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Inspectorate

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Development Control
East Hertfordshire District Council
Development Control
Wallfields
Pegs Lane
Hertford
SG13 8EQ

Your Ref: 3/16/1877/OUT
Our Ref: APP/J1915/W/16/3164362

08 November 2017

Dear Development Control,

Town and Country Planning Act 1990
Appeal by Hertingfordbury Land Ltd
Site Address: Former Brickworks Off Cole Green Way, Hertford, Hertfordshire,
SG14 2LF

I enclose for your information a copy of an email received withdrawing the above appeal.

I confirm no further action will be taken and the case closed.

Any event arrangements made for the appeal will be cancelled.

Yours sincerely,

Leanne Palmer

Leanne Palmer

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search

Appeal Decision

Site visit made on 20 October 2017

by **Timothy C King BA(Hons) MRTPI**

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

Decision date: 13 November 2017

Appeal Ref: APP/J1915/W/17/3178038

1 Maple Close, Bishop's Stortford, CM23 2RS

- 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 Knipe against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0401/FUL, dated 14 February 2017, was refused by notice dated 28 April 2017.
 - The development proposed is described as '*Demolition of existing house and erection of detached replacement dwelling – revised scheme*'.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing house and erection of a detached replacement dwelling at 1 Maple Close, Bishop's Stortford, CM23 2RS, in accordance with the terms of the application Ref 3/17/0401/FUL, dated 14 February 2017, subject to the attached schedule of conditions.

Preliminary Matter

2. I note that the proposal was submitted following revisions made to a previous scheme refused planning permission by the Council, and this is reflected in the appellant's description of the development. Nonetheless, I am required to assess the new scheme on its own merits and impacts, and to reach my decision, accordingly. Consistent with this, in allowing the appeal and granting planning permission for the proposed development, I have removed the wording 'revised scheme' from its description.

Main Issues

3. The main issues are:
 - 1) the proposal's effect on the character and appearance of the surrounding area, including the setting of the Bishop's Stortford Conservation Area; and
 - 2) the effect on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

4. Although the site itself does not fall within a conservation area, it does lie close to the designated Bishop's Stortford Conservation Area and, accordingly, I have had regard to paragraph 129 of the National Planning Policy Framework (the

Framework) which refers to development affecting the setting of a heritage asset. Although the Conservation Area's boundary lies immediately east of the appeal site, due to screening by way of heavy verdure there is an effective demarcation from Maple Close and also from its spur, off which the appeal site lies. In the circumstances I find that there would be no significant impact on the setting of the Conservation Area.

5. The appeal site comprises a vacant, post-war dwelling set within a generous curtilage. The spur drops down from the main part of Maple Close to the north. Immediately to the south, and on a lower ground level, lies No 2 which unlike the existing dwelling at No 1, sits at right angles to the common driveway whist, northwards, the nearest dwellings are the close knit properties (Nos 4, 5 and 6) on the opposite side of Maple Close. Given the change in land levels, and the neighbouring dwellings being of different designs and settings, I find that there is no distinct residential character in the immediate area.
6. In such circumstances I turn to the size and scale of the proposed replacement dwelling relative to its curtilage. The new dwelling would be markedly larger than that currently in situ and the proposed footprint would be set further into the site, close to its eastern boundary. However, the curtilage would still remain spacious relative to the footprint and I note that Nos 2 and 3, beyond, also have generous curtilages relative to their respective footprints and different footprint configurations within.
7. With these three properties having little in common with the cluster of dwellings on higher land to the north I find that the character and appearance of the surrounding area would remain largely unaffected by the proposed development. Indeed, due to the topography and with appropriate landscaping and planting any such impact would be reduced further.
8. On this main issue I conclude that the proposal would not be harmful to the character and appearance of the surrounding area nor the setting of the Bishop's Stortford Conservation Area, beyond. As such, there would be no material conflict with the design objectives of Policies ENV1, HSG7 or BH6 of the East Herts Local Plan Second Review (LP).

