is proposed to demolish the existing dwelling and associated extensions and replace them with a new two storey house.

¹ Published 2012

4. The Framework represents government policy and is a significant material consideration in all planning decisions. Section 9 of the Framework sets out national policy in relation to development in the Green Belt. Paragraph 89 states that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to certain limited exceptions. One of those exceptions, referred to in the fourth bullet point, is the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
5. Policy GBC1 of the East Herts Local Plan Second Review April 2007 (LP) contains similar types of exceptions. However, point (e) of the policy says that to qualify, replacement dwellings should be in accordance with various additional criteria detailed in Policy HSG8. That policy refers to matters such as, whether the original dwelling is of poor appearance or construction and not capable of retention. Given the age of the LP, due weight should be given to relevant policies according to their degree of consistency with the Framework, as stated in paragraph 215 of the Framework.
6. Overall, policies GBC1 and HSG8 are, due to the additional criteria, more restrictive than the equivalent 'replacement building' exception in the Framework. Therefore, I give limited weight to the relevant LP policies. It is also relevant that, according to the Council, policy GBR1 of the emerging East Herts District Plan refers out to the Framework's Green Belt policies. Although the emerging plan has yet to be examined, it illustrates the Council's direction of travel and its intention to rely on Green Belt policy in the Framework, which would, in any event, be a material consideration. In view of the above context, I will base this decision on relevant policies within the Framework.
7. According to the Council's figures, which have not been disputed, the replacement dwelling would have a slightly smaller footprint than the existing building, but the overall floor space would increase by 37%, from 214m² to 294m². Such mathematical calculations can be crude measures. For example, the 9% reduction in footprint would appear to be in part achieved as a result of the removal of the relatively low impact single storey side extensions and conservatory.
8. The appellants' agents assert that the 37% increase is '*well within the generally applied 'limited' increase*' which they say is used to assess whether extensions are disproportionate additions, in relation to the third bullet point of Framework paragraph 89. They also suggest that the upper limit increase applied in the District to assess whether extensions are 'disproportionate' is 50% to 60%. However, no examples or details of planning permissions or appeals referring to such percentage limits have been provided, or evidence of their application to replacement dwellings. In any event, it is significant that neither the Framework nor the LP contain such percentage limits or define how 'materially larger' should be assessed. That enables each case to be judged on its individual merits and particular characteristics rather than be subject to inflexible limits.
9. In this case, based on the submitted plans, my site visit and the information provided by the main parties, I consider that replacing a modest bungalow with the proposed two storey dwelling, would result in a much larger building of greater bulk and massing. That is supported by the marked increases in eaves

height, particularly, from about 2.2 or 2.4 metres (both figures are quoted by the Council) to 4.2 metres, and in ridge height from 6.3 metres to 7.7 metres.

10. Whilst the existing dwelling also has a protruding gable to the front, the two-storey height and scale of the new gable and expanse of roof would be significantly more prominent. The new building would also have two dormer windows above eaves height. Those design aspects, combined with an actual substantive increase in height and 37% increase in floor space amount to a new building that would be materially larger than the one it replaces.
11. The appellants' agents also suggest that the proposal might be considered as limited infilling in a village, in accord with the fifth bullet point of paragraph 89 of the Framework. However, infilling is normally considered to be the filling of a small gap between built forms usually along the frontage of a road. That would not be the case here as there is no gap because the site is already occupied by the existing dwelling. Neither would it meet the sixth bullet point of paragraph 89, which although it refers to the complete redevelopment of previously development sites, requires that there should be no greater impact on the openness of the Green Belt, which I will discuss further below.
12. Therefore, as the proposal does not meet any of the relevant exceptions in the Framework; it would be inappropriate development in the Green Belt.

Openness

13. The essential characteristics of Green Belts are their openness and their permanence, as set out in paragraph 79 of the Framework. Openness can be defined as the absence of buildings or development. The physical presence of built form or increases in it, therefore, is likely to affect openness. There can also be a visual dimension but the absence of visual intrusions does not in itself mean that there is no impact on openness.
14. It is acknowledged that there is an existing dwelling on the site and a line of two storey dwellings to the south west. Although there is a large grassed area and driveway to the immediate south east, there are further two storey dwellings beyond but open fields opposite to the north. Notwithstanding the existing built environment, replacing a modest bungalow with a higher, more substantial two storey building would result in a reduction in openness in the Green Belt. In that context, I consider that the harm to openness would be moderate.

Other considerations

15. The appellants place much emphasis on pre-application advice received from the Council but that was in relation to proposed extensions to the existing dwelling rather than a replacement dwelling. Moreover, as the Council has indicated, planning authorities are not bound to accept the recommendations of their officers. The relevant letter specifically states that the advice is offered at officer level only and is not prejudicial to any future formal decision by the local planning authority. It also states that those proposals, which the appellants hold are similar in effect to the proposed replacement dwelling, were considered to be '*at the very upper limit of 'limited' extension in floor area terms*'. It also suggested changes to the scheme.
16. In any event, pre-application advice is not the equivalent of an extant permission or for that matter permitted development rights. It does not

represent a 'fallback' position as no permission actually exists. My responsibility is to determine the appeal based on an impartial assessment of its merits and in accordance with the development plan unless material considerations indicate otherwise.² Therefore overall, I give the pre-application advice limited weight.

17. It is said by the appellants that the existing bungalow does not fit well with the character of the street scene. Whilst most properties along the road are two storeys, they are of various sizes and designs, many detached but also some short terraces. In addition, there appeared to be one or more single storey dwellings on the adjoining plot to the east, although set further back at the end of a long driveway. I also saw a dormer bungalow further to the east at 75 Burnham Green Road. Therefore, whilst not predominant, there are some other single storey properties along the road.
18. The existing modest bungalow is set back from the highway, slightly behind the existing building line and constructed of similar materials to the two-storey dwellings to the west. The design is attractive and whilst it is visible from the road, it is not conspicuous. Therefore, I do not agree that it appears incongruous. Consequently, whilst the design of the new dwelling would be in keeping with the character and appearance of the area, as accepted by the Council, it would not represent a positive improvement or enhancement. Accordingly, its effect on the street scene would be neutral and I give that aspect no weight.
19. According to the appellants, there would be additional construction issues and costs associated with extending the existing property rather than replacing it. They also submit that a new build would provide an opportunity to use modern materials and improve insulation and energy efficiency with attendant environmental benefits. It is also said that the new property would have a greater lifespan. Whilst I understand those aspects, there would be costs associated with a new build and many of those benefits could equally be achieved via renovation of the existing property, although I accept that it may be a more complex process. Therefore, I give those factors moderate weight.
20. I appreciate the appellants' wish to improve their family home and acknowledge that the proposal would provide increased living space and facilities. However, planning is more generally concerned with the wider public interest rather than personal circumstances, unless a truly exceptional personal need can be demonstrated. For those reasons I give that aspect minimal weight.

Conclusions

21. The Framework indicates, at paragraph 87, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
22. I have already found that the proposal would be inappropriate development. I have also identified moderate harm to the openness of the Green Belt.
23. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not

² Paragraph 11 National Planning Policy Framework, s38(6) Planning and Compulsory Purchase Act 2004 and s70(2) Town and Country Planning Act 1990

exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

24. As the weight that I have given to the other considerations, discussed above, has ranged from no weight to moderate, I find that cumulatively they do not clearly outweigh the harm to the Green Belt that I have identified. Therefore, the very special circumstances necessary to justify the proposal do not exist.
25. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR



Appeal Decision

Site visit made on 7 June 2017

by **J Gilbert MA (Hons) MTP MRTPI**

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

Decision date: 27th June 2017

Appeal Ref: APP/J1915/D/17/3170852

51 Kingsway, Ware SG12 0QG

- 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 Steven Taylor against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2435/HH, dated 31 October 2016, was refused by notice dated 21 December 2016.
 - The development proposed is double storey side extension and single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The Council raises no concerns regarding the proposed single storey rear extension. Accordingly, the main issue is the effect of the proposed double storey side extension on the character and appearance of the area.

Reasons

3. The appeal site is set above street level close to the junction of Kingsway and Heath Drive. No 51 Kingsway is a gable-fronted semi-detached property with its attached hipped roofed neighbouring property set further back from the street. Despite the presence of a number of flat roofed garages, single storey and two storey side extensions, reasonable gaps remain between the semi-detached houses along the street. These gaps contribute to the area's character, providing a sense of spaciousness between properties.
 4. Policy ENV6 (b) of the current East Herts Local Plan Second Review (2007)(the Local Plan) states that side extensions at first floor level or above should ensure appropriate space is left between the flank wall of the extension and the common curtilage with a neighbouring property (as a general rule a space of 1 metre will be the minimum acceptable), to safeguard the character and appearance of the street scene, existing trees and hedgerows, and prevent a visually damaging "terracing" effect.
 5. The proposed two storey extension would abut the boundary between the appeal site and No 49, which has a two storey side and rear extension set in from the boundary. The gap between the two storey extension at No 49 and the existing single storey garage at No 51 is approximately 1 metre. Although the current narrow gap between the houses at ground floor level would remain
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unchanged, the extension of the first floor right up to the boundary would substantially erode the gap at first floor level. This proximity of first floor extensions would result in a terracing effect taking place, as the gap between properties would reduce to the extent as to create the impression of terraced properties at Nos 47 - 53.

