

Appeal Decisions

Site visit made on 13 February 2018

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2018

Appeal A Ref: APP/J1915/W/17/3183134 Rigery Farm, Colliers End, Ware, SG11 1EP

- 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 Clive Martin against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0691/HH, dated 6 March 2017, was refused by notice dated 20 June 2017.
 - The development proposed is two storey rear and side extensions.
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Appeal B Ref: APP/J1915/Y/17/3183136 Rigery Farm, Colliers End, Ware, SG11 1EP

- 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 Clive Martin against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0692/LBC, dated 6 March 2017, was refused by notice dated 20 June 2017.
 - The works proposed are two storey rear and side extensions.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Procedural Matters

3. I have taken the description of the development and works from the appeal form, as this is more precise than the description given in the original application form.
4. The two appeals concern the same scheme under different, complementary legislation. I have dealt with both appeals together in my reasoning.

Main Issues

5. I consider that the main issues in this case are:
 - (a) whether the proposed works and development would preserve the grade II listed building or any features of special architectural or historic interest that it possesses (Appeals A and B);

- (b) the effect of the proposed development upon the rural character and appearance of the area (Appeal A); and,
- (c) the effect of the proposals upon protected species (Appeal A).

Reasons

Listed Buildings

6. Rigery Farm House is a grade II listed building which dates from at least the 16th Century, with 17th and 20th Century additions. The building is timber framed with a decorative pargeting finish, and a plain tiled roof. The oldest part of the building was altered during the 17th Century with the insertion of a central chimney, and the addition of a first floor and dormer windows. A taller southern wing was also added with a jettied gable end to the southern elevation during this period.
7. The building was much altered c1975 with repairs to the gabled jettied south end, removal of a service wing and the erection of a large extension to the west, at right angles to the historic part of the building. The windows also appear to date from this time. A conservatory and rear porch were also added later to the building.
8. Limited analysis regarding the significance of the dwelling has been provided by either party. However, based on the evidence before me as well as observations made at my site visit, I consider that the significance of the building is derived from its historic interest as a modest 16th Century former medieval open hall with later 17th Century alterations and additions. It also has architectural significance as a timber framed building. Details such as the large brackets to the jetty, the tall brick diagonal chimney, and pargeting enrich its interest in this regard.
9. The proposed extension has been designed to emulate the old parts of the building, and would form a new western wing which would mirror the 16th and 17th Century parts of the dwelling when viewed from the north and south elevations in terms of height, roof form and fenestration. Materials will match the existing. The main entrance of the property would be relocated centrally to the northern elevation, to the modern extension. To the southern elevation, the existing conservatory would be demolished and a central 2-storey projecting gable would be erected in its place, again, matching the existing form of the building.
10. No physical alterations are proposed to the 16th and 17th Century parts of the building and no actual historic fabric would be affected. However, the existing modern extension is a sizable addition to what was a relatively modest building. The extensions now proposed as part of this appeal would entail yet more additions and a significant re-ordering of the overall form of the building, transforming its character.
11. Specifically, due to their size, the extensions would appear as large and dominant additions. The new western wing would seek to match the exact form of the oldest parts of the buildings, including in terms of height and stepped roof arrangement. Jetties would also be included to the southern elevation of both the new western wing as well as the central gabled extension.

12. Accordingly, the works would create symmetry and balance to a once modest farmhouse, which has evolved in an organic and informal manner. Rather than improving the appearance of the host property and enhance the architectural quality of the 16th and 17th Century parts, in my view, to the casual observer, it would be difficult to distinguish the phases of the building.
13. The resultant scale, form and formality of the farmhouse would create a false impression of the status and origins of the building which would substantially undermine and diminish the experience and understanding of the listed building as a whole. Overall, I consider that the works would be highly insensitive and intrusive and would cause harm to the architectural form and historic character of the host building.
14. In terms of the National Planning Policy Framework (the Framework) I would quantify the harm caused to the significance of the asset as less than substantial. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal.
15. It is argued that the development and works would secure the future for the heritage asset but that could be said of any development, however harmful. I note that the property is situated within ample grounds, and does not operate as a farm and as such draws no income on this basis.
16. However, I do not accept that the house needs to be substantial enough to appeal to future owners with the means to maintain the heritage asset and its lands. The property is in good condition and is well maintained. I also have no evidence to suggest that the scale of the property would be prohibitive to any future interest or management. I consider that any benefits relating to the enlargement of the dwelling would be largely private, relating to the enjoyment of the house by its occupants.
17. It is claimed that the Framework states that permission should only be refused where a development would lead to substantial harm to a heritage asset. However, the overarching statutory duty imposed by s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies even where the harm to heritage assets is found to be less than substantial. The courts have also confirmed that less than substantial harm does not equate to a less than substantial planning objection.¹
18. Overall, I therefore find that there would be insufficient public benefit to offset the identified harm. Taking into account the particular circumstances and having carefully considered all the evidence, I therefore conclude that the works would fail to preserve the special architectural and historic interest of the grade II listed building. The development and works also fail to accord with the Framework which gives great weight to heritage assets, and seeks to conserve assets in a manner appropriate to their significance.
19. No development plan policy has been cited by the Council in their decision notices in respect of this matter, nonetheless in concluding against the

¹ Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137.

Framework, and in light of the statutory duties imposed, a lack of such reference does not support the appellants case for the development.

Character and Appearance

20. Saved policy GBC3 of the East Herts Local Plan Second Review 2007 (LP) supports limited extensions to dwellings in accordance with Policy ENV5 in rural areas beyond the Green Belt. Policy ENV5 requires extensions will expected to be of a scale and size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling or intrude into the openness of the surrounding area. The purpose of these policies is to protect rural character. Policy ENV1 seeks to secure high levels of design and quality, and sets out a number of criteria in this regard.
21. The Framework defines an original building as a building as it existed on 1 July 1948. The plan does not define what would constitute an original dwelling or a disproportionate extension, and each application must be assessed upon its own merits.
22. The property has already benefitted from a number of relatively generous extensions. Including the current proposals subject to this appeal, there would be a 232% increase in terms of footprint or floor area from the original dwelling. Even taking into account the scale of the building without excluding the previous extensions, the proposals would effectively double the size of the building as it exists today.
23. On this basis, I consider that the proposed development cannot reasonably be considered as anything other than a disproportionate addition over and above the size of the original building.
24. Again, I accept that the dwelling is set in large grounds, and the property is isolated from other neighbouring properties. I also note that the area to be developed is currently hardstanding. However, the transformation of a relatively modest rural dwelling into a substantial building would, in my view, have an urbanising effect. This would cause harm to rural character and appearance, in addition to the harm to the listed building identified above.
25. I therefore conclude on this matter that the development would fail to protect the character and appearance of the area. The proposals would therefore fail to accord with LP Policies GBC3, ENV5 and ENV1.

Protected Species

26. The Council are concerned regarding a lack of assessment in respect of bats, due to the age of the building and its rural location.
27. I note that no such information was formally requested by the Council during the course of the application. However, Planning Practice Guidance is clear that information on biodiversity is required to support all stages of the application and states that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.² In light of the age of the building, its rural location and the presence of a number of outbuildings in proximity to the dwelling, I consider

² Paragraph: 016 Reference ID: 8-016-20140612

that there is a reasonable likelihood of bats, as a protected species, being present at the site which could potentially be affected by development

28. I accept that there may be cases where it would be appropriate to deal with such matters by condition, but given the potential for such species within the site and in adopting the precautionary principle enshrined in the Habitats Regulations, I consider that it needs to be clearly demonstrated why the proposed development would not have a detrimental effect on the local habitat at this stage.
29. Without any evidence to the contrary, I therefore conclude that the proposed development would be in conflict with saved LP Policy ENV16 which states that development which may have an adverse effect on protected species will not be permitted.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, I conclude that both of the appeals should be dismissed.

C Searson

INSPECTOR

Appeal Decision

Site visit made on 24 January 2018

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

an Inspector appointed by the Secretary of State

Decision date: 16th February 2018

Appeal Ref: APP/J1915/W/17/3184877

Land at Gosmore Paddock, Benington SG2 7DD.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Philip and Jane Newton against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1145/OUT, dated 15 May 2017, was refused by notice dated 13 September 2017.
 - The development proposed is outline planning application for the development of up to 13 dwellings including associated access.
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Decision

1. The appeal is allowed and outline planning permission is granted for outline planning application for the development of up to 13 dwellings including associated access at Land at Gosmore Paddock, Benington SG2 7DD in accordance with the terms of the application, Ref 3/17/1145/OUT, dated 15 May 2017, subject to the attached schedule of 15 conditions.