Living conditions

9. I note the various letters of objection from interested parties relating to the considered impact from the development on the occupiers' enjoyment of their neighbouring properties. However, in this connection, although the Council's reason for refusal in its decision notice indicates the proposed dwelling's considered over-dominance and obtrusiveness in relation to neighbouring dwellings, this does not reflect the tenor of the case report's assessment.
10. In the case report, which draws comparisons between the current proposal and a previous scheme that was similarly refused planning permission, it is indicated that the degree of impact upon the amenities of neighbouring occupiers would not be unacceptable. In particular, it is mentioned that the previous concerns raised in respect of an overbearing impact upon 2 Maple Close have, by way of revisions made, been sufficiently overcome.
11. The apparent inconsistency could be in view of the Council maintaining its objection on character and appearance grounds and the two separate issues overlapping, but I have had regard to the neighbours' representations and have

afforded them a degree of weight. In this respect I have had consideration to the intention that the land levels be reduced and that the roof height would be roughly comparable to that of the existing dwelling. In particular, I consider that this measure would serve to mitigate any adverse impacts on No 2 which has the most direct relationship with the appeal site.

12. Taking into account landscaping and proposed boundary screening which would ensure that the privacies of neighbouring occupiers are safeguarded at lower levels, and that the windows in the roofspace would be of the high level velux type, I have paid particular attention to possible intrusiveness at first floor level. I note that the dwelling's main aspect would be to the north whereby its marked set back from the street and significantly lower ground level would not allow for the potential overlooking of the properties on the north side of Maple Close.
13. The rear aspect, facing towards No 2, shows only small windows to non-habitable rooms at first floor level which, along with the distances between facing elevations, are factors that I have taken into account. Although there are bedroom windows to both flanks I am mindful of the distances involved and the angles involved to neighbouring properties orientated thereto which, together, would ensure that no significant adverse impact would arise.
14. In the circumstances I find that the proposed development would relate satisfactorily to the surrounding occupiers. I note also that certain neighbours have raised concerns on traffic grounds. On site parking would be provided to the front of the dwelling, directly off Maple Close, rather than the current arrangement. To this end, and with the consideration that traffic generation from the development would be limited, the local highway authority have raised no objections to the proposal. Also, during the construction period an appropriate Management Plan, which can be secured by planning condition, would be in place to minimise disruption.
15. On this main issue I conclude that the proposal would not be harmful to the living conditions of neighbouring occupiers and there would be no material conflict with the aims of LP Policies ENV1 and HSG7 in this regard.

Conclusion and Conditions

16. I have not found harm on either main issue. Accordingly, for the above reasons, and having had regard to all matters raised, the appeal succeeds.
17. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have made certain amendments for clarity and to eliminate duplication.
18. Certain pre-commencement conditions are imposed to require submission and approval of aspects of the development that are not fully described in the application.
19. In addition to the standard 3 year time limitation condition for commencement, in the interests of certainty I have imposed a condition requiring that the development be carried out in accordance with the submitted plans. Conditions to secure appropriate external finishing materials, landscaping and planting measures, appropriate and effective boundary treatment and the satisfactory discharge of surface water are necessary in the interests of amenity and the character and appearance of the area.

20. Finally, the Council has suggested that a condition restricting permitted development entitlement should be imposed. Given the scope of such and the possible risk to the occupiers of No 2, in particular, in this regard I agree with this approach and consider this restriction both necessary and reasonable in the circumstances. Accordingly, any future extension to the dwelling potentially covered under Schedule 2, Part 1, Classes A and B of the Town and Country Planning (General Permitted Development) Order 2015 would, instead, be the subject of a formal planning application to allow for objective assessment.

Timothy C King

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Drawings Nos 12209-LP001-A, 12209-S001, 12209-S002, 12209-P003-K, 12209-P004-N and 12209-P005-L.
- 3) No development shall take place until samples of the external materials to be used for the construction of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of both hard and soft landscape works, have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved within the first planting season following the substantial completion of the development and retained in accordance with the approved details. If within a period of 5 years from the date of planting of any tree or shrub shown on the approved landscaping plan, that tree or shrub, or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted in the immediate vicinity.
- 5) No development shall commence until details of the means of disposal of surface water from the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) The dwelling shall not be occupied until full details of boundary enclosures have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with these details.
- 7) No development shall take place until a construction management plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of how demolition and construction traffic, vehicular access to the site, parking and manoeuvring, materials storage, and facilities for operatives will be accommodated during the development. The development shall be carried out in accordance with the approved CMP.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement of the dwellinghouse under Schedule 2, Part 1, Class A shall take place, or any additions or alterations to the dwelling's roof under Class B thereto shall be erected.