6. I note that the proposed two storey extension would be set back slightly from the front gable wall of the appeal site and I have also taken account of the staggered layout of the houses. However, I do not consider these sufficient to prevent the terracing effect I have highlighted. This would be particularly noticeable on approaching the appeal site from beyond the mini roundabout at the junction of Kingsway and Heath Drive, where there would no longer be a noticeable gap between the appeal site and No 49. Given the appeal site's prominent position within the street scene, the proposed extension would adversely affect the character and appearance of the area.
7. The appellant has referred to terraced housing being a feature of the area. While there are terraced houses in the area, the character of this part of the street is of two-storey semi-detached properties of mixed architectural styles. Additionally, flat-roofed garages are a common feature and do not diminish the gaps between properties at first floor level. Furthermore, the proposed materials, detailing and pitched roof of the extension would not mitigate the effect of the extension's proximity to No 49.
8. The appellant has drawn my attention to other developments in East Hertfordshire. I have no information about the planning histories of these properties but their surroundings differ from that of the scheme before me as they appear to have been designed as a group with smaller gaps between properties. I will consider the appeal scheme on its own merits. The existence of other two-storey extensions in the locality and any breaching of the 1 metre distance on other sites do not justify the harm I have identified nor does the lack of objection from neighbours.
9. I conclude that the proposed development would unacceptably harm the character and appearance of the area. This would be contrary to policies ENV1, ENV5 and ENV6 of the Local Plan. Policy ENV1 is a general policy which aims to secure a high standard of design in all new development, while Policy ENV5 sets out the general principles for extensions to houses. I have already described the relevant part of Policy ENV6. The Council also refers to the pre-submission version of the East Herts District Plan, but the plan has not yet been examined and I consequently give it limited weight. The proposal would also be contrary to a core planning principle of the National Planning Policy Framework, which seeks to secure high quality design.

Conclusion

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

J Gilbert

INSPECTOR

Appeal Decision

Site visit made on 23 May 2017

by **Jonathan Tudor BA (Hons), Solicitor (non-practising)**

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

Decision date: 29 June 2017

Appeal Ref: APP/J1915/W/17/3169858

Agricultural Barn to the east of Brickendon Lane, Brickendon, Hertfordshire SG13 8NR

- 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 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Frontiers Developments Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2506/ARPN, dated 11 October 2016, was refused by notice dated 29 December 2016.
 - The development proposed is change of use of an existing agricultural building from agricultural use to residential.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the change of use of an existing agricultural building from agricultural use to residential at agricultural barn to the east of Brickendon Lane, Brickendon, Hertfordshire SG13 8NR in accordance with details submitted pursuant to Schedule 2, Part 3, paragraph Q.2(1) of the GPDO through application Ref 3/16/2506/APRN, dated 11 October 2016, and the plans submitted with it. The approval is subject to the condition that the development must be completed with a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the GPDO and subject to the further conditions contained in the attached schedule.

Application for costs

2. An application for costs was made by Mr Tony Bly (Frontiers Developments Ltd) against East Hertfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the banner heading above has been taken from the notification for prior approval application form. However, in Part E of the appeal form it is indicated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description has been agreed. Accordingly, I have used the one given in the original application, although I have omitted superfluous location details.
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4. In its appeal statement, the Council advises that it withdraws the fourth reason for refusal given in its decision notice, which alleged that the proposal would result in an isolated dwelling in the countryside remote from services. That appears to be in accord with advice in the Planning Practice Guidance (PPG) that the permitted development right does not apply a test in relation to sustainability of location.¹

Main Issues

5. The main issue is whether or not the proposed development would be permitted development as provided for by Class Q of the GPDO, with particular regard to:
 - the agricultural use of the building as part of an established agricultural unit on or before 20 March 2013;
 - whether the proposal would consist of building operations reasonably necessary to convert the building to a dwellinghouse; and,
 - whether the proposal would result in an increase in flooding risks on the site.

Reasons

Use of the building

6. Schedule 2, Part 3, Class Q(a) of the GPDO sets out that development is classed as permitted development if it consists of the change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
7. The GPDO provides interpretation in Paragraph X that an 'agricultural building' is a building used for agriculture and which is so used for the purposes of a trade or business.
8. Paragraph Q.1(a)(i) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. An 'established agricultural unit' is defined in Paragraph X of the GPDO as agricultural land occupied as a unit for the purposes of agriculture.
9. Paragraph Q.1(a)(ii) is intended to deal with dormant use, such as where a building was not actually being used on 20 March 2013 but, when last used before that, was used for agriculture. This has the effect that if the building was used for agriculture before 20 March 2013 and there has been no intervening or different use, the permitted development right under Class Q would still apply.
10. The appeal building is accessed via a single track lane to the east of Brickendon Road. It has concrete block walls to a height of approximately 2 metres with fibre cement sheeting above at the gable ends and slatted timber to the rear. There is a steel portal frame and pitched roof constructed of further corrugated sheeting. The south west elevation is open, with three bays fitted with cattle

¹ Paragraph: 108 Reference ID: 13-108-20150305

feeding gates and a hardstanding to the front. It has all the appearance of an agricultural barn and appears to be in reasonable condition.

11. The appellant advises that the building was constructed for accommodating livestock over 30 years ago and has been used for that purpose continually since. A letter from a director of the appellant company states that the land and buildings are in agricultural use with cattle being housed in the barn over winter and that it is occasionally used for storage during the summer months. It is said by the appellant that silage and cattle feed is placed on the hardstanding frontage which the cattle access through the slatted bars on the feeding gates. A further hard standing area lies to the south east of the barn which, according to the appellant, acts as a cattle handling area. Although the building was not in use at the time of my site visit, the access track was clear and the building appears suitable for the purposes described.
12. A Land Holdings Plan has been supplied by the appellant showing the appeal site and land in the vicinity farmed by Frontiers Developments Ltd, including a substantial block of land to the east of the barn. Invoices in relation to the supply of agro chemicals and the sale of oats in 2016, have also been supplied with the appeal documentation. The Council say that the invoices refer to Clements Farm, which they say appears to be a separate enterprise to the south. However, the invoices do refer to Frontiers Developments Ltd and the appellant contends that their main purpose is to provide supporting evidence that the company operates a farm business and that delivery to contractors operating on their behalf is not unusual. I also note that the Parish Council refer to the barn as on land previously part of Clements Farm, which goes to support an agricultural use.
13. The Council advise that on site visits in August and November 2016 the access track appeared overgrown and the barn was not in use. Photographs have been supplied, which although undated, appear to support that. Nevertheless, they provide only a snapshot of the position on two particular days and the appellant advises that cattle are housed in the barn between December and March. Furthermore, the appellant says that although there is evidence of some overgrowth during the summer, the track would still have been passable by agricultural vehicles. Therefore, the site visit evidence does not, in itself, conflict with the account given of the use of the barn by the appellant.
14. I recognise that the onus is on the appellant to supply sufficient information to establish use. However, in the absence of any clear alternative contradictory evidence from the Council's records or other sources, I find that given the physical appearance of the building itself, its location adjacent to fields and proximate to agricultural land held by the appellant, and the supporting documentation provided by the appellant, I am, on balance, persuaded that there was agricultural use as part of an established agricultural unit at or before the relevant date.
15. There are also some similarities between the types and level of evidence accepted in four appeal decisions², to which my attention has been drawn by the appellant, and the evidence in the appeal before me. For example, land holding documents, written statements, the physical nature of the building and a lack of clear contradictory evidence.

² APP/W1145/W/16/3147549, APP/Z0116/W/16/3149459, APP/U1240/W/16/3144936 and APP/D0840/W/16/3146275

16. Therefore, although the evidence is not conclusive, on the balance of probabilities, I am satisfied that the appeal site meets the requirements of Schedule 2, Part 3, Class Q(a) and Q.1(a) of the GPDO.

Building operations

17. The Council's decision notice states that the proposed building operations would be beyond those reasonably necessary to convert the building. The 'Design and Access incorporating Planning Statement' advises that the existing steel frame and block walls to a height of approximately 1.8 metres would be retained, whilst the fibre cement sheeting above would be replaced by insulated larch timber cladding to all external walls. The existing fibre cement roof would be removed and replaced with insulated roofing sheets, whilst a raised floor would be formed by installing steel supports bolted to the existing steel frame with a block and beam floor supported by the steels. New window and door openings would be created.
18. Paragraph Q.1(i) of the GPDO indicates that development would not be permitted if it consisted of building operations other than the installation or replacement of windows, doors, roofs or exterior walls and water, drainage, electricity or other services to the extent reasonably necessary for the building to function as a dwelling as well as partial demolition, to the extent reasonably necessary to carry out those building operations. It seems to me that the limitation, which specifically refers to development under Class Q(b), gives an indication of the extent and of building operations that would be considered acceptable when making an assessment of whether the requirement in Q(b) is satisfied.
19. There does not appear to be any dispute that the existing building is in reasonable condition, as confirmed by the structural report supplied with the appeal documentation. It concluded that the building was substantial and structurally sound and could be converted without major reconstruction or demolition of the existing structural elements.
20. The appellant has also referred me to an appeal decision relating to a building at Hillhead Road³, which also involved the conversion of an agricultural building to a dwelling. The external works in that case included a new roof and windows and doors within new exterior walls. In the context of that appeal, the Inspector was satisfied that that the extent of the proposed works fell within the limitations set out in paragraph Q.1.(i). Although the details and particular issues differ in some respects, I agree that there are similarities between the works accepted in that appeal and those in the proposal before me. Therefore, I give the decision some weight.
21. As the proposal would not exceed the limitations in Q.1(i) of the GPDO, as confirmed in the Officer's Report, and would incorporate structural elements of the existing building whilst also being of similar dimensions, I do not agree with the Council's view on the issue. Therefore, I conclude that the development would consist of building operations reasonably necessary to convert the building to a dwelling house.