Preliminary Matters

2. The application form indicates all matters of detail, apart from access, are reserved for future determination. Although matters of appearance, layout, landscaping and scale are not formally submitted for determination, the submission is accompanied by illustrative details to which I have had regard.
3. The appellants have submitted a planning obligation by Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990 (as amended). The Unilateral Undertaking was signed and executed as a deed dated 12 January 2018.
4. The Council has referred to policies INT1, DPS2, DES1, DES2 and DEL2 of the Pre-Submission East Herts District Plan (2016) (the emerging Local Plan) as part of the reasons for refusal for the proposed development. Although the emerging Local Plan has been submitted for examination, it has not yet been adopted and therefore I give it very limited weight.

Main Issues

5. The main issues in this appeal are (a) whether the proposed development would represent a suitable location for housing, having particular regard to the accessibility of services and facilities; (b) the effect of the proposed

development on the character and appearance of the area; and (c) whether the proposed development would make adequate provision for infrastructure needs arising from the development.

Reasons

(a) Access to services and facilities

6. In addition to residential properties and farms surrounding the appeal site, the site lies close to the junction of Hebing End and Whempstead Road. Along Whempstead Road, there is a public house, a Methodist chapel, and an agricultural supplies shop. Approximately 100m from the appeal site, bus stops are located on Whempstead Road for the No 384 bus service between Hertford and Stevenage up to 5 times daily in both directions Mondays to Saturdays. There are no bus services on Sundays.
7. Benington and Hebing End form a ribbon of development with varying gaps in between houses and farms along Town Lane and Whempstead Road, a footpath linking the two centres, and a change in speed limits from 30mph to 40mph in the largest gap between housing. There is a further public house, a church, a primary school, a branch doctors' surgery, and a village hall located in Benington. Local residents have highlighted the limited opening hours of the branch surgery for phlebotomist appointments only, with the consequent need to travel to the main surgery at Watton-at-Stone¹ for most appointments. While residents have commented that the distances to services have been measured incorrectly, I had the opportunity to assess the site's location in relation to services during my site visit.
8. In addition to the primary school in Benington, further primary schools are located at Little Munden and Aston St Mary's. There is a fee-paying preparatory school at Heath Mount School within a few miles of the appeal site. The nearest state secondary school is in Stevenage. Dental practices are based at Watton-at-Stone² and Shephall in Stevenage. The nearest shopping facilities for day-to-day needs are located in Walkern and Watton-at-Stone, with other services and facilities at Stevenage, Ware and Hertford. Railway stations are located at Watton-at-Stone, Stevenage, Ware and Hertford.
9. The proposed development would comprise up to 13 houses. It has been submitted in outline, but indicative layouts suggest that the proposed development would be made up of a mix of 3 and 4 bedroom properties.
10. Policy OSV2 of the East Herts Local Plan Second Review (2007) (the Local Plan) sets out the settlements which are identified as Category 2 villages and allows for infill³ housing development subject to a wide range of criteria including affordable housing, living conditions, and character and appearance. No settlement boundary is defined for Benington in the Local Plan. Policy OSV3 of the Local Plan addresses Category 3 settlements, the remaining settlements not identified as either Category 1 or 2. It states that development will not be

¹ Based on information from NHS Choices accessed on 11 September 2017 by the appellants, this surgery is accepting new patients.

² Accepting new NHS patients by referral based on information from NHS Choices accessed on 11 September 2017 by the appellants.

³ The supporting text of the Local Plan under policy OSV2 defines infill housing as the erection of up to 5 small dwellings on a site within the built-up area of the village.

permitted except for that appropriate in the Green Belt and Rural Area Beyond the Green Belt (RABGB) and in accordance with policies GBC1 and GBC3; and rural exceptions affordable housing, required to meet the identified needs of the village or parish and compliant with policy HSG5. Specific needs assessment might reasonably be expected as part of developing Neighbourhood Plans for Benington and Hebing End, but no Neighbourhood Plans have been progressed and the development would not be entirely made up of affordable housing. In my view, policy HSG5 would not therefore be relevant in this instance.

11. Policy GBC3 of the Local Plan confirms that within the RABGB, limited infill development in Category 2 villages and small scale affordable housing for local needs within existing rural settlements will only be permitted in accordance with policy OSV2, and policies HSG5 and OSV3 respectively. Policy SD2 also states that development will be concentrated in main settlements and development in villages will be permitted in accordance with policies OSV1 and OSV2. I will consider policies OSV3, GBC3 and SD2 in the planning balance below.
12. There is a difference of opinion between the appellants, the Council and local residents as to whether Hebing End forms part of Benington or is a settlement in its own right. The Local Plan confirms that Benington is a Category 2 village in the settlement hierarchy, but provides no settlement boundary, while the Council's officer report confirms that Hebing End is a Category 3 settlement in the RABGB. The emerging Local Plan identifies a settlement boundary for Benington, which is apparently drawn quite tightly around the village's main built-up area. While the range of services in Benington in the Council's Final Village Hierarchy Study (August 2016) seem to reflect services in both Benington and Hebing End under the assessment for Benington, this appeal is not the place to address matters such as settlement hierarchies and boundaries, which are better suited to discussion at a Local Plan examination. Furthermore, I understand that the appellants have made representations as part of the Local Plan process.
13. While Benington Parish Council covers both Benington and Hebing End, and the postal address of the public house and the agricultural suppliers is given as Benington, it is not uncommon for rural settlements to share the postal address of larger nearby settlements or for Parish Councils to cover an area larger than a single settlement. I also note the presence of the village sign for Benington on Whempstead Road south of the site. None of these matters confirm conclusively that Hebing End and Benington form one settlement for planning purposes.
14. Notwithstanding the status of Hebing End, I have had careful regard to the Council's officer report and numerous representations made by local residents and visitors to Hebing End, which consider that the proposed development would be unsustainable in this location. It is maintained that the local road infrastructure and bus services are inadequate, that broadband speeds are poor, and that insufficient employment opportunities, and lack of day-to-day services and facilities would require the proposed development's future occupiers to use their cars.

15. Given the proximity of Benington and Hebing End to one another and the distribution of the limited services and facilities outlined above, I consider that development in one village may support services in a village nearby in accordance with paragraph 55 of the National Planning Policy Framework (the Framework). Furthermore, the Planning Practice Guidance⁴ (PPG) notes that '*A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.*' While Benington Parish Council understands that the village will need to accept some residential development in order to meet the district's needs, there is no Neighbourhood Plan being prepared to address development needs in Benington and Hebing End. The proposed development would be likely to support existing services and facilities locally, particularly the primary school. Although the distance to the primary school in Benington would not preclude walking or cycling in the daytime, the appeal site remains some miles from most day-to-day services and facilities.
16. Although a bus route serves Hebing End, allowing access to larger settlements with a wider range of services and facilities, the bus service provides only limited flexibility and would not necessarily allow people to visit shops and other services and facilities at the times they wish to, or to commute easily to work, particularly if any fluctuations in working hours were necessary. It would therefore be unrealistic to assume that the proposed development's future occupiers would not largely be reliant on the private car. This would have negative effects on the environment in terms of the prudent use of natural resources.
17. There would be a degree of change in the level of traffic experienced on local rural roads as a consequence of the proposed development. However, there are a number of houses which already use these roads. Therefore, even at its maximum extent of 13 dwellings, the proposed development would only result in a moderate change in the amount of traffic locally. The Highway Authority has not objected to the proposed development on these grounds. As a consequence, I consider that there would not be a conflict with policy TR20 of the Local Plan, which seeks to address the effect of additional traffic on rural roads.
18. Concluding on this main issue, I consider that the proposed development would not represent a suitable location for housing, having particular regard to the accessibility of services and facilities as its future occupiers would be reliant on the use of cars to access employment, shopping facilities and other services in larger settlements. This would be contrary to policy SD2 of the Local Plan, which requires development to be directed towards larger settlements within the district and only permits development necessary to support local needs and services in the villages in accordance with policies OSV1 and OSV2. However, paragraph 55 of the Framework refers to development located in one village supporting services in a village nearby, while paragraph 29 of the Framework recognises that the opportunities to maximise sustainable transport solutions may be more limited in rural areas. Recognising that the Framework is a material consideration, I address this matter further in the planning balance below.

⁴ Paragraph Reference: 50-001-20160519: How should local authorities support sustainable rural communities?