Appeal Decision

Site visit made on 13 November 2017

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

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

Decision date: 17th November 2017

Appeal Ref: APP/J1915/D/17/3180016
98 Tamworth Road, Hertford, SG13 7DN

- 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 Richard Smith against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0555/HH, dated 5 March 2017, was refused by notice dated 28 April 2017.
 - The development proposed on the application form is the construction of a two storey side and rear extension incorporating an extended pitch roof (to match) in yellow stock brickwork to match existing.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. My determination of this appeal is against the saved policies of the Local Plan¹. However, the Council's case officer report also makes reference to a number of policies from the emerging District Plan². Although at an advanced stage of preparation, this document has not yet been fully assessed following examination. Given the uncertainties regarding the outcome of that process, I have given the emerging District Plan limited weight and in any event, policies DES3 and HOU11 would not have altered my conclusions.

Main issues

3. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are considered to be whether the development proposed would:
 - preserve or enhance the character or appearance of the conservation area
 - living conditions, with particular regard to the impact upon No 96 Tamworth Road.

Reasons

4. The appeal site lies within the Hertford Conservation Area³ and contains an early 20th Century 2-storey semi-detached house, which is characterised by its

¹ East Herts Local Plan Second Review, April 2007

² East Herts District Plan, Pre-Submission Consultation 2016, November 2016

³ Hertford Conservation Area Appraisal, adopted April 2017

- yellow brick walls with red-brick banding, slate roof, prominent chimney, unusual side entrance and subservient 2-storey rear outrigger.
5. The area surrounding the appeal site on the southern side of Tamworth Road is characterised by a row of 2-storey semi-detached dwellings that match the design of the appeal property and follow the same consistent building line. The opposite side of the road contains modern 2 and 3-storey housing.
 6. The 2-storey side and rear extension would substantially extend the width and depth of the outrigger so that it is flush with the side elevation of the front part of the house. Despite using similar facing-wall materials, this would result in the enlarged outrigger dominating the house and obliterating the visual separation that currently exists between it and the front part of the dwelling which contributes to its subservient appearance. The proposed flat roof above the side extension would also result in the creation on an unsightly juxtaposition between it and the existing pitched roof, which would as a consequence erode the overall integrity of the dwelling. The use of uPVC windows, despite matching those on the existing dwelling, would further harm the character and appearance of the building, which would have originally been fitted with timber sash windows.
 7. Although the extension would not be clearly visible from the public highway at the front of the site, it would nonetheless cause harm to the character and appearance of the dwelling and the conservation area, the latter of which extends to the front and rear of the property.
 8. The height and depth of the rear extension and its position adjacent to the dividing boundary line with No 96 would result in it appearing extremely visually intrusive and overbearing to the occupants of this neighbouring dwelling. Furthermore, by reason of its mass, position, proximity and orientation, it would also result in a significant loss of outlook and light to this property's conservatory.
 9. The appellant has drawn my attention to a number of other extensions, but these are not directly comparable to current proposal in terms of design and scale. I am also not aware of the particular circumstances where planning permission was granted for these and in any event, I must consider the appeal scheme on its own merits. The existence of these other developments does not therefore justify the harm I have identified.
 10. In view of the above, I have concluded that the development would be harmful to; (a) the living conditions of the occupants of No 96 Tamworth Road; and (b) the character and appearance of the existing dwellinghouse and conservation area. As a consequence, it would also fail to preserve or enhance the character and appearance of the conservation area⁴. The scheme would therefore conflict with Policies ENV1, ENV5, ENV6 and BH5 of the Local Plan which seek to ensure that new development respects the amenities of neighbouring occupiers and is of a high quality design that is sympathetic to the special characteristics of conservation areas.
 11. Although the proposal would be harmful to the character and appearance of the conservation area, I would consider this to be less than substantial because of

⁴ S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

the extension's more obscure position, which would reduce the development's overall effect on the significance of the designated heritage asset.