³ APP/D0840/W/16/3151545

Flooding risks on the site

22. For permitted development under Class Q(a) and Class Q(b), paragraph Q.2.(1) of the GPDO requires the prior approval of certain matters. One of those matters (d) is flooding risks on the site. The PPG advises that a change of use may involve an increase in flood risk if the vulnerability classification of the development is changed.⁴ In this case, the change would be from land and buildings used for agriculture, which is classified as 'less vulnerable', to a dwellinghouse, classed as 'more vulnerable' in Table 2 of the PPG.⁵ It is incumbent on the applicant in such cases to show in their Flood Risk Assessment (FRA) that future users of the development will not be placed in danger from flood hazards throughout its lifetime.
23. That FRA should also demonstrate how any flood risk may be mitigated and that the proposal meets the objectives of the National Planning Policy Framework's (the Framework) policy on flood risk. For example, how the development and flood risks will be managed so that it remains safe and how the operation of any mitigation measures can be safeguarded and maintained effectively throughout the lifetime of the development.
24. The third reason for refusal in the Council's decision notice states that the proposal would increase the risk of flooding on the site. However, there is no clear explanation in the Council Officer's Report or subsequent appeal statement of the basis for that assertion. As the proposal is to convert an existing building without increasing its roof area or any hardstanding, it is not apparent how it would, for example, increase surface water run-off. The understorey void proposed would, according to the FRA, mean that the proposal would not remove volume from the flood plain, subject to an effective inspection and maintenance regime.
25. Whilst the EA advise that they have no available modelling for the location, they have not objected to the proposal and did not object to the previous scheme. However, the Council advise that the East Herts Council 2016 Strategic Flood Risk Assessment (SFRA) does provide details of flood risk for the location, although no copy of the SFRA has been supplied. The consultation response of the Council's Environment and Engineering section was referred to. It raised concerns about this and a previous application, but the essence of those concerns appear to be that the proposal would introduce a residential use on a site located within Flood Zone 3 and at risk of surface water flooding.
26. The site specific FRA, supplied by the appellant, confirms that the appeal site is in Flood Zone 3, indicating that it is at a 'high' risk of flooding from Brickendon Brook, about 6 metres to the north of the barn. The probability of flooding would, according to the FRA, be greater than 1 in a 100 each year. However, it states that Environment Agency (EA) records show no historic flood events on the appeal site itself, although the brook has flooded about 400 metres downstream in both 1987 and 2000.
27. In addition, the FRA acknowledges that EA mapping shows the site to be located in an area of low to medium risk of surface water flooding. Low risk means the probability of flooding each year is between 1 in a 1000 and 1 in

⁴ Paragraph: 048 Reference ID: 7-048-20140306

⁵ Paragraph: 066 Reference ID: 7-066-20140306

- 100 each year whilst the medium risk is between 1 in a 100 and 1 in 30 each year, with flood depths indicated at between 300mm and 900mm. The FRA advises that a spring located about 200 metres southeast of the site may contribute to the surface water flooding.
28. Nevertheless, according to the PPG already referred to, if appropriate mitigation can be provided, informed by an FRA, to ensure that future users of the development will not be placed in danger from flood hazards throughout its lifetime, it is still possible for approval to be given.
29. The FRA's topographic survey indicates that the barn is at an elevation of about 57.72 Above Ordnance Datum (AOD), whilst the top of the banks of the river (Brickendon Brook) are, at their lowest point, 57.36m AOD. Therefore, the existing barn is approximately 0.36m higher than the lowest bank of the river. Based on a comparison of the topographic survey with the EA flood map, the FRA says that Flood Zone 3 would reach approximately 57.85m AOD. Consequently, the FRA concludes that the existing barn would be likely to flood during a 1 in a 100 year flood event.
30. In terms of mitigation, the FRA recommends that, taking account of EA advice, and as a 1 in a 100 year plus climate change figure is not available, the finished floor levels are raised 600mm above the 1 in a 100 year assumed flood level of 57.85m AOD. That would result in a finished floor level of 58.45m AOD, which would, according to the FRA, be at least 1 metre above the southern bank of Brickendon Brook. That finished floor level is reflected in the submitted plans. With regard to surface water flooding, the FRA advises that as the internal finished floor levels would be about 1 metre above external ground levels it would be unlikely that surface water would pool to a level that would cause internal flooding, especially taking into consideration that the external ground would naturally direct surface water towards the brook.
31. A void has been incorporated into the design below the ground floor which will be allowed to flood meaning, according to the FRA, that floodplain compensation is not necessary. Whilst the EA advises that it does not usually accept the use of voids as a method of floodplain compensation as they can become blocked, they state that they do not consider floodplain compensation as necessary as the floodwater is unlikely to enter the site. The FRA also recommends an inspection and maintenance regime for the void area to avoid blockage.
32. With regard to safe access and egress from the site, the FRA advises that land to the immediate south would be higher than the site at 59.00m AOD and outside the flood zone. It notes that the availability of the EA flood forecasting and warning service and recommends that future occupiers register for that service.
33. Whilst the Council's Environment and Engineering section note the proposed mitigation, they state that *'the proposals do not conform to the East Herts SFRA particularly in terms of flood reduction, biodiversity provision, water quality improvement and amenity provision.'* However, there is no explanation in the original Officer's Report or the Council's Appeal Statement as to why the proposed mitigation is not acceptable or fails to meet the requirements of the Framework or the PPG. In the absence of any specific or detailed refutation of the expert advice provided in the FRA, and considering the lack of any

objection from the EA, there is no persuasive evidence before me to bring the FRA findings and recommendations into question.

34. The appellant has also drawn my attention to an appeal decision relating to a Barn at Whitegate Farm⁶, in support of their case on flood risk. It also involved a prior approval application to convert a building to residential use in Flood Zone 3. The site was at risk of flooding from a nearby watercourse and tidal flooding, although the SFRA suggested that the risks would be low. As the Inspector had no or limited evidence to refute the FRA or proposed mitigation via an increase in finished floor levels, the appeal was allowed. Therefore, although I do not have full details of the background in that case, I consider that there are similarities between that appeal and the appeal before me. Therefore, whilst I have determined the appeal on its own merits, I give that appeal decision some weight.
35. I note that the FRA does advise that the access track to the west and the track to the north east (crossing the brook) could be subject to flooding during a 1 in 100 year flood event. However, it indicates that the ground floor of the building should provide safe refuge or that alternatively the land to the south would be available. Although the FRA does at some points suggest that the proposal is for a two storey building, whereas it is only for a one storey dwelling, I do not consider that the confusion undermines the fundamental data and recommendations in the report.
36. The appellant advises that the FRA predates the 2016 SFRA and instead refers to the previous 2008 SFRA, although I note it also considers the Hertfordshire County Council Preliminary Flood Risk Assessment (2011). As I have not been made aware of any specific or critical differences between the 2008 and 2016 SFRAs in relation to the proposal, I have no basis for finding that it undermines the FRA.
37. Therefore, I conclude that flooding risks on the site would not be exacerbated by the proposal and that significant harm to future residents could reasonably be dealt with through the mitigation measures recommended in the FRA.

Other Matters

38. Although the appeal site is, according to the Council, located within the Green Belt, the policy on Green Belts in the Framework is not relevant to Class Q of the GPDO.

Conditions

39. The GPDO imposes standards condition for each class of development. However, as set out in Schedule 2, part 3, paragraph W.(13) prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
40. The Council have suggested conditions, which I have considered and included if appropriate with, if necessary, minor modifications to accord with the relevant PPG on conditions. Paragraph W.(12) of the GPDO advises that development must be carried out in accordance with the details provided, so the plans condition suggested by the Council would not normally be required. However, in the context of this case, it is necessary to impose a condition requiring

⁶ APP/V3310W/16/3151825

compliance with the relevant plans, given that they include details of the raised finished floor level, for certainty.

41. The Council has suggested a condition setting a time limit for commencement of the development. However, Q.2. Paragraph (3) of the GPDO requires the development to be completed within three years of the date of this decision. It is necessary, as suggested by the Council, to include a condition relating to contaminated land, as it is related to one of the matters for which prior approval may be required and to minimise the risk of pollution.
42. A condition relating to surface water drainage is included to ensure that surface water flows are appropriately dealt with in an area acknowledged to be at risk of surface water flooding. Although, it is acknowledged that the proposal is a change of use of a building which appears to have some drainage system in place, a condition would provide additional certainty. Finally a condition securing the flood mitigation detailed in the FRA is required to ensure that the development is adequately safeguarded from flooding.