(b) Character and appearance

19. The appeal site comprises a paddock, a yard, 2 barns and stable buildings. The appeal site has previously been used for the grazing and keeping of horses, but was not in active use at the time of my site visit. It is divided into 2 sections by post and rail fencing along the edge of the site's shared vehicular access with Gosmore Farmhouse.
20. Beyond predominantly residential properties along Whempstead Road and Hebing End, and agricultural buildings behind Whempstead Road, the built-up area is surrounded by agricultural fields of irregular sizes and shapes, bounded by trees and hedgerows, and some larger blocks of woodland interspersed amongst the fields. Hebing End forms part of the Hertfordshire Chain Walks.
21. Although the appeal site itself is open with a wide expanse of grassland within the site and a number of barns and stables located in the north-eastern corner of the site, it is not highly visible from outside the site. Trees and hedges along the site's boundary restrict views to and from Hebing End to the south, with the majority of the site in view only at the end of the shared vehicular access adjacent to the road. The site's western boundary is adjoined by the rear gardens of single-storey and two-storey residential properties on Whempstead Road and Hebing End. There is limited screening here, which varies from rear garden to rear garden. Poultry sheds are located beyond the northern boundary and are partially masked by trees and hedgerows. A variety of boundary treatments, including post and rail fences, native hedging, and trees provide differentiation between the appeal site and neighbouring properties and contribute to a sense of containment.
22. Grade II listed Gosmore Farmhouse and Gosmore Barn are located to the south and east of the appeal site beyond a tall coniferous hedge which screens much of the buildings from the appeal site. From within the site, only the roof of Gosmore Farmhouse is visible across the majority of the site. The Council's Conservation and Heritage Advisor has confirmed that the proposed development would not harm the setting of these heritage assets. I concur with this view.
23. The proposed development has been submitted in outline. Landscaping is a reserved matter and the details provided to me are illustrative only. However, such details have been relied upon to draw conclusions in the appellants' Landscape and Visual Impact Assessment⁵ (LVIA) and I attach some weight to them as a result.
24. The Council has confirmed that although the appeal site does not constitute a valued landscape in the context of paragraph 109 of the Framework, it is located within Area 71: Benington – Sacombe Ridge Character Area (Area 71) within the East Hertfordshire District Council Landscape Character Assessment (2007) (LCA). The landscape character area's key characteristics are described as narrow, undulating plateau; chalk visible on the surface; settled, with ribbon development; and small woodlands set amongst large unhedged fields. The general aim of the LCA for this area is to conserve and restore the landscape.

⁵ Ref: 6270.LVIA.002 dated July 2017.

25. The Council has provided 2 consultation responses⁶ from the Council's Landscape Advisor, which both consider that the appeal site has moderate landscape sensitivity and moderate capacity for the proposed development. While I recognise that different values may be placed on a landscape, it is not clear how the Council's Landscape Officer's conclusions have been reached in respect of this site.
26. Within the context of Hebing End, the erection of up to 13 new dwellings on the appeal site would unite the ribbon of residential development on the northern side of the lane between Nos 1- 5 Hebing End and Gosmore Farmhouse. The existing ribbon of development on the southern side of the lane is more consistent. Although the appeal site is currently agricultural and pastoral in nature, it is situated in proximity to existing housing, much of which is visible from within the appeal site and is somewhat suburban in nature in the case of the properties along Whempstead Road and Nos 1 – 5 Hebing End. In order to retain the lane's leafy character, the indicative layout would retain the vast majority of the trees and hedging across the site's frontage, which I consider to be an important landscape feature. This would provide a reasonable level of screening and containment, although this would be reduced during the winter months. The soft landscaped space between the site's frontage and Hebing End shown on the indicative plans would also provide opportunity for additional planting.
27. When approaching the site from the vehicular access, the bungalows along Whempstead Road and two-storey houses at Nos 1 -5 Hebing End are evident in views across the paddock. These houses provide a key part of the context of the appeal site. The private views from the rear windows of the Whempstead Road properties and Nos 1 -5 Hebing End would see a considerable degree of change with the introduction of housing where there is presently a paddock and stables. However, the introduction of landscaping, low ridge heights, and different boundary treatments along the boundary would reduce intervisibility between the existing houses and the proposed development. This would be addressed at reserved matters stage. Furthermore, the Council has confirmed that the proposed development would not be likely to harm the living conditions of neighbouring residential occupiers based on the proposed development's indicative layout. In relation to concerns about the loss of views from the houses across the paddock, as planning is generally concerned with the public interest, private views do not constitute a material planning consideration in this instance.
28. The appellants' LVIA considers a number of viewpoints which I visited during my site visit. In the majority of viewpoints within the settlement, there would be only glimpsed views of the proposed development and these views would be quite localised and seen in the wider context of the built-up area. Views from viewpoints outside the built-up area would be limited and any roofscape would be seen in the context of surrounding houses on adjoining roads. The proposed development's visual impact would be significantly mitigated by existing hedges and trees, and the indicative enhancements to landscaping within the appeal site. In my view, the residual impact of the proposed development would be no more than the inevitable impact of any housing development within a built-up area, which would diminish as the landscaping matures.

⁶ Dated 13 June 2017 and 14 July 2017.

29. The Council has confirmed that the indicative layout of 13 houses would result in a housing density of 14.4dph, which is relatively low, but reflects surrounding development. I concur with this view. While local residents have referred to the proposed development reducing the tranquillity of the site, and altering the character and appearance of the area through noise and light pollution, the appeal site is already in a built-up area, where one might reasonably expect some degree of noise, disturbance and light pollution from existing properties. Local residents have referred to the site as an area of tranquillity and being an intrinsically dark landscape. However, the Council has not provided me with detailed information on the site's status as an area of tranquillity in terms of paragraph 123 of the Framework, or as an area where the impact of light pollution should be limited with reference to paragraph 125 of the Framework. I do not consider that these issues would be of such significance to cause harm in this regard.
30. Concluding on this main issue, I consider that the proposed development would not cause harm to the character and appearance of the area. The proposed development would therefore accord with policy ENV1 of the Local Plan, which states that, amongst other things, development will be expected to be of a high standard of design and layout and to reflect local distinctiveness, consider the impact of any loss of open land on the locality's character and appearance, and minimise loss or damage of important landscape features.
31. Having considered the LCA's findings in respect of Area 71, I consider that the appeal site's location within the built-up area would preserve the key characteristics of local landscape character identified in the LCA and set out above. It would not therefore be in conflict with the LCA. It would also be compliant with Sections 7 and 11 of the Framework which together require good design which responds to local character, and the protection and enhancement of valued landscapes.

(c) Infrastructure needs

32. In addressing the proposed development's failure to make adequate financial provision for infrastructure improvements, the appellants have submitted a signed and executed planning obligation by Unilateral Undertaking to provide for affordable housing; financial contributions towards education, youth services, and libraries; and the provision and maintenance of fire hydrants.
33. It is necessary to assess the planning obligation against the 3 tests outlined in Regulation 122(2) of the Community Infrastructure Levy Regulations (2010) (as amended) (the CIL Regulations) and paragraph 204 of the Framework. These are that the planning obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development, and is fairly and reasonably related in scale and kind to the development.
34. In addition, the PPG⁷ advises on the relationship between planning obligations and items that may be funded via the Community Infrastructure Levy (CIL). As of 6 April 2015, Regulation 123(3) of the CIL Regulations restricts the use of pooled contributions towards items that may be funded via CIL. Beyond that date, no more may be collected in respect of a specific infrastructure project, or type of infrastructure, through a Section 106 agreement, if 5 or more

⁷ Paragraph Reference: 25-099-20140612: Is there a limit on the pooling of section 106 contributions?