12. I have accordingly assessed the scheme against paragraph 134 of The Framework⁵, which states that when a development leads to less than substantial harm to the significance of a designated heritage asset, this should be weighed against the public benefits of the proposal.
13. I have concluded that the modest amount of benefit associated with the development, namely enhanced living accommodation, would not outweigh the harm identified to the significance of the conservation area as a designated heritage asset.

Conclusion

14. No public benefits of the proposal have been found that outweigh the harm that would be caused to the significance of the conservation area and the living conditions of neighbouring occupiers, and the failure to preserve or enhance the character or appearance of the conservation area. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR

⁵ National Planning Policy Framework, Communities and Local Government, March 2012.

Appeal Decision

Site visit made on 25 October 2017

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

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

Decision date: 9th November 2017

Appeal Ref: APP/J1915/W/17/3177792

10A Southmill Road, Bishop's Stortford, Hertfordshire CM23 3DP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Shirley Watson against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0652/FUL, dated 10 March 2017, was refused by notice dated 10 May 2017.
 - The development proposed is demolition of existing industrial building and erection of a 1 bedroom dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing industrial building and erection of a 1 bedroom dwelling at 10A Southmill Road, Bishop's Stortford, Hertfordshire CM23 3DP in accordance with the terms of the application, Ref 3/17/0652/FUL, dated 10 March 2017, subject to the attached schedule of 6 conditions.

Main Issues

2. The main issues in this appeal are:
 - whether the proposal would conflict with local plan policy that is designed to retain land for employment purposes;
 - whether the proposal would provide appropriate living conditions for future occupiers, with regard to external amenity space, light and outlook, and for neighbouring occupiers of 8 Southmill Road, with regard to privacy, noise, light pollution, and outlook; and
 - whether the proposal would be compatible with the character and appearance of the surrounding area.

Reasons

Employment Use

3. The existing single-storey brick building and 2 adjacent timber sheds at the appeal site are accessed via a grassed track between houses at 10 and 12 Southmill Road. I observed on my site visit that the roof of the brick building has been subject to repair using tarpaulin and timber battens. Despite roof repairs, the interior of the building is also in poor condition and is being used to store fencing and other construction materials. The external walls largely lack

their original render and the pointing of the brickwork has also been subject to significant erosion. The single-glazed timber windows and the external doors are also in a state of disrepair. I inspected the 2 sheds from outside and from their entrances as neither building was in a safe condition to enter. One has suffered a collapsed roof while the other is in very poor condition.

4. The proposed development would effectively involve the change of use of the appeal site from employment use to residential use. Criterion (a) of policy EDE2 of the East Herts Local Plan Second Review (2007) (the Local Plan) requires evidence to show that the retention of an existing employment site or premises for employment use has been explored fully without success before loss of the employment site will be permitted. However, while the Council encourages retention of existing employment sites or those that were last in employment use at paragraph 6.7.3 of the Local Plan, neither the policy nor its supporting text indicates what form any assessment of the retention of a site or premises should take.
5. Since the premises on the appeal site became vacant in 2008, a number of planning applications have been submitted, including an approved scheme for a replacement commercial building in 2014¹; a refused scheme for a 2 bedroom residential unit in 2016; and the residential scheme subject to this appeal. The potential commercial tenant is no longer interested in occupying the site and the 2014 planning permission lapsed in August 2017.
6. When the application subject to this appeal was made in March 2017, the applicant provided a surveyor's report which confirmed that the condition of the buildings prevented the site from being let; that the access, parking and servicing was too restricted for effective commercial use; and that any prospective tenants would need to respect the close proximity of residential properties. Furthermore, the report provided information on the availability of B1(c) employment space which indicated that there was a reasonable level of unit availability locally. The report determined that the building would need to be rebuilt in order to allow for future commercial use, but that the potential rental income after rebuilding would not render redevelopment of the site for commercial use financially viable.
7. The Council concluded that there was not sufficient evidence that retention of the employment use had been fully explored as it was not sufficiently clear that the building could not be reused following some improvement works. As part of the appeal documentation, the appellant submitted a Building Report (May 2017), which assessed the condition of the buildings and the necessary works required to bring them back into commercial use. I consider that the surveyor's report and the Building Report satisfactorily demonstrate that the retention of the site or premises for employment use is not economically viable. While no marketing exercise has been undertaken by the appellant, this is not a requirement of policy EDE2 of the Local Plan. Although the Council has referred to the requirement for marketing in policy ED1 of the pre-submission East Herts District Plan, this plan has been submitted for examination and has not yet been adopted. I consequently give policy ED1 very limited weight in this instance.