Conclusion

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

Jonathan Tudor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos F44/03/01 B, F44/03/02 B and F44/03/03 B.
- 2) The development hereby permitted shall not begin until a scheme to deal with contamination of land and/or groundwater has been submitted and approved by the local planning authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the local planning authority dispenses with any such requirement specifically and in writing:
 - i) A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the local planning authority shall be fully established before the desktop study is commenced and it shall conform to any such reasonable requirements. Copies of the desk top study shall be submitted to the local planning authority without delay upon completion.
 - ii) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be carried out until:
 - a) A desk-top study has been completed satisfying the requirements of paragraph (i) above;
 - b) The requirements of the local planning authority for site investigation have been fully established; and

- c) The extent and methodology have been agreed in writing with the local planning authority.
Copies of a report on the completed site investigation shall be submitted to the local planning authority without delay on completion.
- iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the local planning authority prior to commencement and all requirements shall be implemented and completed to the satisfaction of the local planning authority by a competent person. No deviation shall be made from this scheme without the express written agreement of the local planning authority.
- 3) The development hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetimes of the development which shall include the arrangement for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 4) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Letter Report dated 2 August 2016 prepared by EAS and the following mitigation measures:
- i) Finished floor levels of the dwelling will be set no lower than 58.45m AOD.
 - ii) The undercroft void space and opening shall remain open, free and maintained from all blockages, debris and storage in perpetuity for the life time of the development. The undercroft area shall not be used for any storage facilities.
 - iii) The undercroft void space shall be regularly inspected and cleared in accordance with the recommendations contained in the Flood Risk Letter Report.

The mitigation measures shall be fully implemented prior to the first occupation of the dwelling and remain and continue through the lifetime of the development.

Costs Decision

Site visit made on 23 May 2017

by **Jonathan Tudor BA (Hons), Solicitor (non-practising)**

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

Decision date: 29 June 2017

Costs application in relation to Appeal Ref: APP/J1915/W/17/3169858 Agricultural Barn to the east of Brickendon Lane, Brickendon, Hertfordshire SG13 8NR

- 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 Tony Bly (Frontiers Developments Ltd) for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of an application for to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) for change of use of an existing agricultural barn from agricultural use to residential.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.¹
3. The application for costs alleges that the Council refused permission on grounds that were unsound and ignored the criteria set out in Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO) and relevant national policy and guidance. On that basis it says that the Council has acted unreasonably and that, as a result, the applicant has incurred unnecessary costs in submitting the appeal and commissioning a structural report on the existing building, submitted with the appeal.
4. The PPG gives examples of the type of behaviour by the local planning authority which may be considered unreasonable. The list includes failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis.²
5. There were four reasons for refusal detailed in the Council's decision notice. The fourth reason, relating mainly to whether the development would be in a sustainable location, was withdrawn on appeal. However, the Council advise

¹ Paragraph: 030 Reference ID: 16-030-20140306

² Paragraph: 049 Reference ID: 16-049-20140306

that the original decision was prior to a High Court judgement in relation to the issue.³ I have considered the remaining three reasons for refusal in more detail within the main appeal decision.

6. With regard to the first reason for refusal, the Council considered that insufficient information had been provided to establish that the building was in agricultural use and part of an established agricultural unit on or before the relevant date. The Council reached their view on the basis of site visits where there was no evidence of use and the absence of business records or other sufficient supporting evidence with the application. Although, I did ultimately find in favour of the applicant on the issue in the main appeal, additional information and documentation in the form of receipts had been submitted with the appeal. In any event, I would not describe the evidence presented as conclusive and I only reached a conclusion on the balance of probabilities. Therefore, I do not consider that the Council acted unreasonably in coming to its view.
7. The second reason for refusal concerned whether the proposed building operations exceeded those reasonably necessary to convert the building. The Council's view, detailed in their report, was that the extent of the proposed conversion works would result in a new building and go beyond a conversion. Whilst Q.1.(i) gives by implication an indication of the types of works that would be acceptable, it states that such works are to the extent reasonably necessary for the building to function as a dwelling house. Therefore, there is still a planning judgement to be made depending on the particular details of the case. I note that the Officer's Report, for example, refers to a new floor, presumably in relation to the suspended floor level, which is not specifically referred to in Q.1(i).
8. The appeal documentation was also supplemented by a structural report, which provided further information about the condition of the existing building and the feasibility of works likely to be required to adapt it. Therefore, although I came to a different conclusion, I do not consider that the Council's judgement amounts to unreasonable behaviour.
9. The third reason for refusal revolved around the issue of flood risk on the site. Whilst I agree that the proposal was in itself unlikely to increase flood risk, the Council Officer's Report and Appeal Statement make clear that, as the Environment Agency (EA) lacked modelling for the location, they relied on advice received from their Environment and Engineering section. That advice expressed concern about introducing a residential use in Flood Zone 3 in a location that was also at risk of surface water flooding. Ultimately, it was a matter of planning judgement as to whether the analysis and mitigation measures contained in the Flood Risk Assessment were sufficient to enable prior approval to be given.
10. I agree that the Councils reasoning could have been more specific in explaining why the FRA analysis and recommended mitigation was considered insufficient. However, given the proposed potentially vulnerable location and absence of EA modelling, and the extent of the necessary mitigation advice, overall, I do not consider that the Council behaved unreasonably.

³ Easts Herts v SSCLG [2017] EWHC 465 (Admin)

11. Accordingly, whilst I have fully considered the points made by the applicant, given the relatively complex nature of the issues in this case and the requirements of the prior approval procedure, I am not persuaded on the basis of the evidence before me that the Council has acted unreasonably. As such, I do not agree that the applicant was put to unnecessary or wasted expense.

Conclusion

12. I therefore find, for the reasons set out above, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, no award is made.

Jonathan Tudor

INSPECTOR

Appeal Decision

Site visit made on 21 June 2017

by **J Gilbert MA (Hons) MTP MRTPI**

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

Decision date: 07 July 2017

Appeal Ref: APP/J1915/D/17/3170089

32 Bishops Avenue, Bishop's Stortford CM23 3EL

- 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 Hayley Leonard against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2526/HH, dated 11 November 2016, was refused by notice dated 6 January 2017.
 - The development proposed is removal of existing single-storey side extension and double garage. Replacement with two new two-storey extensions to provide extra bedroom accommodation and annexe.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The current appeal proposal follows refusals of previous proposals for additional development at No 32 Bishops Avenue, two of which were also dismissed at appeal¹. In this appeal, the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. Descriptions of the character of the surrounding area in the 2013 and 2015 appeal decisions remain equally relevant to this current proposal and there is no need to repeat them in full. As with the 2015 appeal, the most significant feature to note is that although No 32 occupies an unusually spacious and irregular plot, at the junction of Bishops Avenue and Mary Park Gardens, the converging lines of dwellings in these two streets mean that there are already some tight relationships between the principal buildings at No 32 and adjacent properties². As a result, existing garden spaces surrounding the dwelling at No 32 are important in maintaining a sense of spaciousness around the junction, notwithstanding the existing boundary treatments.
4. The appeal site currently has enclosed side gardens, fronted by either low walls and high hedges or low brick walls with taller brick piers supporting wooden fence panels. These all serve to screen the site from the road to some extent.

¹ APP/J1915/W/15/3128968, decision dated 30 September 2015, and APP/J1915/A/12/2182042, decision dated 14 February 2013.

² Nos 29 and 31 Mary Park Gardens and No 30 Bishops Avenue.

5. The extensions to the property are proposed to largely follow the existing building line of the development with the main increase in the footprint confined to a portion of garden at the eastern end of the house nearest to Bishops Avenue. Although this avoids the loss of a significant amount of the triangular side garden, the extensions would include a large staggered two-storey element to the eastern side of the house to accommodate the annexe. The annexe would initially continue the ridge line of the existing roof, ending in a hipped roof. There would also be a second hipped roof staggered at a slightly lower level to introduce an element of subservience. This lower element is also stepped back from the front of the dwelling in an attempt to reduce its bulk and prominence. Despite these efforts to mitigate the effect of the extensions on the host building and the street scene, the development would significantly increase the bulk and scale of the existing house when viewed from Bishops Avenue.
6. The proposal also includes some extensions to the western end of the house to fill out the corners set into the property. These extensions are substantial in their own right, with the first floor proposed to be built out to the existing flank and front walls of the ground floor extension. This loss of setbacks and corners set into the building results in a bulky building with long flat elevations on both the northern and western aspects. This would result in the building being more prominent from neighbouring properties, Mary Park Gardens and the open space beyond the road into Mary Park Gardens.
7. Although I note that the extended building would be no closer to the houses on Mary Park Gardens at the western end than the existing house, the height, bulk and scale of the proposed extensions would give the perception of the house being closer. In terms of the eastern end of the extended house, the distance between the house and other properties in the street would be reduced. The appellant has commented that the extensions would remain at a greater distance from the neighbouring properties than the neighbouring properties are from each other. I do not disagree with this contention. However, the appeal property is a corner property and differs in character from its more tightly packed neighbours.
8. By its very nature as a corner property, the appeal site is more prominent than its neighbours. By extending both flanks of the house to such an extent, the resultant increased intensity of built form would be apparent from both Bishops Avenue and Mary Park Gardens. I note the retention of the established coniferous hedge, albeit with some reduction in height. Despite the retention of the hedge with its benefits in screening and for biodiversity, the proposed extensions would stretch across almost the width of the site and would lie close to the boundary treatments. The development would appear cramped within its site and the sense of spaciousness would be diminished, detracting from the area's character and appearance.
9. I recognise that the site is within a built up area with access to local facilities and services and acknowledge that, in this regard, it meets the aims of the National Planning Policy Framework in encouraging development in sustainable locations. I have also found that the proposal would provide acceptable living conditions for its own and neighbouring occupiers and that the materials would match the existing property and neighbouring properties. Although these weigh in favour of the proposal, they are not sufficient, individually or cumulatively, to outweigh the harm identified.