- obligations have been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by CIL. Contributions can however continue to be pooled for affordable housing as that is not capable of being funded by CIL.
35. The planning obligation would ensure that 40% of the proposed dwellings would be affordable units with a 75:25 split between affordable rented and shared ownership units. This provision is in line with locally adopted standards within policies HSG3, HSG4 and IMP1 of the Local Plan and responds to what the Council identifies in the Local Plan as a high local need.
36. Given the recent assessment of need for East Hertfordshire identified in the West Essex and East Hertfordshire Strategic Housing Market Assessment (SHMA): Affordable Housing (July 2017) as being the highest in the Housing Market Area at 3,685 dwellings, and in the absence of any viability issues raised by the appellants, I consider that the requirement is necessary based on the evidence before me and would meet the statutory tests under Regulation 122 of the CIL Regulations. As the proposal would result in additional affordable housing provision, it is also a benefit that would weigh in favour of the proposal.
37. The County Council's Planning obligations guidance - toolkit for Hertfordshire (2008) (the Toolkit) provides a policy justification for contributions towards local infrastructure, and a well-reasoned methodology of how costs are derived. Table 2 of the Toolkit sets out standard base figures, which are applied to applications for developments of the scale of the proposed development according to dwelling size, type and tenure. A copy of Table 2 is provided at Schedule 3 of the planning obligation in accordance with the County Council's requirements. While the CIL Regulations discourage the use of formulae to calculate contributions, outline applications may make estimates of the likely occupancy profile of the proposed development difficult to calculate.
38. Based upon the County Council's census-based modelling, the proposed development would indicatively generate a long-term average of an additional 4 primary and 4 secondary aged children resident at any point in time, with a likely peak of 6 primary and 4 secondary aged children. It is anticipated that there will be unsatisfied demand for all forecast years up to 2020/21 for primary and secondary school places locally. The additional child yield from the proposed development would add to that demand and I am satisfied that the proposed contributions towards education are necessary to make the development acceptable in planning terms and to accord with the requirements of policy IMP1 of the Local Plan. The contributions within the relevant obligations have been tied to specific projects to expand Benington Primary School and Barnwell School, Stevenage, by 1 form of entry each. Those projects would be directly related to the impact of the proposed development and the contributions would not result in five or more obligations being in place for those particular projects.
39. Furthermore, the proposed development would increase pressures on the local library and youth services. The planning obligation includes specific projects at Buntingford Youth Club and Stevenage Library that would be directly related to the identified need. From the information before me, those contributions are proportionate, directly related to the development and necessary to make it

acceptable in planning terms. Those projects would be directly related to the proposed development's impact and the contributions would not result in five or more obligations being in place for those particular projects.

40. The County Council has confirmed that the provision of fire hydrants is not covered by Building Regulations. The requirement to provide fire hydrants is supported by guidance within the Toolkit at paragraphs 12.33 – 12.34 and a letter from the County Council to Hertfordshire Planning Group dated 15 July 2011. While the appellants consider that this would be more suitably dealt with by way of condition, the District Council has not provided me with any suitable condition to address the matter. Moreover, the appellants do not dispute the need for the details covered by the 'Water Scheme' at the planning obligation's Schedule 4. Having had regard to the County Council's appeal statement and advice contained in the Toolkit, I am satisfied that the 'Water Scheme' is related to the development, necessary in the interests of fire safety, and related in scale and kind to the needs of the development.
41. Limited reference is made in the Council's officer report to provision of financial contributions for open space of different types, recycling facilities, and community centres and village halls. No specific figures are provided in the Council's officer report and I have no evidence that they would be necessary to make the development acceptable in planning terms, that they would be directly related to the development, and would be fairly and reasonably related in scale and kind to the development. Additionally, the email dated 13 November 2017 sent by the Council's case officer confirms that the provisions of the undertaking are in order.
42. Concluding on this main issue, I consider that the proposed development would make adequate provision for infrastructure needs arising from the development. Accordingly, the proposed development would be compliant with policies HSG3, HSG4, and IMP1 of the Local Plan. Policies HSG3 and HSG4 require up to 40% affordable housing on suitable sites and set out a number of criteria by which to assess the suitability of a site. Policy IMP1 confirms that the Council will expect planning applications for development to make appropriate provision to address local infrastructure, including education facilities and other infrastructure improvements. I am also satisfied that the County Council contributions meet the requirements of Regulations 122 and 123 of the CIL Regulations.

Other Matters

43. Local residents are concerned about sewerage capacity, water pressure, possible flooding and foul water drainage. With regard to sewerage, Thames Water has confirmed that it has no objection to the proposed development. Water pressure is the responsibility of the relevant water company. The appellants' Flood Risk Assessment concludes that, although the site is in Flood Zone 1, a Sustainable Drainage Strategy has been prepared in order to ensure the development does not increase flood risk on the site or to third parties. The Lead Local Flood Authority has advised that the application demonstrates that the site can be adequately drained and any potential surface water flood risk would be mitigated if carried out in accordance with the drainage strategy. While discharge of water to the pond to the north at Brandsmead is referred to in the Sustainable Drainage Strategy, this would have to be agreed with the

relevant landowner. If that permission was not forthcoming, alternative measures would need to be considered. Accordingly, I have imposed conditions to ensure that surface water and foul water drainage are addressed appropriately.

44. While a restrictive covenant on the stables within the appeal site has been mentioned, this matter is outside the planning process and would not preclude the granting of planning permission. Local residents have raised concern about potential infringement of human rights. However, I have not found harm in this appeal which would lead to a negative effect on human rights.
45. Local residents consider that the proposed development would have an adverse effect on wildlife, including protected species such as badgers and bats. The appellants have provided an Ecological Assessment⁸ dated December 2016. This indicates that no evidence of the presence of protected species was found on site during survey work and that the appeal site is of negligible nature conservation interest, with the exception of the ecological importance of the boundary features of the site. As the trees and hedgerows which form the site's boundaries are largely to be retained, and enhanced where possible, this would provide ecological benefits in accordance with the expectations of the Framework.
46. While I acknowledge local residents' preference for brownfield over greenfield sites being used for development, and acknowledge that Benington has had some recent residential development take place, I am required to deal with the appeal before me on its own merits. I also note that the appeal site does not lie within the Green Belt and that it was in use until recently.
47. Concerns have been raised about potential mismeasurement of the lane, the quality of the site's access and visibility splays, the use of the lane by farm traffic and emergency vehicles, the increase in traffic emerging from the site and the consequent effect on highway safety for pedestrians and other road users in the lane, through the village, and on poor quality, narrow rural roads. Though reference is made to a 70m legal requirement for visibility, I have not been provided with details of the relevant document. The appellants' final comments reconfirm that their transport consultants have undertaken measurements on site, which are consistent with the Ordnance Survey base map, and that the required visibility splays are achievable. Moreover, the Highway Authority has not sought to restrict planning permission for the proposed development and the Council has not formulated a reason for refusal in this regard. Although reference has been made to the potential need for the hedge at Gosmore Farmhouse to be cut back, this would be a matter between the appellants, the hedge's owners, and the Council as I understand that the hedge is subject to a condition on a previous permission⁹.

Planning balance

48. Both the appellants and the Council agree that the Council cannot demonstrate a five year supply of deliverable housing land. The appellants have submitted evidence consisting of a previous appeal decision¹⁰ at Ermine Street,

⁸ Ref: 7081_EcoAs.vf1

⁹ 3/0342-89LB

¹⁰ APP/J1915/W/17/3166872, decision issued 21 August 2017/

Buntingford, where the supply was between 3.1 and 3.6 years dependent on the methodology employed for calculation, and the East Hertfordshire District Council Updated Housing Topic Paper (August 2017). This topic paper confirms at paragraph 3.17 that since 2011, 3,244 dwellings have been completed against a housing requirement of 5,017 dwellings, leaving a shortfall of 1,773 dwellings. The topic paper verifies at paragraph 3.18 that a 20% buffer should be applied. The Council has not disputed this data or provided any update on the shortfall in supply. I have therefore had regard to the extent of the shortfall and the range of figures provided as an important consideration.

49. In these circumstances, paragraph 49 of the Framework applies which states that relevant policies for the supply of housing should not be considered up to date where housing land supply cannot be demonstrated. Paragraph 14 of the Framework states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole or specific policies in the Framework indicate development should be restricted. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight.
50. The appellants and a number of local residents have referred to the Hopkins Homes¹¹ Supreme Court case. In this case, the Supreme Court made it clear that if there is a failure to provide a 5 year supply of housing, it does not matter if this is because of the policies which specifically deal with housing provision or because of other restrictive policies: the shortfall itself is the trigger for the operation of the fourth bullet point of paragraph 14 of the Framework.
51. The Council considers the appeal site to fall within a Category 3 settlement where policy OSV3 of the Local Plan permits certain forms of development that are appropriate in the RABGB in accordance with policy GBC3. Furthermore, the Council considers that the appeal site would not be in a sustainable location for development as it does not lie within the group of higher order settlements referred to in policy SD2. However, the strict application of policies OSV3, GBC3 and SD2 would prevent improvements to the existing shortfall in the supply of housing. As a result of this, I afford the conflict with them limited weight in this decision, especially as the proposed development lies within a built-up area.
52. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. The proposed development would provide significant housing benefits in relation to both affordable and market housing provision. These houses would support existing services and facilities within Hebing End and Benington and the wider rural area in accordance with paragraph 55 of the Framework. Such benefits would be consistent with the social strand of sustainable development. There would also be significant benefits to the local and wider economy in terms of work for the construction industry and greater demand for local services and facilities. There would be additional economic

¹¹ Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37

benefits in terms of further New Homes Bonus and Council Tax receipts to East Hertfordshire District Council.