¹ 3/14/0961/FP

8. Concluding on this main issue, I consider that the proposed development would comply with the requirements of policy EDE2 of the Local Plan in relation to employment sites.

Living conditions

9. The proposed development would involve the demolition of the existing buildings on the site, which approximately form a U shape, and their replacement with one slightly taller single-storey building comprising a one-bedroom residential unit. In seeking to address the restricted size of the plot and proximity of surrounding residential gardens, the form and layout of the proposed building would largely replicate that of the existing buildings on the appeal site and the lapsed 2014 planning permission. Accordingly, the main rooms of the proposed development would look onto a courtyard in the middle of the proposed development.
10. The courtyard would form the external amenity space for the proposed development and would be accessed from the patio doors serving the living area. No specific minimum standards for external amenity space have been provided by the Council. However, I consider that the courtyard would offer sufficient external space to allow future occupiers of this modest dwelling to undertake such activities as sitting outside or drying washing in reasonable comfort and privacy.
11. With regard to light, while the courtyard would be north-facing, the existing boundary fence between No 8 and the appeal site does not significantly block light from entering this space as I noted on my mid-morning site visit. The proposed boundary wall would be no higher than the fence it would replace. The kitchen, bedroom and living area would have full height patio doors or windows facing the courtyard in order to allow natural light to enter the rooms. In addition, the living area would have 3 tall windows on the southern elevation and the bedroom would have a rooflight. I consider therefore that the proposed development would benefit from sufficient natural light.
12. Turning to outlook, the south-facing windows of the living area would adjoin the access driveway and the brick boundary wall serving No 12's rear garden beyond. Other openings to habitable rooms would overlook the landscaped courtyard enclosed by the boundary wall with No 8. Given the site-specific circumstances of this small infill site, I consider that the outlook from the rooms and courtyard would be satisfactory.
13. Concerns have been raised with regard to the effect of the proposed development on the living conditions of occupiers of No 8. The proposed boundary treatment and the layout of the proposed development with two wings of the building facing one another would block direct views from the proposed development towards the rear of No 8, reducing any potential for overlooking. Given the height and layout of the proposed single-storey building, the provision of a one-bedroom residential unit on the appeal site would not have a significant adverse effect on the living conditions of the neighbouring occupiers at No 8 in terms of their privacy. In addition, any noise or light pollution from the proposed development would not be sufficiently harmful to warrant dismissing the proposal. While the neighbours' outlook would change as a result of the proposed development, given the presence of the existing buildings on the appeal site, I consider that this would be acceptable.

14. For these reasons, I conclude that the proposed development would provide appropriate living conditions for future occupiers of the proposed development and the neighbouring occupiers at No 8. It would therefore be compliant with policies ENV1 and EDE2 of the Local Plan, which require the amenity of neighbouring occupiers to be respected. Policy ENV1 also requires, amongst other things, new development to respect the amenity of future occupiers. These policies are consistent with one of the core planning principles of the National Planning Policy Framework (the Framework) which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

15. The appeal site lies to the rear of residential properties on Southmill Road, Kimberley Close and South Road. Southmill Road itself is home to a large industrial estate and a mixed-use complex of former malthouses. Beyond these uses close to the junction of Southmill Road with South Road, the area is largely residential and has a mix of early 20th century two-storey terraced, semi-detached and detached houses and new-build residential development. The plot sizes of residential properties on Southmill Road, Kimberley Close and South Road vary, with a number of houses within the adjacent group of new-build houses at 7 – 17a South Road having particularly small gardens relative to the older neighbouring houses.

16. Although the proposed development would have less external amenity space than neighbouring residential properties, the appeal site and its existing buildings and yard space differ distinctly in nature and layout from surrounding residential properties. It is evident from the historic maps provided by the appellant that the main building has been present on the appeal site since at least 1939, pre-dating a number of nearby houses and their gardens.