10. I have also had regard to the appellant's argument that the appeal site was originally intended to be two plots. Given the context of the site, this may have been the original intention. However, there is no evidence of any previous permission being granted for its development. In any event, it is necessary to consider whether the proposal would be acceptable when assessed against current development plan policies and other material considerations.
11. The appellant wishes to construct the proposed extensions to meet their own family's needs and those of the maternal grandparents who would live in the annexe and provide childcare support to both the family at No 32 and their son's family. The proposed extensions would allow the introduction of independent but connected living space for the grandparents and allow for any evolving healthcare needs over time. While I have given consideration to the limited information provided on the appellants' personal circumstances, I am mindful of the advice contained in Planning Practice Guidance that in general planning is concerned with land use in the public interest. It is probable that the proposed development would remain long after these personal circumstances cease to be material. I do not consider that these personal circumstances outweigh the harm which would be caused by the proposed development.
12. I have taken into account the concerns raised locally about a range of issues, including highway safety, however they have not led me to any different conclusions.
13. I conclude that the proposed extensions would unacceptably harm the character and appearance of the area. This would be contrary to policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review (2007). The former is a general policy which aims to secure a high standard of design in all new development. Policy ENV5 sets out the general principles for extensions to houses, while Policy ENV6 contains criteria which should be met by domestic extensions. The Council also refers to the pre-submission version of the East Herts District Plan, but the plan has not yet been examined and I consequently give it limited weight. The proposal would also be contrary to a core planning principle of the National Planning Policy Framework, which seeks to secure high quality design.

Conclusion

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

J Gilbert

INSPECTOR

Appeal Decisions

Site visit made on 18 May 2017

by **R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC**

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

Decision date: 7th June 2017

Appeal Ref: APP/J1915/W/17/3170836

Shipwrights Cottage, Baldock Road, Cottered SG9 9QN

- 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 A Playle against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2585/HH, dated 18 November 2016, was refused by notice dated 20 January 2017.
 - The development proposed is described as 'proposed single storey rear extension'.
-

Appeal Ref: APP/J1915/Y/17/3170808

Shipwrights Cottage, Baldock Road, Cottered SG9 9QN

- 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 Mr A Playle against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2586/LBC, dated 18 November 2016, was refused by notice dated 20 January 2017.
 - The works proposed are described as 'proposed single storey rear extension'.
-

Decisions

1. The appeals are dismissed.

Procedural Matter

2. Appeal A and Appeal B relate to the same site. Whilst I have considered each proposal on its own merits, given that they have much in common, and in the interests of brevity, I have dealt with them in one document.

Main Issues

3. Whether the proposed extension would :
 - preserve or enhance the character or appearance of the Cottered Conservation Area;
 - preserve the special architectural or historic interest of Shipwrights Cottage, a grade II listed building and its setting; and
 - affect the living conditions of the neighbouring occupiers at Shipwrights, with regard to outlook.
-

Reasons

4. The appeal site includes a semi-detached listed dwelling. It was originally built as one dwelling which included its neighbour, Shipwrights. The appeal dwelling includes a timber framed historic core, with cross wings at either end. Shipwrights Cottage has been altered and added to, particularly at the rear. Its timber frame, historic fabric, simple linear form and prominent roof, together with its close relationship and general similarity to its neighbour, all contribute to its significance as a heritage asset.
5. It has a large rear garden with planting and greenery to its front and rear, which gives it a generally rural setting. This, together with its close relationship to its neighbour, contributes to its significance as a heritage asset.
6. The Conservation Area includes the heart of Cottered. Although it includes a mix of uses, it is predominantly residential. Although buildings vary in design, style and age, many are historic. They generally line the main roads, set out in an informal layout, with large gardens. Trees, planting and green space give the Conservation Area a rural, spacious and green character and appearance, to which the appeal site positively contributes.
7. The appeal development and works would be large in relation to the historic core of the dwelling, such that they would appear out of scale with it. The proposed addition would extend some way from the rear elevation of the main house and its floorplan would be at odds with the simple linear floorplan of the historic core. It would obscure most of the rear elevation of the main house which would diminish its architectural and historic interest. Further, its design, which would include a large flat roof, would appear out of place with the prominent pitched roofs of the rest of the appeal house. Moreover, the inclusion of large areas of glazing would be out of place when seen with the more solid elevations with small window openings of the rest of the appeal building. For all of these reasons, it would unacceptably detract from the listed building. It would erode the similarity between the two attached listed buildings, which would adversely affect the setting of the appeal building.
8. I have found that the appeal proposals would result in unacceptable harm to the appeal building and its setting. I have also found that the appeal building positively contributes to the character and appearance of the Conservation Area. Therefore, it follows that the appeal proposals would fail to preserve the character and appearance of the Conservation Area.
9. In coming to these conclusions, I have taken account of the extant listed building consent and planning permission for a single storey addition¹. However, those were for a smaller extension, with a different form. I appreciate that the appeal proposals would improve on some of those design elements, particularly the glazed roof lantern. However, overall, I consider that they would result in greater harm to the heritage assets identified.
10. I conclude that the appeal proposals would fail to preserve the special architectural or historic interest of the listed building and its setting and would fail to preserve the character and appearance of the Conservation Area. The appeals would therefore be contrary to the East Herts Local Plan Second Review (2007) Policies ENV1, ENV5, ENV6, and BH6. Those policies, together,

¹ 3/15/0860/HH and 3/15/0861/LBC

aim for a high standard of design and layout to reflect local distinctiveness in extensions and new development that is sympathetic to the general character and appearance of conservation areas. It would also fail to accord with section 12 of the National Planning Policy Framework (the Framework), which aims to conserve and enhance the historic environment.

Living Conditions

11. The appeal proposals would be very close to the neighbouring property, Shipwrights. I note that there is a fence and planting dividing the appeal site and Shipwrights. However, even though single storey, the excessive size of the proposed extension so close to that property would render its bulk dominant in views from it. My concern is the outlook from the ground floor nearest windows, both of which serve habitable rooms, in which the appeal development would appear overbearing. The extant planning permission and listed building consent² was for a smaller extension that would be less dominant as viewed from the neighbouring property.
12. I conclude that the appeal proposals would unacceptably adversely affect the living conditions of neighbouring occupiers at Shipwrights, with regard to outlook. They would therefore fail to accord with LP Policy ENV1. That policy seeks development that would respect the amenity of occupiers of neighbouring buildings. I have noted emerging East Herts District Plan Policy VILL 2, but that document is not adopted, which reduces the weight that I accord it in making my decision.

Public Benefits

13. In accordance with paragraph 132 of the Framework, I accord great weight to the conservation of designated heritage assets. I consider that the harm to the significance of the listed building and the Conservation Area would be less than substantial; a matter to which I attach considerable importance and weight. However, in this case, no public benefits, as identified in paragraph 134 of the Framework, are before me, sufficient to outweigh that harm. In coming to this conclusion, I have had regard to the provision of better living space for the current and future occupiers.

Other Matters

14. I have noted the appellant's concern regarding the way in which the Council dealt with the appeal applications. However, that is a matter between the appellant and the Council in the first instance and has not affected my decision.
15. In coming to these conclusions, I have had regard to the views of another Inspector in determining an appeal for different extensions at the appeal site³. However, that was for different development and works, which differentiates that decision from the appeals before me.

² 3/15/0860/HH and 3/15/0861/LBC

³ APP/J1915/A/03/1126137

Conclusions

16. For the above reasons, and taking all other matters raised into consideration, including some support, I conclude that both appeals should be dismissed.

R Barrett

INSPECTOR

Appeal Decision

Site visit made on 7 June 2017

by **J Gilbert MA (Hons) MTP MRTPI**

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

Decision date: 19th June 2017

Appeal Ref: APP/J1915/D/17/3170420

6 Highfield Avenue, Bishop's Stortford CM23 5LS

- 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 Peter Whittaker against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2596/HH, dated 21 November 2016, was refused by notice dated 17 January 2017.
 - The development proposed is first floor side dormer construction to existing 2 storey property.
-

Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. Highfield Avenue is a residential cul-de-sac characterised by two-storey semi-detached houses. The appeal site, with its neighbouring property at No 8, is one of 4 pairs of semi-detached houses built to a distinctive design with a long roof slope running from the shared ridge to low eaves at ground floor level. Of the 8 houses of this design, Nos 13 and 15 have similar first floor dormer extensions to that proposed at the appeal site. Both of these dormers are masked somewhat by the flanking dwellings.
 4. Positioned close to the ridge of the roof and extending across a considerable portion of the roof slope, the proposed dormer would dominate the roof and would unbalance the characteristic form of the semi-detached pair. Although the dormer would be constructed in materials to match the existing house and the eaves line of the buildings opposite are of a similar height to the proposed dormer, this would not overcome the harm arising from the bulk and positioning of the dormer.
 5. The appeal site is located close to the end of the street and is sited at an angle to Nos 2 and 4. Given the relatively open nature of the appeal site and the position of the house relative to its neighbours and the street itself, the proposed development would be very visible from the street and considerably more prominent than the existing first floor dormers at Nos 13 and 15. The
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prominence of the large dormer extension in public views on turning into Highfield Avenue, and facing the house, would adversely affect the character and appearance of the street.