53. In environmental terms, although this proposed development would be located close to existing houses and within walking and cycling distance of limited services and facilities in Benington and Hebing End in the daytime, it is expected that the proposed development would largely be reliant on cars to access employment, services and facilities. This would have negative effects on the environment in terms of the prudent use of natural resources, but this is tempered somewhat by the recognition at paragraph 29 of the Framework that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The proposed development would also involve the loss of a field which has previously been used for the grazing of horses. I have discussed the effect of the proposed development on the character and appearance of the area above.
54. While local residents are concerned about the extent of development proposed, there remains an undersupply of housing within East Hertfordshire and the proposed development would contribute up to 13 further houses providing family accommodation to the overall requirement for the supply of housing and would contribute 40% affordable housing to assist in addressing the district's affordable housing need. Although the Council considers that the housing mix in the SHMA does not identify 3 and 4 bedroom houses as being in demand in the village, I have limited information on the level of need for 3 and 4 bedroom homes across East Hertfordshire and consider that the proposed houses could assist in meeting the district's general housing shortfall and improving the choice of homes available for families.
55. The Hebing End Preservation Society has referred to an appeal at Boxbury Hill¹² at Midsomer Norton where the Inspector was concerned with dilution of the adopted plan strategy by permitting development in rural areas based simply on a lack of 5 year housing land supply. The plan strategy in Bath and North East Somerset was recently adopted at the time of that appeal. The circumstances in East Hertfordshire are not genuinely comparable as the Local Plan has been in place since 2007 and the emerging Local Plan is not yet adopted.
56. The provision of up to 13 houses, including affordable housing, would make a significant contribution to the supply of housing, providing a positive benefit in a district where there is a shortfall in housing land supply of up to 1.9 years. While I acknowledge that the proposed development would be in a location some distance from a range of services and facilities, the proposed development would not harm the character and appearance of the area, and would provide sufficient infrastructure improvements. Therefore the adverse effects of the proposed development would not significantly and demonstrably outweigh the benefits this proposal would offer when assessed against the Framework and the development plan as a whole. Under the presumption in favour of sustainable development, the proposal would therefore gain support through paragraph 14 of the Framework. In this case, it is a material consideration which outweighs the conflict with the development plan as a

¹² APP/F0114/A/14/2215930, decision issued 20 May 2015.

whole and indicates that planning permission should be granted for development that is not in accordance with the development plan.

Conditions

57. I have attached conditions limiting the life of the planning permission and setting out the requirements for the submission of reserved matters in accordance with the Act. A requirement for the submission of reserved matters within 3 years and commencement of development within 2 years of the final approval of reserved matters has been imposed. As access is a matter to be considered, a condition detailing relevant plans is necessary. As it is not possible to rely on the description of development to control or limit a development to a particular number of units, I have imposed a condition limiting the number of dwellings to be built on site to no more than 13.
58. The condition on slab levels and ridge heights is necessary to ensure an appropriate effect on character and appearance and adequate relationship with neighbouring buildings, including listed buildings. The condition on access and junction arrangements is necessary to assure that the proposed development would not have a detrimental effect on highway safety.
59. The conditions requiring provision of a Construction Management Plan, piling methods, and restrictions on working hours are also necessary to safeguard the living conditions of nearby residential occupiers. To ensure the implementation of appropriate foul water and surface water drainage, 2 conditions have been imposed to ensure that the proposed development does not have a detrimental effect on drainage in the locality. One condition addresses the points raised in the Council's suggested conditions 8 and 9.
60. The Council's suggested condition 12 requires a programme of archaeological works. However, the Council has not highlighted any known areas of archaeological significance in their officer report and the County Council's archaeologist has not provided a consultation response on the original application. In the absence of information, I am not convinced that the suggested condition is necessary and reasonable.
61. Numerous objections have been raised on ecological grounds. While the appellants do not consider an ecological condition to be required, I consider that it is necessary to ensure that the ecological enhancements set out in the appellants' Ecological Assessment minimise impacts on biodiversity. However, I have not required this to be a pre-commencement condition as I do not consider that the mitigation measures would be necessary before works commence.
62. The condition on refuse storage is necessary in the interest of visual amenity. With regard to external lighting, I acknowledge that the appellants consider that this condition should be restricted to street lighting only. However, given the proximity of the proposed development to existing houses, it is necessary to ensure that external lighting does not detrimentally affect the living conditions of neighbouring occupiers. This would include, but would not be restricted to street lighting alone.
63. The Council's suggested conditions 15 and 16 require works to be carried out in accordance with approved landscaping details. Despite references to potential

landscaping treatments in the appellants' LVIA, the proposed development is in outline and landscaping is one of the reserved matters. I do not consider therefore that either of these conditions would be sufficiently precise or enforceable. I have not therefore imposed these conditions.

64. A number of conditions require the submission and approval of details prior to the commencement of development as the details would be fundamentally necessary to the successful implementation of the proposed development. These conditions include slab levels and ridge heights, access and junction arrangements, provision of a Construction Management Plan, provision of a detailed drainage strategy and a scheme for foul water drainage, and piling methods.

Conclusion

65. At the heart of the Framework is a presumption in favour of sustainable development. I find that the proposed development would accord with that expectation having had regard to the development plan and to the Framework as a whole. For the reasons given above, and having taken account of all other matters raised, this appeal should be allowed.

J Gilbert

INSPECTOR

Schedule of 15 Conditions:

- 1) Details of the appearance, landscaping, layout, and scale, (hereafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall begin either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to those matters not reserved for later approval: No. ID15115-01B (Site Location Plan) and drawing No. 8634-SK-004 Rev A (Proposed Hebing End Access).
- 5) No more than 13 dwellings shall be constructed on the site.
- 6) Prior to the commencement of development, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details.

- 7) Prior to the commencement of development, the access and junction arrangement shall be completed in accordance with drawing 8634-SK-004 Rev A (Proposed Hebing End Access) including the provision of visibility splays 2.4m x 43m in each direction. Within the visibility splays, there shall be no obstruction to visibility between 600mm and 2.0m above carriageway level.
- 8) Prior to the commencement of development, a Construction Management Plan to include phasing details, construction vehicle routing, location and details of wheel washing facilities, parking and storage/office areas, shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved details.
- 9) Prior to the commencement of development, a full final detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall demonstrate how it complies with the Sustainable Drainage Strategy Ref: 65464.01R1_Rev3 prepared by GeoSmart. The scheme shall include:
 - a) a full drainage strategy supported by full detailed drawings and drainage calculations for all rainfall return periods up to and including the 1 in 100 year plus 40% climate change allowance event. The breakdown of permeable and impermeable areas shall be confirmed and included within the calculations;
 - b) Fully detailed engineering drawings of the design of all Sustainable urban Drainage System (SuDS) measures in line with the latest edition of the SuDS Manual by CIRIA;
 - c) A maintenance plan with details of required actions in accordance with the SuDS scheme.

The full final drainage strategy shall be submitted to and approved in writing by the local planning authority. The approved full final drainage strategy shall be subsequently implemented in accordance with the approved details before the development is first occupied and retained thereafter.

- 10) Prior to the commencement of development, full details of a scheme of sewerage and foul water drainage shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details and programme of implementation and retained thereafter.
- 11) Prior to the commencement of any piling works, details of the method of piling for the construction works, including a method statement and noise emissions, shall be submitted to and approved in writing by the local planning authority. All piling works shall be carried out in accordance with the agreed details.
- 12) Prior to first occupation of the development, a detailed scheme of ecological enhancements, as outlined in the Ecological Assessment 7081.ECAs.vf1 (December 2016) accompanying the application, shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved scheme and retained thereafter.
- 13) Prior to first occupation of the development, details of facilities to be provided for the storage and removal of refuse from the site shall be submitted to and

- approved in writing by the local planning authority, and the development shall be carried out in accordance with the approved details and retained thereafter.
- 14) Prior to the installation of outdoor lighting, a full lighting design scheme including street lighting and any car parking area lighting, shall be submitted to and approved in writing by the local planning authority. The lighting shall be installed in accordance with the approved details and retained thereafter.
- 15) No site works, including the operation of plant and machinery shall be carried out outside the hours of 0730 and 1830 Mondays to Fridays and 0730 to 1300 on Saturdays, and at no time on Sundays or Bank Holidays.

Appeal Decision

Site visit made on 13 February 2018

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20th February 2018

Appeal Ref: APP/J1915/D/17/3185756

3 May Cottages, Cradle End, Little Hadham, Ware, Herts, SG11 2EG

- 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 B Dunlea against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1197/HH, dated 18 May 2017, was refused by notice dated 14 July 2017.
 - The development proposed is two storey side extension and front porch.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of the development from the appeal form and Decision notice, as this is more precise.
3. The property, while not listed in its own right, adjoins Nos 1 and 2 May Cottages which are Grade II listed and I have had regard to the statutory duty to the desirability of preserving the building or its setting or any features of special architectural interest which it possesses. In this respect, No 3 appears to be a later cottage to Nos 1 and 2 and the proposals would further elongate the terrace as a whole and would be in matching materials. As such, and in accordance with the findings of the Council, I am satisfied that the development would preserve those interests.

Main Issues

4. As the site is located within the Green Belt, the main issues are:
 - (a) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - (b) The effect on the openness of the Green Belt; and,
 - (c) If the proposal is inappropriate development, whether any harm by reason of inappropriateness, and so any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate Development

5. Saved policy GBC1 of the East Herts Local Plan Second Review 2007 (LP) supports limited extensions to dwellings in accordance with Policy ENV5. Policy ENV5 requires that for dwellings in villages, extensions will be expected to be of a scale and size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling or intrude into the openness of the surrounding area.
6. The National Planning Policy Framework (the Framework) seeks to control development within Green Belts and sets out a general presumption against inappropriate development. However, paragraph 89 of the Framework sets out a number of exceptions, and the extension or alteration of a building is regarded as not inappropriate in the Green Belt provided that it does not result in disproportionate additions over and above the size of the original building. While the LP Policies GBC1 and ENV5 are of some age, I consider that these are consistent with the advice in the Framework.
7. No 3 is a modest 2-storey end of terrace cottage. It has a slate roof and has horizontal timber weatherboarding, painted white, and uPVC windows. The property has previously been extended to the side and rear. A porch has also been erected to the front elevation. The proposal would comprise of the demolition of the existing porch and the erection of a new porch to the centre of the front elevation, as well as a 2-storey side extension and single storey rear extension with a catslide roof, to match the existing extension.
8. The Framework defines an original building as a building as it existed on 1 July 1948. Based on the submitted information as well as my observations at the site visit, the property has already benefitted from a number of relatively generous extensions. Including the current proposals subject to this appeal, there would be an increase the floor area from around 43sq metres to 88 square metres, which would represent approximately a 105% increase from the original dwelling.
9. The cumulative extensions, including the appeal proposal, would therefore be more than double the size of the original building. On this basis, I consider that the proposed development cannot reasonably be considered as anything other than a disproportionate addition over and above the size of the original building.
10. Given that I have concluded that the extension would amount to a disproportionate addition, it follows that the proposal constitutes inappropriate development within a Green Belt and would not accord with LP Policy GBC1 and ENV5 and paragraph 89 of the Framework. The Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be attributed to any harm to the Green Belt.

Green Belt Openness

11. Paragraph 79 of the Framework indicates that openness is an essential characteristic of the Green Belt. In general, openness in a Green Belt context is a physical absence of buildings and structures, rather than an element of an area's character.

12. The extension would be located within the extensive garden area serving No 3. However, the proposal would result in an increase in the scale and size of the house and it would extend it in to an area where there is currently no built development. I consider that the proposed extension would result in a more intrusive structure than exists at present and consequently this would result in a reduction in openness.
13. Therefore, I find additional harm by reason of the reduction in openness resulting from inappropriate development, in conflict with LP Policy ENV5 and paragraph 79 of the Framework.

Other Considerations

14. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be attached to that harm. Very special circumstances to justify such development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations (paragraphs 87 and 88).
15. I note that there were no objections to the proposals from any persons or organisation and that the visual impact of the development would be limited. There would also be no harm to living conditions of neighbouring residents. However, the absence of local objection and harms in respect of all of the above matters carries neutral weight.
16. I saw that a number of other properties in Cradle End had benefitted from extensions, including a large extension at No 3 Hadham Park Cottage. However, no details of the circumstances that led to those proposals being accepted have been provided and as such I cannot be sure that they represent a direct parallel to the proposals in respect of size and scale, effect upon openness and compliance with planning policy.
17. The Council do appear to have taken a flexible approach in permitting such extensions, however I am also mindful that the Council note in their Officer Report that in permitting the previous extension in 2009, these were at the upper limit of what was acceptable as a limited extension. In light of the harm I have identified to the Green Belt, I do not therefore consider that the presence of other extensions within Cradle End sets an irresistible precedent for the further extension of No 3, particularly in light of previous works to the original dwelling.
18. These considerations do not clearly outweigh the harm I have identified and overall I therefore conclude that the very special circumstances necessary to justify the development do not exist. The development would therefore be contrary to Policies GBC1 and ENV5 of the LP as well as paragraphs 79, 87 and 88 of the Framework.

Conclusion

19. For the reasons given above, taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Searson

INSPECTOR

Appeal Decision

Site visit made on 29 January 2018

by **Graham Wyatt BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2018

Appeal Ref: APP/J1915/W/17/3186286

54 Hawkins Hall Lane, Datchworth SG3 6TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs K & D Nee against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1282/FUL, dated 31 May 2017, was refused by notice dated 3 August 2017.
 - The development proposed is the erection of detached single dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The site has been the subject of a previous appeal¹ against a decision for a 'detached dwelling on land adjacent to No 54' (the previous appeal scheme). I have considered the previous Inspector's findings and decision.

Main Issue

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

Reasons

4. The appeal site forms part of the side and rear garden to No 54 which sits on the corner of Hawkins Hall Lane and Nutcroft. The existing property has had a fairly large extension resulting in the principal elevation of the property fronting onto Nutcroft. The proposed dwelling would be sited between the extended part of No 54 and the 94 Nutcroft.
5. The appeal scheme has been amended in that the width of the appeal site has increased by 2m from 9m to 11m. This has been achieved by relocating the fence on the eastern boundary closer to No 54. However, I am not persuaded that as a result of the increase in width of the appeal site it would create a "Good separation from both neighbouring dwellings will ensure good spacing between structures" because the width and siting of the proposed dwelling remains largely unaltered, with only the location of the boundary fence changing. Therefore, the cramped appearance the previous Inspector

¹ APP/J1915/W/16/3153611 dated 8 November 2016

identified would still remain and by moving the boundary fence it would further erode the spaciousness to No 54's plot.

6. The appellant also argues that as a result of setting the dwelling back into the site from the front boundary by a further 2.8m, reducing the access arrangements from two to one and increasing the frontage green space it would reduce its prominence in the street scene. However, as a result of the layout of No 94 at a slight angle to the road, the proposed dwelling would still be conspicuous in the street scene when viewed from the west. Additionally, it would also be noticeable when travelling south along Hawkins Hall Lane towards Nutcroft. Notwithstanding the amendments to the scheme, I consider the development to be at odds with the prevailing character of predominantly semi-detached and terraced two storey dwellings along Nutcroft and would fail to complement its existing pattern of development.
7. Therefore, I conclude that the development would result in material harm to the character and appearance of the area. The proposal is in conflict with Policies OVS2, ENV1 and HSG7 of the East Herts Local Plan Second Review 2007 and the National Planning Policy Framework which seek, amongst other things, to ensure that proposals reflect the area's distinctiveness and do not appear obtrusive.

Other Matters

8. The appellant has referred to other developments that have taken place in the district. However, full details of the circumstances that led to these developments being accepted, have not been provided, so I cannot be sure that they represent a direct parallel to this appeal proposal. Details such as the relationship of the site to neighbouring properties and the spatial context of each site have not been provided. Invariably, such cases will depend on their individual circumstances and so whilst noting those other decisions, they are not determinative in this appeal. In any case I have considered the appeal proposal on its own merits which is one of the fundamental principles that underpins the planning system. As such, I only attach limited weight to these decisions.
9. I also note that the site is close to services and facilities within Datchworth and although there is support for the principle of housing in this location neither this nor any other material consideration that has been advanced outweighs the identified harm and conflict with policy.

Conclusion

10. For the reasons given above, and having regard to the development plan when read as a whole, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR

Appeal Decision

Site visit made on 29 January 2018

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2018

Appeal Ref: APP/J1915/W/17/3186147

Figment Barn, Lower Road, Great Amwell SG12 9SY

- 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 Stuart, Mick & Diane Nicholls against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1409/FUL, dated 13 June 2017, was refused by notice dated 11 August 2017.
 - The development proposed is a "single storey garage/workshop extension".
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on;
 - The character or appearance of the Great Amwell Conservation Area (GACA), including the setting of the neighbouring listed building; and
 - The effect of the development on the living conditions of adjoining occupiers with particular regard to noise and disturbance.

Reasons

Conservation Area and Listed Building

3. The appeal site forms an existing part single, part two storey building constructed of horizontal timber boarding on a brick plinth. The single storey element has a mono pitch roof. The site is separated from Lower Road by a parcel of land which was overgrown at the time of my visit. Although the site is bounded to the front by metal railings and hedging, the appeal building is visible from the public footpath.
4. Paragraph 128 of the National Planning Policy Framework (Framework) states that local planning authorities should require an applicant to describe the significance of any heritage assets affected by a development, including any contribution made by their setting. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
5. The planning application is not accompanied by a heritage statement or an assessment of the significance of the heritage assets. The appellant's state that the Council did not require them to describe the significance of the heritage assets. Nevertheless, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to pay special attention to

the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses. In addition, Section 72 of the Act requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.

6. The Great Amwell Conservation Area Appraisal (GACAA) tells us that the GACA contains a diverse range of visually and historically important elements, such as several listed buildings, an historic park and other important open spaces. The GACA is quite large and centres on the historic core of the village. The appeal site is one of a small number of converted farm buildings and at the entrance to development is a property known as 9 Lower Road, which is a Grade II listed building. The listing description supplied by the Council describes the building as a "picturesque weatherboarded cottage at the entrance to the village" which I witnessed during my site visit. The listed building is adjacent and perpendicular to the appeal site.
7. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either be positive, negative or neutral. The proposed extension would be erected at the furthest point away from the listed building. However, the development would project forward of the existing barn to such a depth and width that it would add significant bulk and massing to the original building. Moreover, although a gap would remain between the proposed extension and the listed building, the extent of the proposal would be a prominent feature that would have an overly dominant impact on both the existing and listed building. In addition, the development would erode the spaciousness created by the open space to the front of the building, resulting in negative harm to both the setting of the listed building and the GACA.
8. I acknowledge that the GACAA does not identify the appeal site as an open space that should be protected, or within the vicinity of an important view. Nevertheless, the GACAA only identifies sites that are particularly important. It is not to say that, despite the current state of land at the appeal site, it does not have an important role to play in the setting of the GACA or the adjacent listed building.
9. As the development would only harm part of the significance of the heritage asset, I find the harm identified to be less than substantial. Accordingly, the Framework requires at paragraph 134 that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
10. Although, the harm is less than substantial it should not be treated as a less than substantial objection to the proposal. The appellant's have not advanced an argument that there would be a public benefit as a result of the development which would outweigh the great weight that the Framework requires at paragraph 132 to be given to the conservation of heritage assets. Thus, the development would not comply with paragraph 134 of the Framework.
11. Accordingly, the proposal would not comply with Policies OVS2, ENV1 and BH5 of the East Herts Local Plan Second Review 2007 and the Framework which seek, amongst other things, to ensure that proposals are sympathetic in scale, height, and siting in relation to itself, adjacent buildings and the general character and

appearance of the area and consider the impact of the loss of open land on the character and appearance of the locality.

Living Conditions

12. The Council argues that the use of the extension as a car workshop would intensify the use, "to an extent that it would be of significant detriment to the amenities of surrounding residential properties by reason of comings and goings through the shared access driveway, noise and potential disturbance". The Council's Environmental Team were either not consulted on, or did not respond to, the planning application.
13. The submitted plans show a workshop with two cars within it. Although I accept that the size of the workshop could allow for more than two cars to be parked inside, this would create additional difficulties for the appellant's to carry out repairs and maintenance. Moreover, the appellant's confirm in their written statement that the building would be for personal use only and no trade or business would be carried out at the site. This matter, and any hours of operation, could be controlled through the imposition of a suitably worded condition.
14. While I note the concerns from neighbours that the appellant's use trailers to move cars to and from the site, this is a current arrangement and I need to decide whether the increase in vehicle movements would significantly affect the living conditions of adjoining occupiers. The appellant confirms that the additional space created within the extended barn would be used to store cars currently parked outside. Therefore, I am not persuaded that the proposal would result in the additional movement of vehicles over and above what currently occurs. Thus, the proposal would not result in a significant impact on neighbouring occupiers living conditions, with particular regard to noise and disturbance.
15. Accordingly, I find that the proposed development would be in compliance with Policies OVS2 and ENV1 of the East Herts Local Plan Second Review 2007 and the Framework which seek, amongst other things, to ensure that proposals would not be significantly detrimental to the amenities of nearby occupiers.

Other Matters

16. I note that there have been a number of objections from local residents, some of whom raise additional concerns, but given my adverse findings on the main issue I do not consider it necessary to address those concerns in detail here.

Conclusion

17. I have found that the development would not have a significant impact on the living conditions of adjoining occupiers with particular regard to noise and disturbance. However, I have found that the proposed development would harm the setting of the adjacent listed building and the character and appearance of the GACA.
18. Therefore, having regard to the development plan when read as a whole, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR

Appeal Decision

Site visit made on 30 January 2018

by **P B Jarvis DipTP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2018

Appeal Ref: APP/J1915/D/17/3186349

Address: 57 Hamels Drive, Hertford SG13 7SJ

- 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 Laura Wilkinson against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1585/HH, dated 5 July 2017, was refused by notice dated 7 September 2017.
 - The development proposed is a two storey side extension.
-

Procedural Matter

1. The description of development was altered by the Council to include reference to a single storey extension. In my view this more accurately describes the proposal and I shall therefore use it.

Decision

2. The appeal is allowed and planning permission is granted for a two storey side and single storey side extension at 57 Hamels Drive, Hertford SG13 7SJ in accordance with the terms of the application, Ref 3/17/1585/HH, dated 5 July 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) This development hereby permitted shall be carried out in accordance with approved plan nos: 1:1250 Location Plan, D170602/1 (Existing Floor/Elevation) and D170602/2 (Proposed Floor/Elevation).
 - 3) The materials to be used in the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

3. The main issue is the impact on the character and appearance of the host dwelling and wider streetscene.

Reasons

4. The dwelling on the appeal site is a semi-detached property located within a modern residential estate predominantly comprising of terraced properties. The appeal site is located in a part of the estate which has been laid out on sloping land and the dwelling is at the lowest level in this part of the estate. It is accessed via steps that run along the western side boundary of the appeal site adjacent to the side / rear garden area of the property. There is an existing

- small single storey side extension to the dwelling in this part of the plot and a high level decking / seating area in the rear corner.
5. The proposed extension would infill the roughly triangular shaped gap between the flank elevation of the dwelling and the side / rear of the plot and raised seating area. This would result in the new flank wall of the extension being sited adjacent to the steps.
 6. Given that it would immediately abut the steps, it would have an impact upon persons using them by reason of its proximity. However, I do not consider that this would be such as to unacceptably affect those users. I noted on my site visit that nearby within the estate there are two storey dwellings, the flank elevations of which immediately abut footpaths. Whilst these are not identical situations to the appeal site, they nevertheless demonstrate that in those circumstances the built form did not appear unduly overbearing or dominant. Similar examples are referred to by the appellant.
 7. The proposal would be a somewhat unusual shaped extension, reflecting the triangular shape of the plot. However, it has been designed to match the roof slope and height of the existing dwelling and would be set back from the main front elevation such that the built form of the original semi-detached pair would still be discernible. Within the wider area, particularly from the footpath at the higher level to the rear of the dwelling and in the approach from the carriageway of Hamels Drive, the proposal would be readily seen. Whilst in this view it would be read as an obvious extension, I consider that it would be in keeping with the character and appearance of the host property, the adjoining semi and wider area.
 8. The Council also expresses concern that the extension would appear cramped but I do not agree that would be the case; I consider that it would make good use of the area to the side of the dwelling, benefitting from an open aspect beyond. Further concern has been expressed regarding the impact on the open nature of this part of the estate with the proposed extension considered to impinge on the open countryside views that are currently attained at the higher level footpath and carriageway to the rear of the site. I agree that the extension would affect this view to an extent, though I consider that it would affect only a small part of the current view the majority of the extension being read against the existing built form such that as one moves along the footpath the pleasant open countryside views would remain a primary feature.
 9. Overall, I consider that the proposal would not harm the character and appearance of the host dwelling or wider area. It would thus comply with policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review 2007, which seek a high standard of design and layout that reflects local distinctiveness and complements existing patterns of buildings and the original dwelling and that safeguards the visual space around built development as appropriate.
 10. I consider that conditions to relate to the approved plans and require matching materials are necessary in the interests of proper planning and visual amenity. I conclude that the appeal should be allowed and planning permission granted.

P Jarvis

INSPECTOR

Appeal Decision

Site visit made on 30 January 2017

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 February 2018

Appeal Ref: APP/J1915/D/17/3185428

Dene Orchard, 5 Little Berkhamsted Lane, Little Berkhamsted, SG13 8LU

- 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 Ciaran Leahy against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1621/HH, dated 10 July 2017, was refused by notice dated 6 September 2017.
 - The development is a car port structure.
-

Procedural Matter

1. The car port has already been constructed at the site.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues is
 - (a) Whether having regard to development plan policy and national policy in the National Planning Policy Framework (the Framework) the proposal comprises inappropriate development in the Green Belt
 - (b) The effect on Green Belt openness and the Little Berkhamsted Conservation Area
 - (c) Whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations

Reasons

4. Policy GBC1 of the East Herts Local Plan Second Review (2007) (LP) sets out the categories of development that will not be considered to be inappropriate development in the Green Belt. It includes limited extensions or alterations to existing dwellings in accordance with LP Policy ENV5. This approach generally accords with paragraph 89 of the Framework, albeit that refers to buildings rather than just dwellings. LP policy ENV5 states that outside the main settlements and category 1 and 2 villages, (which applies to the appeal site), an extension to a dwelling or erection of outbuildings will be expected to be of a scale and size that would either by itself, or cumulatively with other

extensions, not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the area.

5. The existing dwelling on the site has been previously extended and the Council indicates that these extensions amount to a total cumulative increase of 82% over the original dwelling. The appellant does not dispute this though contends that the car port as erected is not visually read as part of the dwelling and is completely separate from it, therefore considers that it should not be considered in the context of the extended dwelling.
6. However, the wording of the above LP policies when read together makes clear that such development is to be considered cumulatively with other extensions when considering whether it would be 'limited' in the context of whether it comprises inappropriate development in the Green Belt. Taking into account previous extensions it is clear that further extensions or additions would be disproportionate in the context of the size of the original dwelling.
7. Therefore the car port does comprise inappropriate development in the Green Belt and in that respect is contrary to LP policies GB1 and ENV5 and the Framework. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances, which will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Impact on Green Belt openness and on the character and appearance of the Little Berkhamsted Conservation Area

8. The part of the Conservation Area in which the appeal site is located is characterised by larger detached properties set within spacious, open grounds with a rural character. The car port is constructed of traditional materials, including timber with a small false tiled pitch roof. It is also sited in a relatively unobtrusive location and not readily visible in the streetscene. I consider that it is in keeping with the rural character and appearance of the conservation area. However, whilst it is a lightweight structure, it nevertheless adds to the built up appearance of the site, resulting in a limited impact on the openness of the Green Belt which adds to the harm by reason of inappropriateness.

Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

9. The appellant notes those parts of the Framework that refer to the need for local planning authorities to take a positive approach and to look for solutions rather than problems. Reference is also made to the range of permitted development rights that apply to development within the curtilage of residential properties. However, it is not suggested that the car port is permitted development nor is a lawful development certificate provided to confirm whether such permitted development might be undertaken. As such I give only very limited weight to these matters. I therefore conclude that the substantial harm by reason of inappropriateness and limited harm to openness is not clearly outweighed and therefore there are no very special circumstances that justify the development. I conclude that this appeal should be dismissed.

P Jarvis

INSPECTOR



The Planning Inspectorate

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

Your Ref: 3/17/1621/HH
Our Ref: APP/J1915/D/17/3185428

07 February 2018

Dear Development Control,

Town and Country Planning Act 1990

Appeal by N/A

Site Address: 5 Little Berkhamsted Lane, Little Berkhamsted, HERTFORD, SG13 8LU

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Mike Dixon

Mike Dixon

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Appeal Decision

Site visit made on 6 February 2018

by **R W Allen B.Sc PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st February 2018

Appeal Ref: APP/J1915/D/17/3189485

11 Capel Court, Hadham Hall, Little Hadham SG11 2AP

- 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 Winter against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1661/HH, dated 13 July 2017, was refused by notice dated 7 September 2017.
 - The development proposed is erection of single storey garage.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey garage at 11 Capel Court, Hadham Hall, Little Hadham SG11 2AP in accordance with the terms of the application, Ref 3/17/1661/HH, dated 13 July 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: WNT3616.OS; WNT3616.01; and WNT3616.03A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of a Grade II listed wall and the locally listed historic park and garden, and the rural area more generally.

Reasons

3. The appeal site concerns the sizeable private garden of the appeal property. It is largely open and undeveloped, and is enclosed by a Grade II listed wall on two sides and by planting alongside the boundary with a property the submitted plans identify as being called Historia. The Council states, and not disputed by the appellant, that the property and garden lie within the grounds of Hadham Hall which is a locally listed historic park and garden.
4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard should be given to the desirability of preserving

the setting of listed buildings. This means that considerable weight and importance must be given to any harm caused to the designated heritage assets in the planning balance, and this includes any harm to the setting of listed buildings and historic park and gardens. Paragraph 132 of the National Planning Policy Framework (the Framework) says great weight should be given to heritage assets' conservation. Policy BH16 of the East Herts Plan Second Review 2007 (Local Plan) states that development proposals that significantly harm the historic character, appearance or setting of historic parks and gardens will not be permitted.

5. The proposed garage would be modest in size and positioned discretely along the boundary with Historia and against the neighbour's own detached garage. I do not find it would harmfully effect or erode the openness of the site or the wider historic park and garden. I also find the proposed garage would be sufficiently distant from the listed wall that it would not undermine its setting. I therefore find the significance of the designated and non-designated heritage assets would be preserved. I equally find the proposed development would not appear as a disproportionate addition to the dwelling, or would it harm the rural qualities of the area.
6. Notwithstanding my findings, the Council has confirmed in an email dated 25 January 2018 that it has granted a Certificate of Lawful Development (CLD) for the construction of a double garage in a similar position¹, albeit at approximately 90-degrees from the proposed development before me. I am told that the double garage enjoys a timeless consent and as such could be erected at any time. This follows the grant of planning permission for it, and the conversion of an internal garage to habitable accommodation some years back²; and where the latter had already taken place.
7. The grant of the CLD has a significant bearing in this appeal. The fact the appellants could construct a larger and arguably more intrusive garage structure renders any objection to the proposed development to be somewhat of a futile exercise. Therefore even if I had shared the Council's concerns on the appeal proposal, they would have been outweighed by the CLD for the double garage, which I have no reason to doubt would have been constructed in the event I were to dismiss this appeal.
8. The proposed development would accord with Local Plan policy BH16, details of which I have set out above. It would also accord with Local Plan policies GBC3 and ENV5. These state that limited extensions to existing dwellings on rural land beyond the Green Belt will be granted providing that the character and appearance would not be significantly affected to their detriment and not be disproportionate in size. It would also accord with the relevant parts of the Framework.

Conditions

9. I have considered the conditions suggested by the Council against paragraph 206 of the Framework. I have specified the approved plans so as to provide clarity and certainty as to the scheme approved. A condition relating to materials is necessary to ensure the appearance of the development would be satisfactory.

¹ Council ref: 3/17/2708/CLE

² Council ref: 3/95/0878/FP and renewed 3/00/1509/FN

Conclusion

10. For the reasons given above I conclude that the appeal should be allowed.

R Allen

INSPECTOR

Appeal Decision

Site visit made on 6 February 2018

by **R W Allen B.Sc PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st February 2018

Appeal Ref: APP/J1915/D/17/3187824
Cotta, Hadham Road, Standon SG11 1LH

- 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 Lloyd Mann against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1841/HH, dated 3 August 2017, was refused by notice dated 28 September 2017.
 - The development proposed is extension to existing bungalow – roof and internal alterations.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of the adjacent property known as Cherries.

Reasons

3. The appeal property is a detached bungalow on a sizeable plot. The dwelling is positioned close to its side boundary with Cherries, which is a two-storey dwelling and which the Council says its rear elevation directly faces the appeal property. The boundary between the two comprises a fence with trellis topping, and only a small proportion of the appeal property protrudes above it.
4. I appreciate that the appellant has attempted to minimise any harmful effects the occupiers of Cherries might experience from the increase in height of the appeal property. This is through the use of a hipped roof along this side with the neighbour, and a reduction in the overall height from what he had previously desired.
5. Nevertheless, the roof would be considerably taller than the existing dwelling. Even accounting for the angle of the roof slope, because of its relatively close proximity to neighbouring property, I find that the occupiers of the Cherries would experience a significant worsening of their outlook as a result. The appellant's assertion that existing trees located on a different boundary of the neighbouring property are already having an effect on light and outlook to the occupiers have not been substantiated, but in any event I have made my decision on the evidence before me.

6. I find that the proposed development would not accord with saved policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review 2007. These state that all development proposals will be expected to respect and not significantly affect the amenity of occupiers of neighbouring building and to ensure sufficient space exists between first floor side extensions and neighbouring properties.

Conclusion

7. For the reasons given above I conclude that the appeal should be dismissed.

R Allen

INSPECTOR