17. Despite the appeal site and its yard having not been in active commercial use since 2008, the Council approved a very similar commercial development and yard area on the site in 2014. Although this permission has lapsed, the development was considered against the same Local Plan policies as the appeal proposal and involved a similar design, layout and yard area as the existing site. Although the current proposal is for residential rather than commercial development, the pattern and grain would not be significantly different to that of the existing buildings and yard on the site or the 2014 planning permission.

18. Concluding on this main issue, I consider that the proposed development would not cause harm to the character and appearance of the surrounding area. It would therefore be compliant with policies HSG7 and ENV1 of the Local Plan, which, amongst other things, require development to have regard to the character of the local built environment and the pattern of streets, buildings, and open spaces. It would also comply with paragraph 58 of the Framework which, amongst other things, requires development to respond to local character and history, and reflect the identity of local surroundings and materials.

Other Matters

19. Although I acknowledge the concerns about the potential effect on the holly tree within the neighbouring garden at No 8, the evidence is limited as to whether there would be any substantive effect on the tree. In addition, the

neighbour's concerns about maintenance of the proposed development's side boundary with No 8 and the potential effect on property values are not planning matters.

20. Furthermore, while the proposed development would allow for the use of the access driveway to reach the one car parking space associated with the proposed residential unit, I concur with the Highways Authority's view that traffic generation related to the proposed development is unlikely to be significant. The track is wide enough for a car to drive up, but it would be difficult for larger vehicles to service the site directly. There is on-street parking adjacent to the access driveway on the same side of Southmill Road, which would further limit the ability of larger vehicles to turn into the access driveway. I therefore consider the access, parking and servicing arrangements are satisfactory for the proposed development and would be compliant with criterion (c) of policy EDE2 of the Local Plan, which requires satisfactory access, parking and servicing arrangements.

Conclusion

21. For the reasons set out above, and having taken into account all other matters raised, I conclude that the appeal should be allowed.

Conditions

22. It is necessary to specify conditions confirming the approved plans to ensure certainty and require approval of the materials and landscaping for the proposed development in the interests of visual amenity. The Council's suggested conditions for landscaping have been amalgamated.
23. A ground remediation condition is also suggested. The appellant has submitted a detailed contaminated land report and has asked for the suggested condition to be split, with a pre-commencement condition and a further condition addressing requirements prior to occupation of the dwelling. I consider this reasonable.
24. Materials and landscaping details do not need to be submitted prior to commencement of development as they are not necessary to prevent ground preparation works from taking place. However, condition 5 is a pre-commencement condition as it involves elements that need to be addressed before demolition and construction works begin.

J Gilbert

INSPECTOR

Schedule of 6 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: 668/001; 668/002; 787/01; and 787/2.
- 3) Prior to the construction of the dwelling, details of the materials to be used in the construction of the external surfaces shall be submitted to and approved in

writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 4) Prior to the occupation of the dwelling, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;
 - ii) hard surfacing materials;
 - iii) soft landscaping, including planting plans with schedules of plant species, plant sizes and proposed planting numbers/densities; written specifications (including cultivation and other operations associated with plant and grass establishment) and a programme of implementation.

The hard and soft landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. The hard and soft landscaping shall be retained on site thereafter. Any trees or plants which die, become seriously damaged or diseased, or are removed, within a period of 5 years from planting, shall be replaced in the next planting season with others of similar size and species.

- 5) Prior to the commencement of development, a verification plan specifying the measures to be taken to remediate the site to ensure that any contamination found to be present will be removed or rendered harmless shall be submitted to and approved in writing by the local planning authority. The site shall then be remediated in accordance with the approved measures. If, during the course of construction, any contamination is found which has not been identified previously in the verification plan, no further development shall take place until that contamination has been removed or rendered harmless, in accordance with additional measures to be submitted to and approved in writing by the local planning authority.
- 6) Prior to the occupation of the dwelling, a verification report shall be submitted to and approved in writing by the local planning authority to demonstrate compliance with the approved verification plan and any additional measures subsequently agreed in writing by the local planning authority with reference to previously unidentified contamination.