6. My attention has been drawn to the unimplemented 2004 permission on the appeal site, the 2002 appeal¹ at No 13, and the 2005 planning permission implemented at No 15. The 2004 permission was for a side dormer of the same dimensions as the current appeal and was similar to the dormer windows at Nos 13 and 15. All three planning permissions occurred prior to the adoption of the current East Herts Local Plan Second Review (2007)(the Local Plan). I have not been provided with the relevant policies in place at the time of determination of these applications. However, the Council's report indicates that the Local Plan takes a more restrictive approach than its predecessor to the size of dormer windows and the relationship of those dormers to the roof slope and the host dwelling. Consequently, these planning permissions have only a limited bearing on this current appeal.
7. I have considered the recently implemented roof extensions at No 7, the penultimate semi-detached house on the opposite side of the street. No 7 is of a different architectural form to the appeal site and is not directly comparable. The existence of other roof extensions in the street does not justify the harm I have identified. I have considered the appeal scheme on its own merits.
8. I have also noted that the Council has raised no objection to the proposal in respect of the living conditions of neighbouring occupiers. This does not outweigh the harm identified in respect of character and appearance.
9. The appellants wish to construct 2 bathrooms at first floor level to meet their own needs and those of an elderly relative who may need to live at the appeal site in the future. The proposed dormer would allow the introduction of these facilities without impinging on the number of existing bedrooms. While I have given consideration to the limited information provided on the appellants' personal circumstances and those of their elderly relative, there is no indication of any immediate need. I am mindful of the advice contained in Planning Practice Guidance that in general planning is concerned with land use in the public interest². It is probable that the proposed development would remain long after the emerging personal circumstances cease to be material. I do not consider that these personal circumstances outweigh the harm which would be caused by the proposed development.
10. I conclude that the proposed dormer extension would unacceptably harm the character and appearance of the area. This would be contrary to policies ENV1, ENV5 and ENV6 of the Local Plan. The former is a general policy which aims to secure a high standard of design in all new development. Policy ENV5 sets out the general principles for extensions to houses, while Policy ENV6 contains criteria which should be met by domestic extensions. The Council also refers to the pre-submission version of the East Herts District Plan, but the plan has not yet been examined and I consequently give it limited weight. The proposal would also be contrary to a core planning principle of the National Planning Policy Framework, which seeks to secure high quality design.

¹ APP/J1915/A/020/1090334

² ID: 2.1b-008-20140306 (What is a material planning consideration?)

Conclusion

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

J Gilbert

INSPECTOR



Appeal Decision

Site visit made on 12 June 2017

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 6th July 2017

Appeal Ref: APP/J1915/D/17/3173347

9 Bishops Road, Tewin Wood, Tewin AL6 0NR

- 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 Winter against the decision of East Herts Council.
 - The application Ref 3/16/2759/HH was refused by notice dated 8 February 2017.
 - The development proposed is described on the application form as 'Two and single storey side and rear extensions, alterations to front elevation and new fences, gates and post to front of property.'
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Decision

1. The appeal is dismissed insofar as it concerns a first floor side and rear extension and other alterations.
 2. The appeal is allowed and planning permission is granted for gates, brick piers and a hedge to the front of the property, at 9 Bishops Road, Tewin Wood, Tewin AL6 0NR, in accordance with the terms of the application, Ref 3/16/2759/HH, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Notwithstanding the reference to a fence on drawing 01 C, the development hereby permitted solely comprises gates, brick piers and a hedge to the front of the property and shall be carried out in accordance with the plans Ref 01 C and 04 G.
 - 3) No development shall take place until full details of the hedge, including a timetable for its planting, have been submitted to and approved in writing by the local planning authority, and these works shall be carried out as approved. The submitted details shall include species of plants and their sizes and positions. If, within a period of 5 years from the date of planting, any plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
 - 4) The gates shall be installed so as to open inwardly and away from the highway and thereafter be retained as such.
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Preliminary Matters

3. The description of development on the application form refers to new fences, gates and post, while the proposed site plan includes a reference to a 1.5m fence. However, the proposed front boundary elevation shows painted metal gates and piers with a hedge. As assessed by the Council in its report on the application this is clearly the intended frontage scheme and I shall consider this appeal on the same basis. Despite the description given on the application form the proposed enlargement of the dwelling can be more accurately described as a first floor side and rear extension, as suggested by the Appellants. I shall therefore use an amended description in my decision to reflect these matters.
4. The surname of the Appellants has been spelt differently on the appeal form. In the heading above I have used that given on the application form.

Main Issue

5. The main issue in this appeal is whether the proposed development amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework) and development plan policy and, if so, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

6. The appeal concerns a detached dwelling located within the Green Belt where Government policy in the Framework identifies development that would not be inappropriate. The extension or alteration of a building is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. In Annex 2 of the Framework the term 'original building' is defined. This is said to be a building as it existed on 1 July 1948, or if constructed later, as it was built originally.
7. East Herts Local Plan Second Review, April 2007, Policy GBC1 identifies limited extensions in accordance with Policy ENV5 as not being inappropriate in the Green Belt. Outside certain settlements Policy ENV5 seeks to prevent extensions that by themselves or cumulatively with other extensions would disproportionately alter the size of the original dwelling.
8. The term 'building' is not defined in the Framework but the definition in the 1990 Act refers to any structure or erection and is therefore taken to include gates and piers. As a result, this part of the scheme should be treated as a 'building' for the purposes of the Framework and development plan. New buildings should be regarded as inappropriate development in the Green Belt unless they fall within the list of exceptions given in Paragraph 89 of the Framework. Policy GBC1 also identifies a similar list of exceptions.
9. The Council indicates that the original dwelling or building was constructed following a planning permission granted in 1960. It is also explained that in conjunction with previously built extensions the current proposal would result in a cumulative increase of 160% in floor area over that of the original building.

10. The Appellants refer to paragraph 8.9.2 of the Local Plan which states that *it is not possible to state categorically what maximum size of extension is likely to be permissible, given the wide range of existing dwelling types and sizes which comprise the rural housing stock*. However, this does not suggest that quantitative indicators of size such as floor area should not be taken into account but simply that a precise threshold or maximum cannot be identified. I note the generalised reference in this context by the Appellants to appeal decisions but no specific cases have been submitted.
11. Moreover, I see no reason why floor area should not be a reasonably good indicator of size and no arguments have been advanced to persuade me otherwise. In my view, an increase of such a magnitude as more than one and a half times the size of the original dwelling could not reasonably be considered to do other than reflect a disproportionate enlargement.
12. The Council also describes the original dwelling, which is said to comprise a two storey part under the gable ends on the front and rear elevations and a small flat roof single storey side projection. It is explained that this has been extended to the sides and rear at single and two storey level with a front porch and a pitched roof added to the flat roof. The latter alteration means that the Council's calculation of the additional floor area understates the increased cumulative bulk.
13. I have not been provided with the drawings of the dwelling permitted in 1960, as the Council indicates that it is not possible to make clear copies. However, the Appellants do not dispute that this is the original dwelling. The Council has also given the above description and I have not been provided with any alternative evidence that contradicts it.
14. The Appellants explain that any change in footprint from the proposed enlargement would be nominal. The side extension would be set back behind the front gable, as with the two storey part to the other side. However, the new roof ridges of the addition would be at the same height or only minimally lower by comparison to those of the existing two storey parts. The addition would also project appreciably further to the rear at first floor level. On a cumulative basis it is clear that the two storey length of the original dwelling across the front and rear elevations would have been substantially increased. The excessive overall bulk added to the original dwelling would be further emphasised by the gable ended form at the sides.
15. On the basis of the information before me I conclude that on either a quantitative or qualitative basis, the enlargement would result in disproportionate additions to the original building. In consequence, it is concluded that the extension of the dwelling would comprise inappropriate development in the Green Belt. The gates and piers do not comprise any of the stated list of exceptions in the Framework or Policy GBC1, so that this would also comprise inappropriate development.
16. The Framework states that inappropriate development should not be approved except in very special circumstances, which will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Policy GBC1 is consistent with this approach.

Openness of Green Belt

17. It is explained in the Framework that the essential characteristics of Green Belts are their openness and permanence. The openness of the Green Belt derives from an absence of built development. The proposed enlargement would result in significant additional solid built volume and bulk at first floor level. In consequence, the openness of the Green Belt would be materially reduced.
18. The gates would have a fairly transparent character due to the spaces between the vertical railings. The piers would be relatively slender with significant gaps between them. Because it comprises vegetation rather than built form, the hedge would not reduce openness. In consequence of these factors this part of the scheme would have no material effect on the openness of the Green Belt.

Other considerations

19. The Appellants refer to the planning permission granted by the Council in 2008 for enlargement of the dwelling. It is suggested that the decision to refuse the current scheme is inconsistent with that as there are negligible differences between the permitted scheme and current proposal. However, it is clear from the Council's report in relation to the 2008 permission that the original dwelling was not correctly identified as that resulting from the 1960 permission. As a result, the assessment of the increase in size by reference to the original building was fundamentally flawed and understated.
20. This report includes reference to the design of the extension being in keeping with the existing dwelling and acceptable in relation to openness while also keeping a visual break but these matters are not concerned with proportionality. Whether the extension would result in disproportionate cumulative enlargement relative to the original building was only considered in relation to floor area and there is no qualitative assessment of this specific matter. Moreover, given the failure to correctly identify the original building, even if there had been it would have been as flawed as that carried out on a quantitative basis.
21. Consistency is an important consideration in the planning process, as highlighted in the Planning Practice Guidance. However, in this case consistency would be achieved by disregarding the serious error in the assessment of the approved scheme. It would involve accepting enlargement that comprises inappropriate development and would significantly harm the openness of the Green Belt because of a previous mistake. This decision should not therefore be used as a precedent to justify the current proposal.
22. The current proposal reflects a better design due, for example, to the absence of the single storey part to the side wrapping around the front. However, the differences in appearance are fairly modest and, in any event, the previous permission has expired and cannot therefore comprise a fall-back position that could be implemented instead.
23. It is also the case that the addition now proposed would be 0.5m wider than that previously approved. In consequence, it would result in a materially greater reduction in openness than the permitted scheme. Because of these factors and despite the policy context not being significantly different, this planning history is not a consideration that should weigh appreciably in favour of the appeal.

24. The Appellants suggest that the hip on the roof of the single storey part linking to the two storey flank has resulted in an awkward roof arrangement. It is argued that the removal of this and the creation of a balanced and symmetrical front elevation would enhance the character and appearance of the dwelling.
25. However, the hip to the single storey part reflects the roof slope of the two storey part that slopes down towards it and provides some relief to the bulk of the building. While the development would result in a high degree of symmetry, I do not consider the existing appearance to be particularly unsightly or detrimental. I am not therefore persuaded that there would be significant benefits to the character and appearance of the host dwelling.
26. The Appellants make a generalised reference to the substantial enlargement of dwellings in the locality and specifically identify the property at 1 Bishops Road. However, without the full details and background to any other case no meaningful comparison can be made with the current proposal.
27. In consequence of the above factors, these considerations are not afforded anything other than fairly limited weight in favour of the appeal. It is acknowledged that the proposal would have no detrimental effect in relation to a range of matters such as living conditions and car parking but mere acceptability in these respects does not weigh positively in support of the extension.
28. The Council has raised no objections to the boundary treatment. The hedge would reinforce and enhance the verdant qualities of the streetscene in Bishops Road due to its extent and prominence. Moreover, it would comprise the majority of the frontage, having an appreciably greater length than that of the gates and piers combined. These are compelling factors that weigh particularly strongly in favour of this part of the overall scheme.

Conclusion

29. The proposed enlargement of the host dwelling would cause harm to the Green Belt as a result of inappropriate development and a loss of openness. In accordance with Paragraph 88 of the Framework substantial weight should be afforded to this harm. Due to the limited weight attached to them, it is concluded that the other considerations raised in relation to this development do not clearly outweigh its harmful effect.
30. There can, in consequence, be no very special circumstances and the proposed extension would be contrary to the Framework policies concerning the Green Belt. There would also be conflict with the relevant development plan policies. It is therefore determined that the appeal fails in relation to this part of the development.
31. The boundary treatment would cause harm to the Green Belt as a result of inappropriate development and this is afforded substantial weight. However, this is clearly outweighed in this instance by the other considerations I have identified above. Moreover, looking at this part of the scheme as a whole I take the view that very special circumstances exist which justify the proposed means of enclosure. In consequence this part complies with both the Framework and Policy GBC1. As this is clearly capable of being implemented independently of the remainder of the overall proposal a split decision is justified and the appeal succeeds in relation to the boundary treatment.

Conditions

32. In the interest of certainty a condition specifying the approved plans is needed. To ensure the landscaping enhancement is carried out a condition concerning the planting of the hedge is justified. A condition requiring the gates to open inwardly would be sufficient to protect highway safety, as suggested in the Council's report on the application.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 12 June 2017

by **Michael Evans BA MA MPhil DipTP MRTPI**

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

Decision date: 28th June 2017

Appeal Ref: APP/J1915/D/17/3172314

Waterford Common Cottage, Vicarage Lane, Waterford SG14 2QA

- 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 D and C Stay against the decision of East Herts Council.
 - The application Ref 3/16/2832/HH was refused by notice dated 14 February 2017.
 - The development proposed is two storey rear and front extensions with internal alterations.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues in this appeal are:
 - Whether the proposed development amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework) and the development plan.
 - The effect on the openness of the Green Belt.
 - The effect on the character and appearance of the host dwelling.
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

3. The appeal concerns a detached dwelling located within the Green Belt where Government policy in the Framework identifies development that would not be inappropriate. The extension or alteration of a building is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building.
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4. East Herts Local Plan Second Review, April 2007, Policy GBC1 identifies limited extensions in accordance with Policy ENV5 as not being inappropriate in the Green Belt. Policy ENV5 seeks to prevent extensions that by themselves or cumulatively with other extensions would disproportionately alter the size of the original dwelling.
5. The Council indicates that with the removal of the conservatory the floor area of the original dwelling would be increased by 61%. This is said to exceed the 50% which constitutes a rule of thumb and is also based on recent appeal decisions. However, neither the development plan nor the Framework identify any specific size threshold. In the explanatory text to Policy ENV5 it is stated that *it is not possible to state categorically what maximum size of extension is likely to be permissible, given the wide range of existing dwelling types and sizes which comprise the rural housing stock.*
6. Moreover, I am not persuaded that the 61% increase in floor area would be of such a magnitude as to necessarily result in a disproportionate enlargement. I shall therefore consider whether the scheme would result in the original dwelling appearing disproportionately larger. The size of the plot and whether the property would be seen from public viewpoints have no bearing on this assessment, as it is solely concerned with a comparison of the size of the original dwelling to that of the enlarged property.
7. The rear addition would span the full width of the dwelling with no gaps to the sides. The three repeating gable ends would have their roofridges at the same height as that of the main roof. The fully gabled form and depth would also significantly increase the perceived bulk. Due to these factors, the rear extension would result in fairly substantial additional bulk and mass. Although appreciably more modest in size, the front extension would add further bulk.
8. As a consequence, it is concluded that the scheme would result in the original building appearing disproportionately larger. The proposal therefore comprises inappropriate development in the Green Belt.

Openness of Green Belt

9. The openness of the Green Belt results from an absence of built development and is not therefore dependent on public viewpoints and can be reduced despite a dwelling being set in a large plot. If this were not the case much development could potentially take place in such locations which would undermine the fundamental aim of restraining development in the Green Belt.
10. The height, width and depth of the rear addition in particular would result in significant additional built volume and bulk. In consequence, the openness of the Green Belt would be materially reduced. It is explained in the Framework that the essential characteristics of Green Belts are their openness and permanence. As a result, significant harm would be caused to the openness of the Green Belt.

Character and appearance

11. The host dwelling is not within a Conservation Area and is not a Listed Building. Nevertheless, it has a fairly simple cottage character that has some merit. It has a traditional pattern of windows with a relatively high ratio of the area of wall to that of the openings. Given this context, the fairly large glazed areas and contemporary appearance would render the additions a somewhat alien and

unsympathetic presence. The undue dominance of the rear addition would further exacerbate the adverse effect. When looking from Vicarage Lane opposite the entrance the relatively awkward presence of the front addition would be readily apparent.

12. In consequence, the character and appearance of the host dwelling would be harmed. As a result there would be conflict with the intention of Local Plan Policy ENV5 that extensions should not significantly affect the character and appearance of the dwelling to its detriment.

Other considerations

13. The Appellant suggests that a two storey rear extension with a depth of 3m could be built using permitted development rights. However, there is no Certificate of Lawfulness to confirm this and no drawings of such a scheme. In any event, the depth would be a metre less than that of the appeal proposal, resulting in a less harmful effect on the openness of the Green Belt. For the reasons given above, I have found that the character and appearance of the host dwelling would be detrimentally affected, rather than being enhanced as the Appellant suggests.

14. In consequence, these considerations are not afforded anything other than fairly limited weight in favour of the appeal.

Conclusion

15. Harm would be caused to the Green Belt as a result of inappropriate development and a loss of openness. In accordance with Paragraph 88 of the Framework substantial weight should be afforded to this harm. As well as this there would be harm to the character and appearance of the host dwelling. Due to the limited weight attached to them, it is concluded that the other considerations raised do not clearly outweigh the harmful effect of the development. There can, in consequence, be no very special circumstances and the proposal would be contrary to the Framework policies concerning the Green Belt. There would also be conflict with the relevant development plan policies. It is therefore determined that the appeal fails.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 14 June 2017

by **J D Westbrook BSc(Hons) MSc MRTPI**

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

Decision date: 23 June 2017

Appeal Ref: APP/J1915/D/17/3173856

2a Ashdene Road, Bayford, Hertford, SG13 8PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs R Robinson against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2841/HH, dated 22 December 2016, was refused by notice dated 10 February 2017.
 - The development proposed is the replacement of 3 dormers with 1 dormer.
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Decision

1. The appeal is dismissed.

Main Issue

2. The Council's questionnaire states that the appeal site lies within the Green Belt. However, Green Belt policy was not a reason for refusal, and I do not consider that the proposal would harm the openness of the Green Belt, conflict with any of the reasons for including land within it, or represent inappropriate development in terms of Green Belt policy. On this basis, the main issue in this case is the effect of the proposed development on the character and appearance of the host property and the village of Bayford.

Reasons

3. The appeal property is a detached, chalet bungalow style property, situated within the small village of Bayford at a point close to where Ashdene Road turns to become Well Row. There is a public house opposite, a residents' car park and bus stop to the north east, and residential properties of varying styles and sizes along Ashdene Road to the south west. The dwelling has 4 identical small dormer windows in the front roof slope, all with pitched roofs and a gable front. There are an additional four dormers of similar style in the rear roof slope, and a further similar dormer in the roof slope of the detached double garage building at the northern end of the site. The proposed development would involve the replacement of three of the front facing dormers with a single long dormer. This new dormer would appear to retain the existing three windows, but with cladding between them, and a low mono-pitch roof above.
 4. The uniformity of the dormer windows across the front elevations of the dwelling and the detached garage is a significant and positive feature on the host property and in the street scene. The property is in a prominent position
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within the village and the front elevation and garage are readily visible when approaching from the south west. There are limited views from the north east, but the side elevation, with matching dormers on the front and rear roof slopes, is visible from the open grassed area at the junction of Ashdene Road and Well Row. The proposed dormer would result in an unbalanced appearance to the dwelling which, in this case, would be detrimental to the street scene.

5. The proposed replacement dormer would appear as an alien feature on the front roof slope. It would not match or complement the design or scale of the dormers across the rest of the property, and it would appear as an over-dominant feature within the roofscape and the wider streetscene. As such it would not respect the character and appearance of the existing dwelling or its surroundings, and would not represent a high standard of design. The appellant contends that the proposal would rectify poor use of existing internal space. I have some sympathy with this view, but it does not outweigh the harm to the character and appearance of the host property and its surroundings that would be caused by the proposal.
6. In conclusion, I find that the proposal would be harmful to the character and appearance of the host property and the wider streetscene in the village of Bayford. It would conflict with Policies ENV1, ENV5 and ENV6 of the Council's Local Plan Second Review, which require new development, including dormer windows, to be of a high standard of design and to be appropriate to the design, scale and character of the original building and its surroundings.

J D Westbrook

INSPECTOR

Appeal Decision

Site visit made on 13 June 2017

by **J D Westbrook BSc(Hons) MSc MRTPI**

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

Decision date: 23 June 2017

Appeal Ref: **APP/J1915/D/17/3173987**

142 North Road, Hertford, SG14 2BZ

- 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 A Warrick against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0015/HH, dated 4 January 2017, was refused by notice dated 3 March 2017.
 - The development proposed is alterations to the main roof to include hip to gables, a rear roof dormer, and raising of the ridge.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed roof alterations and roof dormer on the character and appearance of the host property and the surrounding area along North Road.

Reasons

3. No 142 is a large detached house in extensive grounds, situated on the eastern side of North Road, almost opposite to its junction with Bramfield Road. In common with most of the houses along this part of the road, it is set well back from the front boundary. The appeal property has a complex hipped roof with a front bay and small side and front dormer windows. It has tall chimney stacks at the front and rear which are a significant and clearly visible feature, given the narrow hipped nature of the main roof. It would appear to have had a long side and rear extension constructed at some time in the past, which continue the hipped roof lines and style as used in the original house.
 4. The proposed development would involve raising the height of the roof ridge by a small amount, extending the width of the roof by means of a hip to gable alteration, and the construction of a large rear dormer with a Juliet balcony.
 5. The prevailing character of the area is one of detached two-storey houses with complex hipped roofs, including dormer windows and some small gable fronts. There is a bungalow adjacent to the north, which appears to have had a relatively recent gable-to-hip side extension on its north side. The houses to the south have a similar character and appearance to the appeal property with
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complex hipped roofs, as does the large modern house to the rear of No 142. In all of these cases, along with other hipped-roof houses in the vicinity, the roof remains a relatively subtle visual element.

6. The proposed alterations at the appeal property would result in a higher and much bulkier roof with gable ends. The house would appear top heavy, out of character with its existing appearance and the appearance of the other nearby houses. Furthermore, the extended roof would effectively obscure much of the rear chimney stacks, which are currently visible from the road. The rear dormer would occupy much of the width of the extended roof slope and would dominate the rear elevation of the house. In addition, the full height windows and Juliet balcony of the dormer would be significantly out of character and alignment with the windows in the first floor beneath.
7. The appellant contends that the hip-to-gable alterations and rear dormer would normally be considered permitted development. However, this would only apply in the event that there was no increase in roof height and it is, therefore, not a consideration in this case. The appellant also notes an authorisation relating to a hip-to-gable alteration at a house nearby. In this case, however, it would appear that the authorisation related to a Certificate of Lawful Development, where the proposal would meet permitted development criteria. Finally, the appellant contends that the tall hedge at the front boundary of the property restricts the visibility of the house. This may be so, but the roof is still clearly visible from the road and especially from the junction of North Road with Bramfield Road, where it is prominent.
8. On the basis of the above, I find that the proposal would result in a dwelling with a significant top heavy appearance, due to the increase in height and scale of the roof. In addition, the proposed rear dormer would be over dominant with regard to the rear elevation, and it would not respect the window style and size in the rear elevation of the main house. I therefore conclude that the proposal would be harmful to the character and appearance of the host property and the surrounding area along North Road. It would conflict with Policies ENV1, ENV5 and ENV6 of the Council's Local Plan Second Review, which require new development, including extensions and dormer windows, to reflect local distinctiveness and to be appropriate to the design, scale and character of the original building and its surroundings.

J D Westbrook

INSPECTOR

Appeal Decisions

Site visit made on 18 May 2017

by **R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC**

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

Decision date: 7th June 2017

Appeal Ref: APP/J1915/W/17/3170717 (Appeal A)

Hunts Cottage, Munden Road, Dane End, Hertfordshire SG12 0LP

- 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 S and L Nicholson against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0051/HH, dated 17 March 2016, was refused by notice, dated 28 February 2017.
 - The development proposed is described as 'proposed single storey rear extension including courtyard area in-filled'.
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Appeal Ref: APP/J1915/Y/17/3170718 (Appeal B)

Hunts Cottage, Munden Road, Dane End, Hertfordshire SG12 0LP

- 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 Mr and Mrs S and L Nicholson against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0052/LBC, dated 17 March 2016, was refused by notice dated 28 February 2017.
 - The development proposed is described as 'proposed single storey rear extension including courtyard area in-filled'.
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Decisions

1. Both appeals are dismissed.

Procedural Matter

2. Appeal A and Appeal B relate to the same site. Whilst I have considered each proposal on its own merits, given that they have much in common, and in the interests of brevity, I have dealt with them in one document.

Main Issues

3. Whether the appeal proposals would preserve the special architectural or historic interest of Hunts Cottage, a grade II* listed building, its setting and the character and appearance of the locality.

Reasons

4. The appeal site includes a grade II* listed building, Hunts Cottage. The listing description includes its neighbour, Burnside, which together with the appeal site formed one house. Its historic core includes a timber framed hall house, of about 14th, or early 15th century origin. Notwithstanding alterations and additions, particularly at its rear where there is a small courtyard, it is possible
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to appreciate its 14th and 15th century origins, historic plan form and evolution. The simple, elongated plan form of its historic core, its prominent roof slopes and its historic fabric, contribute to its significance as a heritage asset. Its close relationship to its attached neighbour, Burnside contributes to its setting, which adds to its significance.

5. The locality generally comprises a mix of dwellings which front onto the streets, set within planted and green plots. With an abundance of trees and planting, the locality has a generally spacious and rural character and appearance. The appeal site, its distinctive historic form and its trees and planting, contribute to that character and appearance.
6. The proposed addition, even though single storey, would cumulatively be large in relation to the historic part of the appeal building and would appear out of proportion to it. It would extend the historic part of the appeal building significantly at its rear and alter its historic elongated plan form. It would diminish the existing small courtyard at its rear, which would reduce an understanding of its history and evolution. Further, it would diminish the gap between the appeal site and its neighbour, Burnside, which would erode the separation between the two, such that an appreciation of their joint history would be adversely affected. Whilst I appreciate that views of the rear of the appeal building are not fully appreciable at present, these proposals would worsen that situation. In making this judgement, I have taken into account that the rear of the appeal site is not open to public view. Whilst the removal of the existing additions would be an advantage of the appeal proposal, that does not outweigh the harm that would result.
7. Further, it would include large areas of flat roof, which would fail to relate appropriately to the prominent pitched roofs of the existing. In addition, the proposed glazed lantern would be large and modern in shape and design, such that it would appear out of place. Further, on the basis of the information before me, I am not convinced that harm to the appeal building would not be a consequence of the attachment of the proposed structure to the historic fabric. This matter adds to my concern. All in all, for all these reasons, the appeal proposals would fail to relate appropriately to the listed building and its neighbour Burnside.
8. I have found that the appeal site and the neighbouring property positively contribute to the character and appearance of the locality. It follows, therefore, that in causing harm to those listed buildings, the appeal proposals would result in harm to the character and appearance of the locality. I consider that conditions attached to the relevant permission and consent could not overcome my concerns.
9. In making these judgements, I have had regard to the additions approved at the adjoining property, Burnside. I have limited information on this matter, but from that before me I note that those proposals relate to the original plan form of that building, with a succession of small pitched roof additions and do not result in the same harm as the appeals would.
10. I conclude that the appeal proposals would fail to preserve special architectural or historic interest of the listed building and its setting and adversely affect the character and appearance of the locality. The appeals would therefore be contrary to the East Herts Local Plan Second Review (2007) Policies ENV1, ENV5, and ENV6. Those policies, together, aim for a high standard of design