Appeal Decision

Site visit made on 20 October 2017

by **Timothy C King BA(Hons) MRTPI**

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

Decision date: 13 November 2017

Appeal Ref: APP/J1915/W/17/3178674

The Causeway, Brent Pelham, Herts SG9 0HW

- 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 Major & Mrs Barclay against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0658/FUL, dated 15 March 2017, was refused by notice dated 17 May 2017.
 - The development proposed is described as '*Construction of a mixed scheme of 6 dwellings*'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - 1) Whether it would be a sustainable form of development having regard to the National Planning Policy Framework (the Framework); and
 - 2) The effect of the development on the character and appearance of the surrounding area, with regard to its rural area siting.

Reasons

Sustainable form of development

3. The village of Brent Pelham is one of the settlements where Policy GBC3 of the East Herts Local Plan Second Review allows only specific types of development, and where new residential development is considered unacceptable. The Council, however, is unable to demonstrate a five year supply of housing land and, in such instances, paragraph 49 of the Framework states that policies concerned with the supply of housing should not be considered up to date.
4. I note that the Council's Local Plan (LP) was adopted some five years prior to the publication of the Framework. LP Policy GBC3 impacts directly on housing supply and, given the circumstances, I consider that it carries reduced weight. In such instances paragraph 14 of the Framework, which states that planning permission should be granted for development unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits, comes into play.

5. Whilst I note that Brent Pelham has few facilities it is, though, an established settlement. The proposed development would be sited adjacent to Owlitts Cottages, a row of bungalows, and directly opposite a series of houses slightly set back from The Causeway. In the circumstances, although the proposal could be described as a form of ribbon development, it would effectively 'square off' the envelope of the village. It would not, therefore, constitute isolated residential development in the countryside, which should be avoided.
6. I have had regard to the Council's point that the East Herts Village Hierarchy Study of 2016 Brent Pelham scored very low relatively against sustainability criteria. There is only a limited bus service and residents must largely rely on private vehicles for most of their daily needs. Nonetheless, paragraph 55 of the Framework actively promotes housing in rural communities where it would support the local economy, particularly in cases where amenities are shared between local villages such as is the case here.
7. The concept of sustainable development has three dimensions; economic, social and environmental and I consider that the proposed development of six new dwellings, of mixed size, would provide both local economic and social benefits. Environmental issues aside, which I address in the second main issue, given the above factors I consider that the principle of the proposal is not without merit. Whilst the development would add to the level of car dependency within the village I note that the local highway authority has not raised objections, subject to the imposition of appropriate planning conditions.
8. I therefore conclude that any harm arising from reliance on the car would not be so significant as to outweigh the benefits of providing additional dwellings in this particular area of the village, when considered against the Framework as a whole.

Character and appearance

9. LP Policy ENV1 requires that new development should complement the existing grain and, amongst other things, proposals for such should show that consideration has been given to the impact of any loss of open land on the character and appearance of the locality. Policy ENV2 takes this further in mentioning that development proposals will be expected to retain and enhance existing landscape features, and requires for the submission of detailed surveys of landscape features.
10. The appeal site is in an open location and the land levels rise gently, but progressively, into the site from the highway boundary. The development of this site, in the manner proposed, would therefore have significant visual prominence. However, save for some limited illustrative material in the submitted Design and Access Statement, which also involves sketch perspectives, there is little detail provided to support the proposal in this regard. The conclusions and recommendations of the appellant's 'Preliminary Ecological Appraisal' are somewhat scant and I note the absence of any comprehensive tree survey and arboricultural assessment to support the scheme.
11. The appellant feels that these are matters which can be left to the submission of details by way of conditions attached to a planning permission. However, in the circumstances, and given that the proposal would involve excavation of the

bank, I share the Council's view that without fuller details at this stage the impacts of the proposal cannot be properly assessed.

12. In the absence of compelling information to suggest otherwise I conclude that the proposal would be harmful to the character and appearance of the surrounding area, contrary to the aims and requirements of LP Policy ENV1.

Other matter

13. Both main parties refer to a recent successful appeal involving the proposed development of a new single dwelling at a nearby site on The Causeway. Although this related to a piece of infill land, smaller than the current appeal site, given its proximity there are certain similarities between that case and this one. I have, nevertheless, considered this appeal on an individual basis.

Conclusion

14. Whilst I have found in favour of the development on the first main issue this is outweighed by the potential resultant harm to this rural area siting. For the above reasons, and having had regard to all matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR