



Appeal Decision

Hearing held on Tuesday 27 February 2018

Site visit made on Tuesday 27 February 2018

by R Barrett BSc (Hons) MSc MRTPI IHBC DipTP MRTPI

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

Decision date: 22nd March 2018

Appeal Ref: APP/J1915/W/17/3181608

Land at North Drive, High Cross, Hertfordshire SG11 1AR

- 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 Sean Harries of Beechwood Homes Ltd, against the decision of East Herts Council.
 - The application Ref 3/17/0251/FUL, dated 1 February 2017, was refused by notice dated 21 June 2017.
 - The development proposed is described as 'erection of 20 dwellings with associated parking, landscaping and access'.
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Decision

1. The appeal is allowed and planning permission is granted for 'erection of 20 dwellings with associated parking, landscaping and access' at Land at North Drive, High Cross, Hertfordshire SG11 1AR, in accordance with application Ref 3/17/0251/FUL, dated 1 February 2017, subject to the planning conditions set out in annex 3 to this Decision.

Preliminary Matters

2. The description of development above is taken from the Council's decision notice as it more accurately describes the development sought. As there was not appeal site address on the application form and that on the Council's decision notice was incomplete, the full address, including postcode was agreed by both main parties at the Hearing and is reflected in the banner heading and my formal Decision above.
3. The Council's letter of notification of the appeal Hearing, dated 21 December 2017, does not indicate the time of the event. However, that letter noted the day and venue correctly and recipients could have contacted the Council for clarification if required. It was also confirmed that the Thudridge Parish Council communicated the time by letter to local residents and on their web site. Further, the event lasted most of the day. Therefore, taking all of this into account, I am confident that all those who wished to be present had an opportunity to be so. That all parties at the Hearing accepted that point gave me further assurance on this matter.
4. During the course of the appeal, the Council changed its position on its five year housing land supply (5YHLS). It now considers that it can demonstrate a 5YHLS. This has been taken into account in my Decision, along with the appellant's comments in this regard.

5. The examination into the Draft East Herts Local Plan (2016) (eLP) is underway and consultation on the Inspector's main modifications was taking place at the time of the Hearing. As that document is at an advanced stage of preparation, I attach significant weight to it in making my Decision.
6. I am aware that on 5 March 2018, the draft revised National Planning Policy Framework was published. This is a draft that is subject to consultation and does not change my conclusions on this appeal.

Main Issues

- Whether it would preserve the special architectural or historic interest of St John the Evangelist Church (the Church) and the Rectory, both grade II listed buildings and designated heritage assets; and
- The effect of the appeal development on the character and appearance of the locality.

Reasons

Listed Buildings

7. The Church and the Rectory are located close to the appeal site. The settings of those listed buildings include the intended visual and functional relationship between the two, the graveyard around the Church and the gardens around the Rectory and the wider countryside beyond. The latter serves as a reminder of their former more rural landscaped setting of which the Glebe, which is the appeal site, forms a part. The Glebe, having been in the same ownership as the Church and the Rectory was intended as land to support the minister. Whatever the design intent of those listed buildings, the appeal site has a historic and visual connection with the Church and the Rectory and today contributes to an understanding of their history. For these reasons, it contributes to the significance of those listed buildings.
8. As a result of development on the Glebe, the appeal scheme would somewhat erode the semi-rural setting of the listed buildings. However, that has already been diminished by existing development nearby and the impact of the appeal development in this context would be limited. The proposed development would marginally reduce an understanding of the historic connections between the Glebe, the Church and the Rectory. However, the primary relationship is that between the Church and the Rectory, which would not be affected. Further, the field boundary would be retained along with most of the boundary planting, with some reinforcement, and some open space would be included, such that the harm would be very limited. Whilst the proposed development would be closer than existing development, due to the separation distance, intervening planting, the height and layout of the proposed development, including some open space, views of the Church and the Rectory from North Drive would not be materially interrupted, in the day or night. That the Church was designed to be seen at some distance, adds weight to this conclusion. All in all, some limited harm to the setting of those listed buildings would result. However, for all the above reasons that limited harm would not adversely affect the significance of those designated heritage assets.
9. I consider that the appeal proposal would preserve the special architectural or historic interest of the Church and the Rectory, both grade II listed buildings and designated heritage assets. For this reason, it would generally accord with

East Hertfordshire Local Plan Second Review (April 2007) (LP), Policy DES3. That policy aims for a high standard of design and layout that reflects local distinctiveness. Whilst I note that emerging policies are not adopted and the wording may be subject to change, the appeal would also generally accord with the overall aims of East Herts Draft Plan (2016) (eLP) Policies HA1 and HA7. Those policies, together, aim for development to preserve and enhance the historic environment.

Character and Appearance

10. The appeal site includes a mainly open meadow. It is generally grass with trees and planting. The trees sit predominantly around the edges and are protected by High Cross Vicarage Tree Preservation Order, dated January 1972. It has most recently been used as grazing. The appeal site is surrounded by dwellings and other development on all sides.
11. North Drive is set off the main road that runs through High Cross. It is an undedicated road and bridle way that runs from High Road through to Home Farm and the open fields beyond. It comprises mainly housing with some variety in their layout, style and age. However, generally there is some consistency in the scale, form and height of dwellings and their generally spacious layout, with large rear gardens, planting and hedges. As it is close to open countryside beyond and includes hedges and planting, it has a generally semi-rural character and appearance. The appeal site, which fronts onto North Drive, its openness, trees and planting, together with the Church and the Rectory in the background and the collection of historic buildings, including the village hall and school, within High Cross for which the land was gifted by a local benefactor, all contribute to that character and appearance.
12. The appeal site is set back from the main road that passes through High Cross along a secondary undedicated road and bridleway. It is surrounded by development on all sides and views into it are restricted by boundary planting including trees, even when they are not in leaf. It is not publically accessible and does not have a community use. Therefore, whilst it does provide a break in development, is an attractive space and provides foreground to some distant views of the Church and Rectory, it has a limited role in defining the form or setting of the village. This assessment generally accords with that of the Inspector in examining the LP to which I attach significant weight. I note that a different assessment was made within the Strategic Land Availability Assessment carried out as part of the eLP. However, the eLP is not yet adopted, which reduces the weight I accord its evidence base for the purposes of this appeal.
13. My attention is also drawn to a Council's previous planning decision (Ref 3/11/0427/FP). However, that considered the merits of dog training taking place at the appeal. That is a significantly different use to the one before me, which limits the weight I accord it in making my Decision.
14. The appeal scheme would result in development on the greater part of a green field site and would reduce the amount of open land in the locality. However, this is a consequence of any development on a green field site and as development already surrounds the appeal site, more dwellings would not appear out of place. Further, the appeal development would include a large area of open space, sited roughly centrally within the appeal site and the proposed layout would include large rear gardens and would generally be

spacious. As development already surrounds the appeal site and it is bordered by planted boundaries which restrict views from North Drive, it would not materially erode the sense of spaciousness in the locality. Further, the proposed landscaping has the potential to open up views from North Drive into the appeal site. As the appeal scheme would retain the majority of trees and boundary planting, would be set back from North Drive behind a green area and would include new landscaping and planting, it would not harmfully impact the semi-rural characteristics of the locality that I have identified. The layout, form and design of dwellings would pick up on characteristics that I observed in the locality. For all these reasons, it would not harmfully affect the locality's character and appearance.

15. It was suggested that the appeal site had a community character and function. However, at present it is a private field with no public access. The character and function of the appeal site would change from a private field with no public access, to dwellings with some publically accessible open space. For all the reasons previously stated, such a change in character and function would not be unacceptably harmful.
16. I conclude that, overall, the appeal proposal would preserve the character and appearance of the locality and would generally accord with LP Policies OV1, ENV1 and HSG7. Those policies, together, aim for small scale and infill housing development to be of a high standard of design and layout and reflect local distinctiveness. It would generally accord with eLP Policies VILL2 and DES3, which allow for limited infill in Group2 villages and seek a high standard of design and layout in development. As the Council explained that eLP Policy VILL2 does not provide a definition of 'limited infill', on the basis of the size of the proposed development, and the character and appearance of the locality, in the circumstances of this appeal, I find no conflict would result.

Other Matters

Legal Agreement

17. A legal agreement is before me, in the form of a Unilateral Undertaking. That sets out a number of provisions aimed to mitigate the impact of the proposed development. The provisions provide for affordable housing, improvements to North Drive, amenity green space, improvements to a village hall, library services and the provision of fire hydrants. For each, a development plan policy has been identified, the means by which the contribution has been calculated is before me and, where on-site provision is not proposed, a project in the locality has been identified, to which the proposed provisions would contribute. Where appropriate, it has been confirmed that none would exceed five contributions. On this basis, I consider that appropriate evidence is before me to demonstrate that such contributions would meet the tests set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). All of the above provisions therefore are benefits of the proposed development and weigh in its favour.

Other Third Party Concerns

18. There is concern from local residents regarding the traffic that would be generated, access arrangements, parking provision and proposed works to North Drive and High Road. I appreciate that more traffic would be using North Drive and the junction with High Road. However, I am satisfied, on the basis

of the proposed traffic generation, road and traffic conditions in the locality, proposed alterations to North Drive and High Road, along with the proposed access with visibility splays, that, subject to detail that could be controlled through planning conditions, a harmful impact on highway safety would not result. Whilst I note concerns regarding parking and access particularly for emergency vehicles along North Drive, the proposed parking arrangements would comply with the Council's adopted parking standards. I am therefore satisfied that the situation would not be worsened by this development. Overall, I have noted that the Highway Authority does not object to the proposed development and in the absence of substantive evidence to the contrary, I have no reason to take an alternative view on this matter.

19. It was confirmed at the Hearing that a Neighbourhood Plan for Thudridge (NP) was being prepared. Public engagement had taken place and it was expected that consultation would begin at the end of March 2018 on a draft document. However, no document is before me. I am therefore unable to attach weight to it in making my Decision. However, I have taken into account the results of public engagement carried out as part of the preparation of the NP brought to my attention and its intention to allocate the appeal site as an 'Open Green Space' and Asset of Community Value.
20. A Flood Risk Assessment has been carried out. That indicates that the appeal development would be at a low risk of fluvial and surface water flooding as it would include a drainage system that would protect neighbouring development and water quality. The implementation of the drainage measures could be dealt with by appropriately worded planning conditions.
21. The appeal site, consisting of rough grassland with some trees, has limited ecological and biodiversity value and therefore, on the basis of the evidence before me, this does not present a constraint to development. Whilst some trees would be removed, the proposed landscaping would include tree planting which would compensate for any loss.
22. The proposed development would be within an established settlement with some facilities, services and some public transport. Whilst realistically some reliance on private vehicles would be expected for some higher order shopping and employment opportunities, its location would offer some potential for future occupiers to use methods of travel other than the private vehicle.
23. As the proposed dwellings would be some distance from neighbouring properties and noting the existing and proposed planting, no harmful impact on the living conditions of neighbouring occupiers, with regard to outlook, daylight or sunlight would be a likely consequence. I accept that private views from surrounding properties, including the Rectory, would be changed by the proposed development. However, for the above reasons, that would not constitute harm. Further, I have limited substantive evidence before me to suggest that existing services and facilities would be inadequate to serve the future occupiers or that the proposed development or that it would be out of scale with the size of High Cross.
24. The presence of other listed buildings nearby and Youngsbury Grade II* Register Park and Garden are brought to my attention. However, due to the separation distance, no impact on those heritage assets would be a consequence of this appeal.

25. The Council has submitted evidence to indicate that it can now demonstrate a 5YHLS. No substantive evidence to the contrary is before me. However, on the basis of my conclusions on the main issues of this appeal, as this matter would not affect its outcome, I have no reason to consider it further.

Planning Balance

26. The appeal development would deliver additional dwellings, plus affordable homes close to existing facilities and services, near to some public transport. It would provide some open space including a play space which would be publically accessible and some drainage measures that would be of benefit to the wider area. It would include improvements to North Drive which would be a benefit to all those using it, even though I acknowledge that it would not be adopted by Hertfordshire County Council. It would provide jobs during the build period and future residents would provide additional support for local services and facilities. There would also be some planting and landscaping, which would have biodiversity benefits. These public benefits, as a package, would be substantial.
27. In respect of adverse impacts, there would be some limited harm to the character and appearance of the locality through the loss of a green field site and open land within the locality. There would be some limited harm to the setting of listed buildings, but overall that would not affect their significance as designated heritage assets. Although some facilities and services would be within walking and cycling distance of the appeal site, future residents would be likely to have some reliance on private motor transport to access employment and higher order shops. However, taken together, the adverse impacts would be limited.
28. Weighing this all up, generally the appeal development would provide substantial public benefits and the adverse impacts would be limited. I found no conflict with the adopted development plan. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be allowed.

Planning Conditions

29. A list of suggested planning conditions was agreed between the two main parties at the Hearing. I have agreed with the imposition of most of these, subject to refinement to improve clarity and ensure consistency with national policy and guidance.¹ A list of planning conditions to be imposed is set out in Annex 3.
30. Standard time and plans conditions are required to provide certainty in the planning process. Conditions to secure external materials and hard and soft landscaping are necessary to ensure that the development blends into the locality. A condition to ensure that archaeology is protected is necessary as the appeal site lies within an Area of Archaeological Significance relating to the medieval settlement of High Cross. Conditions to secure adequate visibility splays and ensure garages are retained to park vehicles are required to ensure highway safety and on the basis of the existing vehicle conditions in North Drive. Conditions to control water runoff, avoid flooding and deal with any contamination are required in the interests of public health and safety. To

¹ Paragraphs 203 and 206 of the Framework and PPG paragraphs 21a-001-034

ensure development does not unduly disturb local residents, I have conditioned a construction method statement. I have also secured the provision of the play area to ensure it serves the needs of the proposed development.

Conclusion

31. For the above reasons, and taking all other matters raised into consideration, having noted all the comments from third parties, I conclude that the appeal should be allowed subject to the conditions listed in Annex 3 to my decision.

R Barrett

INSPECTOR

Annex 1

APPEARANCES

FOR THE APPELLANT:

Mr S Harries	Beechwood Homes Ltd
Ms M Owen	Boyer Planning
Mr M Strawbridge	Museum of London Archaeology

FOR THE COUNCIL

Mr D Snell	Principal Planning Officer
Mr G Pavey	Senior Planning Policy Officer

OTHER PARTIES:

Mr A Cheadle	Local Resident
Mr D Finn	Local Resident
Mr D Hagland	Local Resident
Ms K Rust	Local Resident
Ms J Veater	Planning Advisor to Thudridge Parish Council and TNP
Mr R Hallman	Chair TNP Steering Group
Ms C Archer	Parochial Church Council
Cllr S Bosson	Parish Councilor
Cllr D Andrews	Ward Councilor

Annex 2

DOCUMENTS SUBMITTED AT THE HEARING

1. Council's justification for planning obligations sought
2. Extract from Statement of Common Ground and missing plans
3. List of agreed conditions plus parking standards bundle
4. Copy of emerging eLP Policy HA7

Annex 3

LIST OF PLANNING CONDITIONS

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
- 2) The development hereby approved shall be carried out in accordance with approved plans: 22429A-01rev D; 02 rev C; 03 rev B; 04 rev B; 07 rev D; 08 rev D; 09 rev C; 10 rev B; 11 rev C; 12 rev C; 13 rev C; 14 rev C; 15 rev C; 16 rev C; 17 rev A; 18 rev B; 19 rev C; 20 rev C; 21 rev B; 22 rev C; 25 rev D; 26 rev E; 27 rev A; 28 rev C; 002 rev S; 101 rev C; 100 rev C; 122-PL-002 001 rev C; 122-PL-002 rev C; Tree retentions and removals plan; Tree survey and root constraints plan.
- 3) Prior to the commencement of development a written scheme of archaeological investigation shall be submitted to and approved in writing by the local planning authority and implemented in full accordance with those details. The development shall thereafter be carried out in accordance with the approved scheme. The resultant archaeological reports shall be submitted to and approved in writing by the local planning authority prior to first occupation of the development hereby approved.
- 4) No development shall commence until a schedule and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with approved details.
- 5) The hard and soft landscaping works shall be carried out in full in accordance with the approved details before any part of the development is first occupied. Any tree or shrub planted in accordance with the approved details which is removed, dies or becomes diseased within a period of five years from first being planted shall be replaced by one of a similar size and the same species in the first available planting season.
- 6) The garages, hereby approved, shall be retained for parking private vehicles of the occupants and their visitors of the dwelling of which it forms a part.
- 7) Before first occupation of the proposed development, visibility splays of 2.4 metres X 25 metres shall be provided in each direction, within which there shall be no obstruction to visibility between 600mm and 2 metres above the carriageway. The visibility splays shall be implemented and permanently retained in accordance with those details.
- 8) The development shall be carried out in accordance with SDP Consulting Engineers Flood Risk Assessment, dated 10 January 2017. The mitigation measures itemised within that report shall be fully implemented prior to the first occupation of the development and in accordance with phasing arrangements embodied within that Assessment. Measures shall be permanently retained as constructed to include:

- attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year plus climate change events;
 - limiting surface water run-off generated by the 1 in 100 year plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
 - the SUDS measures set out in proposed layout E15-043-101-P1.
- 9) Prior to first occupation of the development a management and maintenance plan for the sustainable drainage features hereby approved shall be submitted to and approved in writing by the local planning authority. The drainage features shall be thereafter maintained in accordance with the approved details.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) the routing of delivery vehicles;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) delivery, demolition and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 11) Prior to commencement of development, a Phase 2 investigation report, as recommended by Southern Testing Environmental and Geotechnical, dated 13 September 2016, shall be submitted to and approved in writing by the local planning authority. Where found to be necessary, a remediation strategy shall be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first occupied.
- 12) Prior to the commencement of development above ground, detailed plans of the play area as shown on approved plan 22429A/002 Rev S, shall be submitted to and approved in writing by the local planning authority. The play area shall be constructed in accordance with those approved details

prior to first occupation of the development. The play area shall be permanently retained as a play area.



Appeal Decision

Hearing Held on 21 February 2018

Site visit made on 21 February 2018

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2018

Appeal Ref: APP/J1915/W/17/3181774

Land adjacent to The Old Rectory, Baldock Road, Cottered, Hertfordshire SG9 9QP

- 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 Robert Taussig against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0387/OUT, dated 15 February 2017, was refused by notice dated 24 May 2017.
 - The development proposed is 15 dwellings with associated access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration save for the appearance of the dwellings and the landscaping of the site¹. I have taken the section drawing as confirming the maximum ridge and eaves heights of the buildings and the site layout plan as showing their maximum depths and widths. The appellants have substituted the originally proposed starter homes for affordable housing and therefore the description of development has been amended to reflect this change.
3. The Council submitted a copy of its Annual Monitoring Report (AMR) for the period April 2016 – March 2017 before the hearing opened but after the deadline for cases to have been submitted. This was not unreasonable as the AMR has only recently been adopted by the Council and is important to my deliberations. All of the parties have had an opportunity to review the AMR and therefore it has been accepted as late evidence as no party would be prejudiced by me doing so.
4. A planning obligation was submitted at the hearing by the appellants but the Council had not previously seen it. Therefore, the Council were afforded an opportunity to consider the document and the appellant to make any subsequent changes that may have been necessary following the Council's review. I received the final planning obligation on the 2 March 2018.

¹ See the Interpretation section of *The Town and Country Planning (Development Management Procedure) (England) Order 2015* for the full definition of each of the five reserved matters

Main Issues

5. The main issues in this appeal are:

- Whether the proposed dwellings would be in a suitable location with particular reference to local policies concerned with housing in rural areas;
- The effect of the appeal scheme on the character and appearance of the area; and
- Whether the appeal scheme would make adequate provision for infrastructure (education and community facilities²) and affordable housing.

Reasons

Rural housing policy

6. The extant development plan includes the East Herts Local Plan Second Review 2007 (LP) and the Buntingford Community Area Neighbourhood Plan 2014 – 2031 (NP). Policy SD2 of the LP outlines the spatial strategy for development in the district in the form of a settlement hierarchy. The strategy in the LP is, in part, to concentrate development in the larger main settlements where services can be reached and supported through sustainable modes of transport. The strategy also includes opportunities for limited development in smaller settlements to support and address the local needs and services within them.
7. The spatial strategy is further developed through Policies OSV1, OSV2 and OSV3 of the LP. These policies divide the district's settlements into three categories. The level of services and facilities available in each settlement informs which category it is placed within. Within the confines of Category 1 villages, which have the greatest range of services and facilities, Policy OSV1 permits limited small scale and infill development. Within Category 2 villages only infill housing development is permitted. Guidance in the LP defines limited small scale development as typically comprising schemes of up to 15 dwellings (but rarely more than 30 homes) and infill housing is defined as proposals of up to 5 small dwellings.
8. Cottered has a handful of local services including a village hall, public house, church and recreation ground. These are, or can be made, reasonably accessible to the appeal site by a short, safe and comfortable walk. Nevertheless, the village is devoid of most everyday services such as schooling and shops and employment opportunities are very limited.
9. The services and facilities in neighbouring settlements are beyond a comfortable walk and due to the busy nature of the A507, its winding alignment, and the undulating topography, cycling would require a level of confidence, fitness and proficiency that residents may not possess. A bus route serves the village but the frequency of buses is limited to a handful of trips a day. Consequently, villagers are largely car reliant. Cottered is only a short car journey from everyday services but daily journeys to work and school would soon add up to a high number of miles travelled with the associated carbon emissions. As such, Cottered is not defined in the LP as either a Category 1 or Category 2 village.

² The Council confirmed at the hearing that it no longer considers it necessary to provide fire hydrants through a planning obligation and consequently this is no longer a point in dispute.

10. Although not well served by everyday services and facilities Cottered has a settlement boundary in order to facilitate some limited forms of development. It is a Category 3 village and thus subject to Policy OSV3, which does not permit development other than that listed in Policy GBC3 of the LP, including affordable housing required to meet the identified needs of the village or parish. The appeal scheme, which is for the erection of 15 houses, would be well beyond the size of development envisaged in the LP at a Category 3 village. Moreover, the appeal site is positioned outside the defined boundary of the settlement and would fail to adhere to any of the stated exceptions in Policy GBC3 that may otherwise justify this. Thus, the proposal, due to its size and location, would be at odds with the spatial strategy in the LP.
11. The LP pre dates the National Planning Policy Framework, which seeks to locate housing in rural areas to enhance or maintain the vitality of rural communities, recognise the intrinsic character and beauty of the countryside and seeks to facilitate sustainable transport and travel choices, mindful of the fact that opportunities to maximise sustainable transport solutions will vary from rural to urban locations. The rural housing policies in the LP are not wholly at odds with these aims but they lack flexibility. As such, the conflict with Policies SD2, OSV3 and GBC3 carries only moderate weight.
12. The NP postdates the Framework and has therefore developed the spatial strategy outlined in the LP. Policy HD1 of the NP takes a more flexible approach than the rural housing policies in the LP. It directs housing development to sites within the settlement boundaries of Buntingford and Cottered. Nevertheless, Policy HD1 states that outside these defined settlements small scale infill development within or immediately adjoining existing clusters of development will be permitted. Policy HD1 is not wholly consistent with Policies OSV3 and GBC3 but it is more up to date. As such, and within the NP area, Policy HD1 supersedes aspects of Policies OSV3 and GBC3³.
13. The NP is consistent with the Planning Practice Guide which states that all settlements can play a role in delivering sustainable development and that blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence. In this instance the evidence before me suggests Cottered is not well served by services and facilities and therefore a policy that restricts the size of housing proposals outside the settlement boundaries to a 'small scale' are justified.
14. The appeal site immediately adjoins the settlement boundary of Cottered, which is a significant cluster of development in the NP area. Consequently, the key issue in this instance is whether the appeal scheme would be 'small scale infill development'. This term is not defined in the NP and therefore the appellants have suggested that the appeal scheme, which would amount to the village growing by around 6%, would be 'small scale'. However, Policy HD1 does not advocate a strategy based on housing growth as a percentage and therefore I have not defined small scale infill development in this way.
15. It is apparent that the NP expects Cottered to accommodate some development being one of only two settlements specifically identified in Policy

³ It is acknowledged within Policy HD1 of the NP that more recently adopted policies can supersede older one. This is embodied in Policy HD1, which indicates that it may need to be updated following the adoption of the emerging District Plan (DP).

HD1. Therefore, the NP appears to elevate the status of Cottered above that of a Category 3 village. However, it is a stretch to suggest the NP intends to treat Cottered as the equivalent of a Category 1 village, within which limited small scale development of up to 15 homes is generally permitted. The reference to small scale *infill development* in Policy HD1 would suggest to me that the NP has altered the status of Cottered to the equivalent of a Category 2 settlement. It is therefore logical to apply the definition of 'infill development' in the LP in so far as it relates to Category 2 villages. This being a scheme comprising up to 5 small dwellings. In this respect the NP has been future proofed, having been prepared with one eye on the emerging District Plan (DP).

16. The emerging DP includes draft Policy VILL2. This policy has been examined and modifications are currently being consulted upon. If adopted in its modified form then Cottered would retain a settlement boundary, which would be expanded, and the village would be elevated to a Category 2 settlement within which limited infill development will be permitted, as will small scale development identified in an adopted neighbourhood plan. The appeal scheme is not specifically identified or allocated in the NP. The emerging DP is still being prepared and therefore it cannot be afforded full weight. However, the intention to upgrade Cottered to a Category 2 village can be afforded significant weight as, arguably, this upgrade has already occurred through the NP.
17. Therefore, in applying Policy HD1, I have interpreted small scale infill development to be development of a similar scale to the definition of 'infill development' in the LP, that being up to five homes. This more limited definition is reasonable when considering the emerging DP no longer sets a target to provide 500 homes in the Category 2 villages. As such, the appeal scheme would be of a scale beyond that envisaged in the NP and therefore too many houses would be proposed in a location with limited travel choices and everyday services and facilities. The proposal would provide facilities for homeworking but it cannot be guaranteed that future occupants would work from home or use electric vehicles.
18. I therefore conclude that the appeal scheme would not amount to a small scale infill development and thus housing in a suitable location when applying the local policies concerned with rural housing. More houses than that permitted in the development plan would be provided at a settlement with few facilities and services. As such, the proposal would not adhere to Policies SD2, OSV3 and GBC3 of the LP or Policy HD1 of the NP. As such, the proposal would be at odds with, and thus undermine, the strategy for the location of housing set out in the development plan.

The effect on the character and appearance of the area

19. The appeal site is approximately 0.9 hectares in size and broadly encompasses the southern half of a larger field. The field is surrounded on all sides by hedgerows, some of which are gappy, and has a frontage onto the busy A507.
20. The historic core of Cottered is located to the west of the appeal site and this is broadly characterised by period properties of different ages and styles set within plots of differing shapes and sizes. The dwellings are not set in discernible building lines but they are generally orientated with the principle, front elevation facing and framing the main thoroughfares. These active edges give a pleasing grain to the development in the village. The central green, mature trees and wide grass verges afford the village a verdant character. The

extensive landscaping and the orientation of the properties bind the built form together. Consequently, and rather paradoxically, the historic core of the village is characterised by its variety and its harmony.

21. The more immediate context of the appeal site is dominated by the contrast between the regular layout, scale and orientation of the semi-detached properties on the southern side of the A507 and the open rural landscape to the north, which the appeal site, as an undeveloped meadow, is viewed as being part of. Thus, the appeal site is a finger of open countryside that provides a break in the built form of the village and thus a visual bridge with the rural landscape beyond. In this respect the undeveloped appearance of the appeal site contributes to the rural character and appearance of the area and the bucolic setting of the village.
22. The introduction of fifteen dwellings, the associated domestic paraphernalia, a formal highway access and internal roads would inherently urbanise the appeal site and harm its open appearance and rural character when viewed from surrounding vantage points. Moreover, by spanning the entire width of the appeal site the development would inhibit the visual connection between the village and the rural landscape beyond.
23. However, some form of incursion into land beyond the settlement boundary may be necessary to enable the village to grow in the way suggested in the development plan as there appears to be limited opportunities within the settlement boundary, much of which is a Conservation Area. Moreover, the presence of a continuous row of houses across the road, and housing either side, provides a built context and an opportunity to bridge the village centre with the pocket of development east of Magpie Farm. As such, the inherent urbanisation of the appeal site would only result in moderate harm to the character and appearance of the area.
24. More significantly, the harm that would arise from the urbanisation of the appeal site would be compounded by the layout of the development, which has not been arranged with active edges. Instead, the detached houses would have an inward looking insular arrangement with rear elevations and boundary treatment presented to the edges of the site. This would significantly harm the street scene along the A507.
25. The Old Rectory and the dwelling to its immediate west do not face the A507 but these are isolated examples that do not justify the proposed layout. The southerly aspect of some of the proposed gardens would not be a determinative benefit as the arrangement would expose those gardens to road noise and the other detached properties would have shallow north facing gardens. The density of the proposal would not be high but this alone is not a useful indicator of whether the development would respond to local character as it does not consider the layout or size of the buildings.
26. The roadside hedge would not successfully screen the development due to the scale of the houses, the presence of large gaps between groups of plants, the largely deciduous nature of the foliage, which would be less successful as a screen when not in leaf, and because the hedge could die or be removed in the future. Thus it should not be relied upon to hide a development that would be injurious to the street scene. Moreover, an alternative, outward looking arrangement need not result in the frontage hedge being removed.

27. The northern edge of the appeal site would be defined by boundary treatment and the gable end of a property. This could be softened by landscaping outside of the appeal site but this would take time to mature and would not obscure the rear elevations of the properties, which would be visible from the area planned for allotments and the parking area for the 'village day'.
28. The houses to the east of the affordable homes would present a discordant suburban layout being detached, similar in style, laid out with large garages and driveways, set in broadly similar sized plots and arranged around a central spine road that creates a conventional cul-de-sac layout. This would not reflect the varied historic grain of development in the centre of the village and would present an unseemly juxtaposition with the properties across the road. As such, the appeal scheme would appear as a stark and discordant departure from the local pattern of development.
29. The appeal scheme has attempted to echo the layout and character of the rural lanes in the village that branch off the A507. The lane immediately to the south west of the appeal site is a pleasing example of this street typology, with a verdant entrance loosely framed by housing that tapers off towards Brook End. This provides a gentle transition from the A507 to the countryside beyond the village. However, the appeal scheme, in its current form, would not successfully achieve this as the development would appear to run parallel with the A507 rather than branch off it and the large houses would be located too close together to give a loose verdant character.
30. The affordable housing would frame the approach to the area that has been suggested as a possible location for parish allotments but a run of six terrace houses would not create the sense of a lane. Overall, the proposed development would not reflect the character or appearance of the rural lanes found elsewhere in the village. As such, the appeal scheme would not be a natural extension of the village but would instead appear as a small housing estate bolted onto it. In this respect it would not reflect local distinctiveness.
31. The appellants have suggested that the appeal site is not an important undeveloped space in the village because it is not identified as being so in the emerging Cottered Conservation Area Appraisal and Management Plan. However, this document is still at a formative stage and thus subject to change. As such, I afford its findings limited weight.
32. I acknowledge that there is a possible contradiction between the Council's conclusion that the appeal scheme would harm the eastern approach into the historic core of the village but would not harm the setting of the Conservation Area (CA). However, it transpired at the hearing that the Council's Conservation Officer had not been consulted on the planning application and therefore this conclusion was formed without specialist input. I consider the appeal scheme would harm the eastern approach into the village for the reasons already given and the Council's assessment in respect of the impact on the setting of the CA does not alter my findings on this point.
33. I therefore conclude that the appeal scheme would result in some inherent but moderate harm to the rural character of the site. Notably, this would be compounded by a very poor layout. Overall, the proposal would significantly harm the character and appearance of the area. This would place it in conflict with Policy ENV1 of the LP, which is consistent with Paragraphs 58 of the

Framework, and Policy HD2 of the NP, which seek to secure development of a high standard of design and layout that reflects local distinctiveness.

Whether the appeal scheme would make adequate provisions for infrastructure (education and community facilities) and affordable housing

34. The submitted Unilateral Undertaking (UU) aims to secure financial contributions towards meeting the need for additional facilities and services that would arise from the development. The contributions towards education and youth facilities would mitigate the pressures the development would place on local infrastructure, would be proportionate to the size of the development and would be spent on specific projects, the funding of which has not exceeded five pooled contributions.
35. I consider the various sums have been justified through evidence provided by the County Council, which the appellants have not challenged. The requirements are also supported by Policy IMP1 of the LP. Thus, the contributions would be necessary, directly related to the development and fair in scale and kind. As such the obligations would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework.
36. The UU would also secure the provision of 40% affordable housing for general needs. This would be consistent with the requirements of Policies HSG3 and HSG4 of the LP and therefore it is necessary to make the development acceptable. There is nothing before me to suggest this level of affordable housing would be unviable and therefore it would be fair in scale and kind. The requirement also arises out of the development so it is directly related to it. As such the obligations would accord with the tests set out in the National Planning Policy Framework.

Other Matters

37. A planning application should be determined in accordance with the development plan unless material considerations indicate otherwise. The appellants have advanced a number of potential benefits of the appeal scheme as material considerations to be considered.
38. The appeal scheme would deliver 15 homes, including six affordable homes, and this would benefit the district's housing supply. However, the benefit is moderate as I have seen nothing of substance to suggest the market houses proposed would be addressing a local need, such as that envisaged in Policy HD7 of the NP. Moreover, the affordable housing would be for general needs. There is a shortage of this type of affordable housing in the district but it, as opposed to local needs housing, can be located anywhere in the district. As such, there is no pressing need to locate the proposed houses at Cottered when doing so would conflict with the development plan.
39. The provision of housing would support the local economy and the vibrancy of the local community. However, I have seen nothing of substance to suggest the existing village facilities, organisations and clubs are struggling for a lack of local residents. Thus, the boost to the local population from the appeal scheme would not be a notable benefit. The proposal may support facilities in villages and towns nearby but I have seen nothing to suggest the proposed housing could not be located in or around these settlements where the benefits could

- be realised without the harm I have identified to the character and appearance of the area and from a general reliance on private motorised transport.
40. The provision of allotments to the immediate north of the appeal site is advanced as a benefit of the appeal scheme. The NP identifies a need for allotments and therefore their provision could be a material benefit that needs to be weighed against any harm. If the provision of the allotments is a determinative matter in favour of the proposal then they would need to be secured. This is best achieved through a planning obligation as the allotments are not shown on the application drawings, would be outside the appeal site and their delivery may require some form of land transfer. Consequently, securing them through a planning condition would be unreasonable.
 41. The appellants have not suggested that they would operate the allotments so the land earmarked for them would need to be leased or transferred to an organisation that would, such as the Parish Council. This organisation would need to be party to the planning obligation to ensure the allotments are delivered and retained. The obligation would also need to identify the specification of the allotments, including the number. A financial sum may also be necessary to set up the allotments and provide facilities such as parking, water and fencing. The planning obligation as drafted does not address any of these points. It merely requires land to be 'provided' for the allotments but there is nothing that would secure the delivery or retention of them. As such, the planning obligation in its current form would be ineffective in delivering allotments and consequently their potential provision cannot be given anything more than very limited weight as a benefit. It is also unclear why fifteen houses need to be built to secure this benefit.
 42. The provision of an 'honesty shop' has also been advanced as a benefit as it could, in a very modest way, offset the lack of a village shop. The planning obligation seeks to secure the honesty shop by stating that it must be provided prior to the occupation of the development. However, the size and precise position of the shop is not defined and it is unclear who would own and operate it. Moreover, the obligation does not state that the shop must be retained once provided. As such, the obligation is vague and imprecise and is not drafted in a way that would allow the provision of an honesty shop to be given anything more than very limited weight as a benefit.
 43. There has been significant local support for the proposal, much of which was due to the potential to deliver the allotments and community shop. However, given the uncertainty over the delivery and ongoing management of these facilities the public support is not determinative.
 44. The houses could be constructed to ensure a high environmental performance but the detailed design of the properties is a reserved matter and therefore this is best described as an aspiration rather than a notable benefit. The appeal scheme has the potential to provide biodiversity enhancements but this has not been quantified and therefore the extent of the benefit is unclear.
 45. A footpath would be provided through the development linking the properties to the east of the site with the centre of the village. It would present a poor pedestrian experience due to a sense of enclosure from being sandwiched between garden fences and the hedge along the A507. Moreover, the link would be incomplete as it would not stretch across the frontage of Magpie Farm. In any event there is already a footpath on the southern side of the

A507. For these reasons I do not find the potential for a pedestrian route through the site, in the way designed, to be a benefit.

46. The proposal would upgrade the bus stops but I have seen nothing to suggest the use of the bus stops is inhibited by their current configuration and condition. The development may also provide some over spill parking for existing residents of the village but it was clarified at the hearing that this would amount to only around four unallocated spaces. This would only be a modest benefit in the absence of substantive evidence to suggest on street parking is currently a significant problem.
47. When the Council issued its formal decision it was unable to demonstrate a five year housing land supply. It has since stated in its submissions that it is now able to demonstrate an adequate housing supply over 6 years. The appellant has not challenged this. I am therefore content to rely on the Council's conclusions. Thus, the Council's policies for the supply of housing are not out of date and the tilted balance in Paragraph 14 of the Framework is not engaged. It is therefore unnecessary for the Council to demonstrate that the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits. Instead, the totality of the harm I have identified would be outweighed by other material considerations, namely the benefits of the scheme, which individually and cumulatively carry only moderate weight.

Conclusion

48. The appeal scheme would mitigate its impacts on local infrastructure and make adequate provision for affordable housing. However, these matters do not outweigh the impact upon the character and appearance of the area and the conflict with the spatial strategy for housing in the development plan, which is to direct only small scale infill development to settlements with limited services. Consequently, the proposal would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, I conclude that the appeal should be dismissed.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Robert Taussig	Appellant
Debbie Taussig	Appellant
Alan Gunne-Jones	Planning and Development Associates
Tom Routh	Gatti Routh Rhodes
Stefanie Rhodes	Gatti Routh Rhodes
Richard Gatti	Gatti Routh Rhodes

FOR THE LOCAL PLANNING AUTHORITY

David Snell Dip TP DMS	Principal Planning Officer
George Pavey	Senior Planning Officer
Mike Slimmon	

INTERESTED PARTIES

John Harwood-Bee	Local Resident
Jeffery Lawton	Local Resident
Carol Lawton	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Planning obligation submitted by the appellant
2. The Council's vehicle parking standards
3. Main modifications for emerging Policy VILL2 of the District Plan



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: 1st March 2018

Appeal Ref: APP/J1915/W/17/3189363

**Land East of Upper Green Road, Upper Green Road, Tewin, Welwyn
AL6 0LE**

- 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 Robert and Cheryl Killingback and Cook against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0722/OUT, dated 23 March 2017, was refused by notice dated 22 May 2017.
 - The development proposed is the construction of 9 no. dwellings consisting of 4 no. 3 bedrooms and 5 no. 2 bedrooms with two new vehicular accesses.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application was outline with appearance and scale as reserved matters. I have had regard to all the plans and documents submitted with the appeal.

Main Issues

3. The main issues are:
 - Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the development on the character and appearance of the area; and,
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

4. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings should be regarded as inappropriate in the Green Belt, with the exception of those set out in paragraphs 89 and 90 of the Framework.

5. Bullet point 5 of paragraph 89 allows the limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan. Policy OVS1 of the East Herts Local Plan Second Review 2007 (the Local Plan) identifies Tewin as a category 1 village and within the confines of the village, limited small scale-scale and infill housing development may be permitted. The appeal site lies beyond the confines of the village and within the Green Belt.
6. Thus, the proposed development does not fall with the exceptions listed within paragraphs 89 or 90 of the Framework. The proposal would therefore be inappropriate development within the Green Belt and in conflict with Policy GBC1 of the Local Plan. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

7. Paragraph 79 of the Framework states that the essential characteristics of the Green Belt are their openness and their permanence. The site is currently laid to grass with stacks of various timber items such as fence panels, fencing frames and chicken coops scattered around the site. On the northern boundary of the site is a row of established fir trees that separate the site from the footpath to the other side of the trees.
8. The development proposes nine dwellings arranged in a linear manner fronting Upper Green Road. Two access points would be created into the site with parking areas and an access road to the front of the site. Private garden areas and garages would be provided to the rear of the development.
9. The effect of the development would be to extend a substantial built form across a site where development does not exist. This would result in a substantial level of urban sprawl that in turn would significantly erode the openness of the Green Belt in this locality.

Character and Appearance

10. The site is a roughly rectangular parcel of land that sits to the north of Godfries Close. The appellant's Planning Statement¹ states that the site is currently used for the keeping of poultry and the storage of caravans and a trailer. However, the site retains a rural appearance which extends to the adjoining field and agricultural land to the east of the site.
11. The proposal would result in a large development of dwellings that would extend across the entire width of the site. Coupled with the associated garages, driveways, parking areas and private rear gardens surrounded by fencing, the overall scheme would have a distinctly suburban appearance that would be out of keeping with the rural qualities of the area. I therefore conclude that the proposed development would unacceptably harm the character and appearance of the area.

Other Considerations

12. In 2005 the appeal site was put forward by the Council as an area² that should be removed from the Green Belt. However, this was rejected by the Inspector

¹ Planning Statement by M. J. Cook RIBA dated March 2017

² Site 8: Land off Upper Green Road

- who examined the Local Plan who reasoned that the site should be considered as part of the next District Plan, if appropriate houses did not come forward.
13. The East Herts Draft Plan 2016 (the Draft Plan) is currently being examined. The Council has produced a topic paper³ (the topic paper) which concluded that there was a need to release a proportion of the District's Green Belt land in order to deliver identified housing needs. Notwithstanding the submission from Peter Brett Associates⁴, the Council confirm that the appeal site is not one of the sites identified within the Draft Plan to be released from the Green Belt.
 14. The appellant argues that as the site was considered by the Council to be a sustainable location that could be released from the Green Belt as part of the 2007 Local Plan, it still offers the opportunity to provide market houses. In addition, the Council cannot demonstrate a 5 year supply of deliverable housing sites and has misdirected itself regarding paragraph 14 and footnote 9 of the Framework.
 15. I acknowledge that the officer's delegated report states that the site is well related to the existing settlement. However, the report continues by stating that the site is considered to be unsuitable due to its location within the Green Belt. I accept that the Council cannot demonstrate a 5 year supply of deliverable housing sites and paragraph 14 is engaged and that the policies for the supply of housing should not be considered up-to-date. However, land designated as Green Belt is specifically mentioned in footnote 9 of the Framework as a specific policy indicating that development should be restricted. Furthermore, this is reinforced by the Planning Practice Guidance which states that, "Unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt"⁵.
 16. In addition, I have carefully considered the appellant's argument that, "If the Local Authority use NPPF para 14 to over-ride plan-making and decision-making in areas within the Green Belt then the NPPF para 84, referred to above, which refers to Local Authorities reviewing Green Belt boundaries, becomes a nonsense, which is not the intention of the NPPF [the Framework]". However, paragraph 83 of the Framework states that once the Green Belt has been established, it should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. Thus, an appeal under section 78 of the Town and Country Planning Act 1990 is not an appropriate procedure to seek a review of the Green Belt boundary at the appeal site.
 17. Moreover, despite the request from the Inspector examining the Draft Plan for further information from the Council⁶ regarding the progress made to adopt Neighbourhood Plans, it remains that the site is currently within the Green Belt. Furthermore, the topic paper acknowledges paragraph 85 of the Framework which requires the Council to satisfy themselves that further Green Belt alterations will not be needed for the development plan period and concludes that the release of land identified will deliver identified housing needs.

³ TPA/003 East Herts District Plan: Topic Papers Green Belt March 2017

⁴ Peter Brett Associates: \\BRI-PMFS-001\projects\30589 East Herts Green Belt Review\Technical\Planning\Reporting\Final report 18.09.15\EHGB Final Report 18.09.15 FINAL.docx

⁵ Paragraph: 034 Reference ID: 3-034-20141006 Revision Date 06 10 2014

⁶ Christine Thorby (Inspector) dated 7 August 2017

Accordingly, I only attach limited weight to the arguments put forward by the appellant.

18. The appellant also makes reference to policies within the Draft Plan. Although at a later stage of examination, the Inspector's timetable for consultation on main modifications has not been completed. Furthermore, the appellant confirms that the proposed modifications do not seek to alter the Green Belt boundary at the appeal site. As such, I can only give the policies within the emerging plan limited weight.
19. During my site visit the appellant also drew my attention to a new dwelling currently being erected north of the appeal site, which is also identified on the location plan⁷. However, I have very limited information relating to the circumstances that led to this development being accepted by the Council. As such, I cannot be sure that the development is so similar to that before me. In any case, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.

Green Belt Balance

20. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness to the Green Belt resulting from the proposed development. I also attach considerable weight to the harm caused by the proposed development to the character and appearance of the area.
21. Against this, I attach limited weight to the appellant's arguments put forward regarding the Council's failure to demonstrate a 5 year supply of deliverable housing sites or the policies within the emerging draft plan.
22. Overall, the weight I have given to the other considerations put forward do not clearly outweigh the substantial harm to the Green Belt the development would cause. I therefore conclude that the very special circumstances necessary to justify the development do not exist. Thus, the appeal should be dismissed.

Graham Wyatt

INSPECTOR

⁷ Drawing 101 Rev A dated March 17



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: **Wednesday 14th March 2018.**

Appeal Ref: APP/J1915/W/17/3185288

Long Meadow, Ware Road, Widford SG12 8RQ

- 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 T Baxter against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1008/FUL, dated 26 April 2017, was refused by notice dated 20 July 2017.
 - The development proposed is demolition of existing agricultural buildings and erection of 4no. detached four bedroom dwellings
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing agricultural buildings and erection of 4no. detached four bedroom dwellings at Long Meadow, Ware Road, Widford SG12 8RQ in accordance with the terms of the application, Ref 3/17/1008/FUL, dated 26 April 2017, subject to the attached schedule of 11 conditions.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed development would accord with the development strategy of the East Herts Local Plan Second Review (2007) (the Local Plan);
 - whether the proposed development would preserve or enhance the character or appearance of Widford Conservation Area, the setting of the nearby listed buildings at St John the Baptist Church, The Old Rectory, The Coach House, Ashview Nursing Home, and Walnut Tree Lodge to the eastern side of Ashview Nursing Home, and trees;
 - the effect of the proposed development on protected species; and
 - the effect of the proposed development on highway safety.

Reasons

Development Strategy

3. As the appeal site lies outside the village boundary of the Category 2 Village of Widford as defined by the Local Plan, the appeal site falls within the Rural Area beyond the Green Belt where inappropriate development is restricted other than for purposes set out in policy GBC3 of the Local Plan, none of which would

apply to the proposed development. There is therefore a conflict with the settlement strategy aims of policy GBC3. I will return to this issue, and the implications of the Council not having a 5 year supply of housing land, under the Planning Balance section below.

Character and Appearance

4. The appeal site lies within the Widford Conservation Area and consists of an area of unmanaged grassland surrounded by trees and native hedging, which adjoins Ware Road to the north and arable farmland to the south. The road runs in an easterly direction from Widfordbury to the junction of Abbott's Lane, where it is possible to look down towards the River Ash valley and countryside beyond. This northward view is described as the most important view within the Conservation Area¹. A cemetery, a bungalow, and an adjoining piece of land where 2 houses are currently being built² lie on the southern side of the road. The eastern end of the appeal site adjoins Abbott's Lane.
5. Widford Conservation Area covers much of the village and extends as far as Widfordbury to the west, where development is dispersed. The settlement pattern appears to have existed largely since the 19th century, although there are more recent housing developments along Ware Road. The significance of the Widford Conservation Area is derived from the village's rural character and appearance, with a mixture of historic buildings interspersed with more modern residential development. It is also characterised by clusters of buildings with views between the buildings out into the surrounding countryside.
6. Situated at Widfordbury, the grade II* listed St John the Baptist Church and its grade II listed former rectory (The Old Rectory) are visible to the west of the appeal site and form part of a small group of buildings along Ware Road. At the junction of Ware Road and Abbott's Lane, there is a small group of listed buildings including The Coach House (Grade II); Ashview Nursing Home (Grade II); and Walnut Tree Lodge to the eastern side of Ashview Nursing Home (Grade II). All these listed buildings form part of a pleasant approach into Widford, with the church and its former rectory providing an attractive introduction to the Conservation Area. The church and its former rectory's significance derive much from their architectural interest as fine examples of buildings dating from the medieval period through to the Victorian era, as well as their historic interest, while the eastern group of listed buildings derives much of its importance from the grouping it forms and its architectural and historic interest.
7. The significance of the Conservation Area is strongly informed by its pattern of development along and behind the main roads through the village with key views in gaps between developments. While the WCAAMP identifies that views into the appeal site are limited by vegetation, glimpsed views are presently of a number of outbuildings, which are in poor condition, and some storage containers. Moreover, as the appeal site is neither open agricultural land nor expansive pasture land and is well-screened by established trees and hedging, the gap currently formed by the appeal site does not play a key part in the view across the valley. While the proposed development would elongate the ribbon of development running along Ware Road, the appeal site's screening

¹ Paragraph 4.10, Widford Conservation Area Appraisal and Management Plan (WCAAMP)(2013).

² APP/J1915/W/15/3140702: Greenacres, Ware Road, Widford, Hertfordshire SG12 8RL. Decision issued 6 June 2016.

- would diminish the effect of further buildings and the proposed development would improve the site's overall condition.
8. The proposed development would be intermittently visible within the surrounding area dependent on the time of year. At close range, the proposed houses would be visible from Ware Road itself. However, intervisibility between the appeal site and surrounding land is limited by the presence of trees and other vegetation on the appeal site's boundaries. This forms a generally effective screen from the majority of public viewpoints and reduces the appeal site's openness in relation to the surrounding area. Moreover, with a detailed programme of replacement native planting and active management of proposed soft landscaping, the proposed development would provide vegetation which would maintain this limited presence in the streetscene and the wider area. This would, in my view, respect the character of the wider area and would not cause harm to either views or the setting of the aforementioned listed buildings to the east and west of the appeal site.
 9. In referencing the concerns about suburbanisation of the site, the Council has noted the Inspector's findings at neighbouring Greenacres with regard to the area's open, green, and spacious rural character. The Inspector found in that instance that the character of this part of Ware Road was rural, green and spacious. I concur with this view and consider that the proposed development would not fundamentally alter any of those characteristics of the Conservation Area. However, the references to openness in the appeal decision for Greenacres appear to relate to its nature as an open grassed site, which provides an open setting to the heritage assets of the Conservation Area and listed buildings. The appeal before me differs significantly from the adjacent site in terms of the level of openness.
 10. Although I note that the Council's Conservation Officer would prefer individual accesses to the houses along a more uniform alignment facing the road, I concur with the Council's officer report that the tree and hedgerow screen is of importance and should be retained, wherever possible. Given the vegetation along the site frontage and the long and narrow nature of the appeal site, this would result in the proposed development taking a cul-de-sac form. This would require an access road, which would be screened from the road by planting. While I am mindful of the amount of hard surfacing to be introduced on the site, the layout of the vehicular and pedestrian access would not render it any more suburban in nature than the recent development of 6 houses at Wilmoor to the north-east.
 11. The proposed development would provide reasonable gaps between the proposed houses on relatively spacious plots. Units 1 and 4 would be positioned at an angle to Ware Road, with unit 4 at a right angle to the road. Most of the nearby houses face the road. However, the existing bungalow at Greenacres is angled towards the road in much the same way as unit 1 would be. Unit 4 would be largely screened from the road by planting at the eastern end of the site, and would not be highly visible. Given the intervening vegetation adjacent to both units 1 and 4, I do not consider this would detract from the Conservation Area's character and appearance or detrimentally affect the setting of nearby listed buildings.
 12. While the proposed development does not seek to replicate the design of the surrounding buildings, the proposed houses would be generally respectful of

the scale of buildings within the wider Conservation Area and would not appear unduly prominent. Although there are a number of architectural features employed differently on units 1 and 4, and units 2 and 3, particularly with regard to the proposed houses' roofs, I do not consider that the aforementioned architectural features would be incongruous with their surroundings, particularly given the presence of other recent housing development of varying design at Greenacres and at Wilmoor.

13. Trees on the appeal site's northern and southern boundaries are subject to a Tree Preservation Order³ (TPO) and lie within the Conservation Area. The proposed development would involve the removal of 2 areas of trees and hedging. Given the siting of the proposed vehicular access, this would necessitate the removal of a dead elm and some scrub, and a further area of blackthorn⁴. A small portion of the root protection zones of 2 trees⁵ on the appeal site's southern boundary would potentially be affected by the proposed development.
14. From what I observed on my site visit, the large mature trees on the appeal site and the native hedging create an important cohesive element within the Conservation Area, which will remain prominent throughout the year. As such they are a significant aspect of the rural and green character and appearance of this part of the Conservation Area. The existing trees soften and screen the appeal site from the road and the farmland beyond the appeal site to the south. I note that the WCAAMP⁶ suggests that near total screening of the appeal site would be achieved by additional roadside planting and that the appellant is supportive of this approach.
15. I consider that the appellant's Arboricultural Report addresses the risks to trees T8 and T9 appropriately. The appellant's Arboricultural Report also deals with the issue of the trees on the southern boundary satisfactorily by means of regular maintenance. On that basis, I find that there would not be pressure for removal of those trees. However, the appellant's Arboricultural Report does not address the likely clearance of trees and hedging to allow for the visibility splays required by the Highway Authority. While it may be technically possible to deliver the visibility splays without removing trees, it is not entirely clear that this is achievable. It seems to me that the potential loss of a limited number of trees and hedging along the site's northern frontage would reduce the substantial green boundary and would have a negative effect on this section of the road. Thus, there would be some minor harm to the character and appearance of the Conservation Area and to its significance.
16. Concluding on this main issue, although I consider that the proposed development would preserve the setting of the aforementioned listed buildings, I find that the proposed development would not preserve the character and appearance of the area and would result in less than substantial harm to the significance of the Widford Conservation Area. This is due to the potential loss of a limited number of trees on the appeal site's frontage in order to provide visibility splays. Therefore, the development would not accord with policies ENV1, ENV2, ENV11 and BH6 of the Local Plan.

³ TPO 420 dated 13 March 1996.

⁴ Marked as G2 on Tree Protection Plan dated 11 April 2017.

⁵ Common Oak (T8) and an Ash (T9) marked on Tree Protection Plan dated 11 April 2017.

⁶ Paragraphs 6.19 and 6.20.

17. Policy ENV1, amongst other things, seeks to minimise the loss or damage of any important landscape features. Policy ENV2 states that existing landscape features should be retained and enhanced, and confirms that proposals on prominent sites will be required to give special consideration to landscape treatment. Policy ENV11 seeks maximum retention of existing hedgerows and trees. Policy BH6, amongst other things, states that development in conservation areas should not affect trees which materially contribute to the character of the area.
18. Paragraph 134 of the National Planning Policy Framework (the Framework) requires less than substantial harm to the significance of designated heritage assets to be weighed against public benefits. I address this matter in the Planning Balance section below.

Protected Species

19. Paragraph 109 of the Framework states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. Paragraph 118 of the Framework confirms that if significant harm to priority habitats and species resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. Policy ENV16 of the Local Plan only allows development which may have an adverse effect on protected species where harm to those species can be avoided.
20. Hertfordshire Ecology confirmed in their response to the planning application that they held no biological records for the appeal site. However, the absence of data does not necessarily indicate that no protected species are present on site.
21. Concerning bats in particular, the appellant submitted a bat survey⁷ with the original application. This indicated that no evidence of bats was discovered and that no potential roosting places were found. It was recognised, however, that it was probable that bats from nearby roosts would forage across the site and in the gardens of nearby properties. The proposed development would not, in my view, prevent bats from foraging across the site in the future.
22. During the application process, Hertfordshire Ecology recommended that a preliminary ecological appraisal be carried out on the appeal site, given its potential suitability for breeding birds, reptiles, amphibians, badgers, dormice, and other protected and priority species. The appeal is accompanied by a protected species survey⁸, which indicates that no evidence of any protected or priority species was found on the appeal site. Given the findings of both surveys, I therefore consider that there is not a reasonable likelihood of protected species being present and being affected by the development. As such, in accordance with Circular 06/2005⁹, I do not consider that further ecological surveys should be required by means of condition.

⁷ Bat Survey of Long Meadow Outbuildings London Road Widford, Essex Mammal Surveys, dated August 2016.

⁸ Protected Species Survey of Long Meadow London Road Widford, Essex Mammal Surveys, September 2017.

⁹ Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system.

23. In terms of general biodiversity gain, Hertfordshire Ecology has suggested that the landscaping plans should be augmented with features that would benefit biodiversity. While I note the enhanced planting suggested in the appellant's Arboricultural Report, I am satisfied that a condition requiring a scheme for landscaping should include a requirement for features which would benefit biodiversity. No specific conditions relating to biodiversity have been put forward by the Council in this instance.
24. Concluding on this main issue, I consider that on balance that the proposed development would not cause material harm to protected species. There would, in my view, be no conflict with policy ENV16 of the Local Plan and paragraphs 109 and 118 of the Framework as referred to above.

Highway Safety

25. The appeal site lies on the edge of Widford adjacent to Ware Road, which is at the national speed limit entering Widfordbury. The speed limit then drops to 40mph outside Greenacres and then drops again to 30mph at the eastern end of the appeal site. The proposed development would involve the stopping up of the existing vehicular access and the creation of a new vehicular access slightly further to the east. There is an existing pavement on the northern side of Ware Road between the village and the buildings at Widfordbury.
26. Although the Council raised concerns about whether it would be possible to achieve appropriate visibility splays required to secure safe vehicular access and egress to and from the site, as part of the appeal documentation the appellant has provided a plan entitled Long Meadow Ware Road Widford (dated 28/07/2017). This indicates that the remaining land required to form the 66m visibility splay to the west would involve County Council highway land. As the splays would cross land in the control of the highway authority, it would be possible to impose a negatively worded planning condition that seeks to secure those splays and ensure they are kept clear of obstructions to visibility. Therefore, despite concerns raised by the Parish Council, I am satisfied that the proposal would not harm highway safety and thus accord with paragraph 35 of the Framework which requires the creation of safe and secure layouts which minimise conflict between traffic and cyclists or pedestrians.

Planning Balance

27. Balanced against the less than substantial harm to the significance of the Widford Conservation Area, caused by the limited potential loss of roadside vegetation, are the overall improvements to the appearance of the site by the removal of dilapidated buildings and containers. Moreover, the proposed development would provide 4 houses with the social benefits of introducing more family housing to Widford, and economic benefits of work for the local construction industry and greater demand for local services and facilities in the longer term. Therefore, even accounting for the considerable importance and weight to the need to have special regard to the desirability of preserving the character or appearance of the Conservation Area, I find that the public benefits would outweigh the less than substantial harm. The development should not therefore be restricted on heritage grounds.
28. The appellant and the Council have both confirmed that the Council is unable to demonstrate 5 year Housing Land Supply (HLS). As such, paragraph 49 of the Framework applies. This sets out that relevant policies for the supply of

housing should not be considered up to date where HLS cannot be demonstrated. Paragraph 14 of the Framework indicates 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.

29. There would be minor harm to the character and appearance of the Conservation Area by reason of the potential loss of a limited number of trees. Because the harm would be minor I attach only limited weight to the conflicts with policies ENV1, ENV2, ENV11 and BH6 of the Local Plan. The proposed development would also conflict with policy GBC3 as it lies outside the settlement boundary defined in the Local Plan. However, it would be located adjacent to 2 new houses (currently under construction) and close to the existing house at Greenacres to the west, and the Ashview Nursing Home to the east, and within easy walking distance of the services and facilities of Widford. I therefore consider that the harm arising from this conflict would be also be very limited.
30. Reference has been made to the pre-submission East Herts District Plan, which has been submitted for examination and has not yet been adopted. I consequently give this plan very limited weight in this instance.
31. Whilst the 4 houses proposed would make only a modest contribution to the supply of housing, they would nonetheless provide positive benefits in a district where there is a shortfall in housing land supply. I consider the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The scheme would thus represent sustainable development. This is a material consideration which outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it.

Conditions

32. It is necessary to specify conditions confirming the time limit for development and approved plans to ensure certainty and require approval of the external materials, and hard and soft landscaping for the proposed development in the interests of visual amenity and biodiversity. The Council's suggested conditions for hard and soft landscaping have been amalgamated. Conditions are necessary to ensure that appropriate vehicular access, visibility splays, and parking and turning areas are provided and that the existing vehicular access is stopped up in the interests of highway safety. However, I have separated the Council's proposed condition on the access, parking and turning areas as they do not need to be addressed prior to the commencement of development, while a separate condition for the off-site highway works in terms of visibility splays is necessary, relevant and reasonable to ensure highway safety. It is necessary to require details of these works to be agreed before commencement of development to ensure their delivery is secured. However, it is reasonable to only require the works to be implemented before the development is first occupied, so that development on site can commence.
33. It is also necessary to impose a condition relating to contamination of land and/or groundwater as there is potential for contaminants to be present. Given the site's constrained highway access, I consider it necessary to require the submission of a Construction Management Plan to ensure that the demolition

and construction stage of development does not affect highway safety. Hours of demolition and construction are conditioned to ensure that any detrimental impact in terms of noise and disturbance for nearby residential occupiers is minimised. I have also imposed a condition to ensure that retained trees are safeguarded during construction.

34. Materials details do not need to be submitted prior to commencement of development as they are not necessary to prevent ground preparation works from taking place. However, the Construction Management Plan, trees, and contamination conditions, and details of visibility splays are pre-commencement conditions as they involve elements that need to be addressed before construction works begin.

Conclusion

35. I conclude that the appeal should be allowed.

J Gilbert

INSPECTOR

Schedule of 11 Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans 12658-P001-A House type B; 12658-P002-B Proposals House type A; and Tree Protection Plan dated 11 April 2017.
- 3) No development shall commence, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Management Plan shall provide for:
 - i) phasing of the development of the site, including all highway works;
 - ii) methods of accessing the site including construction vehicle numbers and routing;
 - iii) location and details of wheel washing facilities; and
 - iv) associated areas for parking and storage of materials clear of the public highway; and
 - v) measures to deal with dust and noise through demolition and construction, and any asbestos that may be present on site.

The approved Construction Management Plan shall be adhered to throughout the demolition and construction period for the development.

- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with BS10175:2011, shall have been submitted to and approved in writing by the local planning authority. The assessment shall include all of the following measures:
 - i) A desktop study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the local planning authority shall be fully established before the desktop study is commenced and it shall conform to any such requirements. Copies of the desktop study shall be submitted to the local planning authority without delay upon completion.

- ii) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until (a) a desktop study has been completed which addresses the requirements of paragraph (i) above; (b) the requirements of the local planning authority for site investigations have been fully established; and (c) the extent and methodology have been agreed in writing with the local planning authority. Copies of a report on the completed site investigation shall be submitted to the local planning authority without delay on completion.
 - iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the local planning authority prior to commencement and all requirements shall be implemented and completed by a competent person.
- 5) No development shall commence until all the trees and hedges shown in the Andrew Day Arboricultural Report dated 11 April 2017 as "to be retained" shall have been protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 6) No development shall commence until details of off-site works comprising visibility splays on both sides of the vehicular access between a point 2.4m along the centre line of the access measured from the edge of the carriageway and a point 66m along the edge of the carriageway measured from the intersection of the centre line of the access have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the works have been completed in accordance with the approved details. The area contained within the visibility splays shall be kept free of obstruction between 0.6 – 2.0m in height above the nearside channel level of the carriageway.
- 7) Prior to construction above slab level, samples of the external materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
- 8) Prior to the occupation of the dwellings, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;
 - ii) hard surfacing materials, including the vehicular access, pedestrian link, access road, driveways and car parking and turning areas; and
 - iii) soft landscaping, including planting plans with schedules of plant species, plant sizes and proposed planting numbers/densities; written specifications (including cultivation and other operations associated with plant and grass establishment) and a programme of implementation; and

iv) biodiversity features.

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

- 9) Prior to the occupation of the dwellings, the vehicular access, pedestrian link, access road, driveways and car parking and turning areas shall be completed in accordance with the approved plans.
- 10) Prior to occupation of the dwellings, the existing vehicular access shall be closed, and the kerbs reinstated.
- 11) Demolition or construction works shall only take place between 0730 and 1830 Monday to Fridays, between 0730 and 1300 on Saturdays, and not at any time on Sundays or on Bank or Public Holidays.

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: 22nd March 2018

Appeal Ref: APP/J1915/W/17/3188031
5 Brookbridge Lane, Datchworth SG3 6SU

- 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 D Remmington against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1216/FUL, dated 18 May 2017, was refused by notice dated 10 July 2017
 - The development proposed is the demolition of existing dwelling and erection of a replacement dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The spelling of the appellant's name is 'Remmington' on the appeal form. I have used the spelling 'Remmington' which is taken from the application form.

Application for costs

3. An application for costs was made by Mr D Remmington against East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:
 - Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt; and,
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether Inappropriate Development

5. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings should be regarded as inappropriate in the Green

Belt, with the exception of those set out in paragraphs 89 and 90 of the Framework.

6. Paragraph 89 of the Framework sets out those categories of new buildings which may be regarded as not inappropriate in the Green Belt, including the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing dwelling has a footprint of some 68.7 sq. m and a volume of some 284.5 cu. m. The proposed replacement dwelling would have a footprint of some 153.2 sq. m and a volume of some 695.5 cu. m.
7. The existing dwelling is a modest single storey bungalow. In contrast the proposed dwelling would have a greater width and depth than the existing bungalow and its roof would have a greater massing, including dormer windows that would reflect a significant element of first floor accommodation. The end result would be a building that was materially larger in volume, bulk and mass than that which presently exists on the site. The development would therefore be inappropriate development in the Green Belt as it is not within one of the exceptions in the closed list in paragraph 89 or 90 of the Framework.
8. Thus, the development would be in conflict with Policy GBC1 of the Local Plan which seeks to ensure, amongst other things, that planning permission is not given for inappropriate development within the Green Belt unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.
9. The appellant has drawn comparisons of the existing property as extended under Permitted Development rights (PD rights) and in compliance with development plan policies. However, these do not directly affect the existing building which the Framework and development plan policy refers to. They are more properly considered in the context of other considerations and I will return to these matters below. In addition, the Council's emerging District Plan is still being examined and as such I only afford it limited weight.

Openness

10. The concept of openness is not related to visual appearance or the extent to which development can be seen but is an intrinsic quality which along with its permanence is an essential characteristic of the Green Belt. While there is no definition of openness in the Framework, in the Green Belt context, it is generally held to refer to the freedom of or absence of development. The fundamental aim of the Green Belt is to keep land permanently open.
11. The proposed dwelling would have a greater volume than the existing building and would therefore enclose a greater amount of space. The proposed dwelling would also have a greater depth, width, footprint and massing than the existing bungalow, the effect of which would be a dwelling that is materially larger than the one it replaces, resulting in a significant reduction in openness to the Green Belt.

Other Considerations

12. Policy GBC1 of the East Herts Local Plan Second Review 2007 (the Local Plan) allows the replacement of dwellings in accordance with Policy HSG8, which allows replacement dwellings taking into account unexpended PD rights. The appellant has provided detailed information relating to the unexpended PD

rights afforded to the existing dwelling and evidence in the form of prior notification applications and certificates of lawfulness for various extensions and alterations that could be erected under these rights. The appellant has also provided several court cases which support his view that the unexpended PD rights are a legitimate fall-back position and should be taken into account when assessing whether the proposal is materially larger than the building it seeks to replace.

13. Policy GBC1 and HSG8 of the Local Plan predate the Framework. I find that Policy GBC1 has clear similarities and is broadly consistent with the Framework. However, Policy HSG8 differs from the Framework in that it takes into account unexpended PD rights, whereas the Framework refers solely to the "replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces".
14. Section 38(6) of the Town and Country Planning Act 1990 (as amended) tells us that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". The Framework is a material consideration of significant weight and, in accordance with paragraph 215, I do not therefore find Policy HSG8 of the Local Plan to be consistent with the Framework in its entirety. Thus, my considerations can only take into account the building that the proposal seeks to replace.
15. Moreover, in acknowledging the court cases the appellant has referred to, and most notably the *Mansell* case¹ which considered a development proposed under Class Q of the General Permitted Development Order², I am mindful of the case at *Athlone House*³ where the judge stated at paragraph 42 of his judgement when considering paragraph 89 of the Framework that,

"... it would not affect the baseline which was the basis of comparison set out in paragraph 89 [of the Framework]. Paragraph 89, as I have already observed, is clear; an unbuilt permitted development which a developer may be keen to implement could not, on the basis of the interpretation of the plain words of the policy, be included in such an assessment. That is not to say that such a material fallback would be irrelevant. It would probably be relevant at the stage of considering the question of very special circumstances, taking account of the weight to be attached to it bearing in mind the likelihood of its implementation and the extent of its impact on openness if it were developed".
16. Thus, the unexpended PD rights are not irrelevant to the appeal before me. I refer to paragraphs 1.7 and 5.17 of the appellant's statement which states that the, "condition of the property is poor and substantial investment would be required to not only secure structural integrity for future-proofing but to ensure that there was adequate thermal efficiency for sustainable modern-day living" and that the, "long-term value of the property and its fit-for-purpose status is questionable". It is clear therefore, that it is highly unlikely that the appellant would go to the expense of carrying out extensions and alterations under PD

¹ *Mansell v Tonbridge and Malling BC* [2107] EWCA Civ 1314

² Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).

³ *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)

rights to then demolish the building and erect the replacement sought. As such, I only give the unexpended PD rights limited weight.

17. Moreover, even if the PD rights were utilised, the resultant roof of the dwelling would not have the same massing as the proposed dwelling. Furthermore, the side and rear extensions would be single storey and while greater in width, would have a lesser bulk than the proposed dwelling. This would result in less impact on the openness of the Green Belt.
18. The appellant has also drawn my attention 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 certain that they represent a direct parallel to this appeal proposal. Moreover, these are very much in the minority and do not set an irresistible precedent to find in favour of the appeal before me. As such, I only attach limited weight to these decisions.
19. I also acknowledge that there is support for the principle of a replacement dwelling at the site, which is close to services and amenities within Datchworth. I also note the energy efficiency credentials of the proposed dwelling. However, in the context of the other harms identified above, these would be very limited benefits of the proposal. Consequently, I attach them only limited weight.
20. I note the appellant's offer to accept a condition restricting further PD rights for alterations and extensions to the proposed dwelling and that such a condition could be imposed. However, this would not reduce the overall impact of the proposed dwelling and if the existing dwelling was extended using PD rights, much of these rights would be used up. As such, I only afford this limited weight.

Green Belt Balance

21. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness to the Green Belt resulting from the proposed development. Against this, I attach little weight to the appellant's arguments put forward regarding the unexpended PD rights afforded to the appellant.
22. Overall, the weight I have given to the other considerations put forward do not clearly outweigh the substantial harm to the Green Belt the development would cause. I therefore conclude that the very special circumstances necessary to justify the development do not exist.

Conclusion

23. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR



Appeal Decision

Site visit made on 12 February 2018

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2018

Appeal Ref: APP/J1915/W/17/3189885

Dye Bottom Cottage, Robins Nest Hill, Little Berkhamsted SG13 8LL

- 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 W & B Marques against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1556/FUL, dated 19 April 2017, was refused by notice dated 29 August 2017.
 - The development proposed is the "Conversion of existing store to create additional ancillary residential accommodation and games room – revised scheme following refusal of 3/17/0934/HH".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The spelling of the property on the Council's decision notice is 'Die Bottom Cottage' which differs from 'Dye Bottom Cottage' on the application form. I have used the spelling from the application form.

Main Issues

3. The main issues are:

- Whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- The effect of the proposal on the openness and the purposes of the Green Belt,
- On the character and appearance of the area; and
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

4. Dye Bottom Cottage is a detached dwelling within an isolated and rural location. To the rear of the property are two substantial outbuildings, one of which is the subject of this appeal. Part of the outbuilding is currently in residential use, with

the proposal seeking to convert the remaining part of the outbuilding into ancillary residential accommodation with a games room.

5. Policy GBC1 of the East Herts Local plan Second Review 2007 (the Local Plan) seeks to protect the Green Belt from inappropriate development. Paragraph 90 of the Framework states that certain forms of development are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. This includes the re-use of buildings, provided that they are of a permanent and substantial construction.
6. From my visit the building appears to be of a permanent and substantial construction and I have not been provided with any evidence to suggest otherwise. Therefore, it follows that, provided the proposal preserves openness and does not conflict with the purposes of including land within the Green Belt, it may not be inappropriate development.

Openness and Purposes of Including Land within the Green Belt

7. Paragraph 79 of the Framework states that openness is an essential characteristic of the Green Belt. The proposal does not involve any enlargement of the building and thus, the openness of the Green Belt would be preserved.
8. Turning to the effect on Green Belt purposes, paragraph 80 of the Framework sets out the 5 purposes of the Green Belt, one of which is to check unrestricted urban sprawl. The submitted plans show a games room, kitchen and dining room to be installed in the building. A set of double doors would allow access to the existing accommodation which will provide two bedrooms with en-suite bathrooms. It would appear therefore, the entire building would be used as a single unit of accommodation which would have all the facilities to make it capable of occupation as a separate dwelling.
9. Moreover, the outbuilding is physically some distance from the main dwelling and future occupiers could potentially lead lives substantially separate from the existing house. These factors lead me to the conclusion that in planning terms, the proposed accommodation could not be reasonably be described as being ancillary to the main dwelling. It is more akin to a new dwelling that would be separate and unrelated to the existing house. I accept that this is not the view of the appellant's. However, my conclusion is based on the planning consequences of the proposed development. The development would contribute towards the urbanisation of the countryside, and while small scale, would nevertheless conflict with the purposes of the Green Belt in seeking to check unrestricted urban sprawl and encroachment into the countryside, to which I afford considerable weight.
10. I acknowledge that the appellant's would accept a condition to secure the removal of the building adjacent to the appeal building. While this would increase openness at the site and indeed the Green Belt, it would not overcome the harm to the Green Belt as a result of urban sprawl.
11. The proposal would therefore be inappropriate development in the Green Belt. It is in conflict with Policy GBC1 of the Local plan which seeks, amongst other things, to ensure that inappropriate development in the Green Belt is not approved unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.

Character and Appearance

12. The site lies within a rural location that is surrounded by open countryside and wooded areas. The main dwelling occupies an isolated position with the appeal

building sited some 20m to the west of the dwelling. While I accept that the appeal building lies within the formal garden area of the main dwelling, the use of the building as a separate dwelling would have quite a different impact on the character and appearance of the area than its use as an outbuilding, ancillary to the main dwelling.

13. The physical appearance of the building would remain unaltered, save for a replacement roof. However, given the separation distance from the main dwelling and its parking areas, this would result in the regular presence of parked vehicles and the potential for other domestic paraphernalia to be placed at the site, such as washing lines and garden equipment like the table and chairs that were outside the building at the time of my visit. Moreover, there would be increased activity at the site with additional comings and goings from the building which would all be visible from the public footpath which passes the site. The proposal would therefore result in the urbanisation of the site to the detriment of its rural setting.
14. Thus, the proposal would be in conflict with Policies ENV1 and GBC9 of the Local Plan which seek, amongst other things, to ensure that developments are sympathetic to its surroundings.

Other Considerations

15. The appellant argues that the site represents previously developed land. However, bullet point 6 to paragraph 89 of the Framework states that, development is not inappropriate within the Green Belt when it relates to the partial or complete redevelopment of a previously developed site. As this is not the case before me I only attach limited weight to this argument.
16. With regard to the fallback position afforded to the appellant's use of the building as ancillary accommodation, I have found that the use as a separate dwelling would be materially harmful to the character and appearance of the area and in conflict with the purpose of including land within the Green Belt. Moreover, the historic use of the building as accommodation for the appellant's children is not a matter that is before me as part of this appeal, as other mechanisms exist to resolve such issues. Thus, I only attach limited weight to these arguments.

Green Belt Balance

17. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and to the character and appearance of the area. Although the openness of the Green Belt would be preserved, that, along with the totality of the other considerations does not, for the reasons given above, clearly outweigh the Green Belt and character and appearance harms. I therefore conclude that the very special circumstances necessary to justify the development do not exist.
18. Therefore, for the reasons given above, and having regard to the development when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR



Appeal Decision

Site visit made on 12 February 2018

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2018

Appeal Ref: APP/J1915/W/17/3189852

11 Cowpers Way, Tewin Wood, Tewin AL6 0NU

- 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 D Redlich against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1991/FUL, dated 24 August 2017, was refused by notice dated 18 October 2017.
 - The development proposed is a replacement dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

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

Reasons

3. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings should be regarded as inappropriate in the Green Belt, with the exception of those set out in paragraphs 89 and 90 of the Framework.
4. Paragraph 89 of the Framework sets out those categories of new buildings which may be regarded as not inappropriate in the Green Belt, including the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The existing dwelling has a floor area of some 268 sq. m and a volume of some 903 cu. m. The proposed replacement dwelling would have a floor area of some 281 sq. m and a volume of some 1351 cu. m. The appellant calculates the increase in floor area and volume as some 48% and 49% respectively.

5. Policy GBC1 of the East Herts Local Plan Second Review 2007 (the Local Plan) allows the replacement of dwellings in accordance with Policy HSG8, providing, amongst other things, they are not materially larger than the dwelling to be replaced. Neither the Framework nor the Local Plan provides a definition of what is meant by 'materially larger'. While the volume and floor area calculations are an indication of the size of the replacement dwelling, the scale, massing and design of the proposal must also be considered.
6. The existing dwelling is largely a single storey building with a single bedroom and terrace at first floor level and low ridge levels. In contrast the proposed dwelling would have a central two storey element with single storey wings attached to it. The two storey element represents a significant bulk of the central core of the building and extends to the entire depth of the proposed development and represents a significant element of first floor accommodation. Although the proposed dwelling would have a similar depth as a result of the existing single storey projection to the rear of the building, it would extend to almost the entire width of the site and would result in a building that was significantly greater in volume, bulk and mass than that which presently exists on the site. In my opinion, the proposed development would be materially larger than the building it seeks to replace and would therefore be inappropriate development in the Green Belt.
7. As a result, the proposal would be in conflict with Policy GBC1 and HSG8 of the Local Plan which seeks to ensure, amongst other things, that planning permission is not given for inappropriate development within the Green Belt unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.
8. The appellant has drawn comparisons of the existing property as extended under Permitted Development rights (PD rights). However, this matter is more properly considered in the context of other considerations and I will return to these matters below.

Openness

9. The appellant refers to the *Turner* decision¹ which considered the approach to openness and visual impact. The appellant argues that visually the site is a narrow corner plot and set back from its neighbouring properties. Consequently, the proposed development would not be prominent in the street scene and would have minimal visual impact. However, the concept of openness is not just related to visual appearance or the extent to which development can be seen. Paragraph 25 of the *Turner* judgement states that there is a spatial as well as a visual aspect to openness and the absence of a visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of a new or materially larger building.
10. Therefore, openness is an intrinsic quality which along with its permanence is an essential characteristic of the Green Belt. The proposed dwelling would have a greater volume than the existing building and would therefore enclose a greater amount of space. Moreover, the proposed dwelling would also have a greater width, especially at first floor level, and massing than the existing building, the effect of which would be a dwelling that is materially larger than the one it replaces, resulting in a reduction in openness to the Green Belt.

¹ Turner v SSLG [2016] EWCA Civ 466

Other Considerations

11. Policy HSG8 of the Local Plan allows replacement dwellings taking into account unexpended PD rights. The appellant has sought confirmation from the Council that extensions and alterations to the dwelling under PD rights are lawful and refers to several court cases which support the view that unexpended PD rights are a material fall-back position which should be taken into account when assessing whether the proposal is materially larger than the building it seeks to replace.
12. Policy HSG8 of the Local Plan predates and differs from the Framework in that it takes into account unexpended PD rights that a dwelling may have available, whereas the Framework refers solely to the "replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces". Section 38(6) of the Town and Country Planning Act 1990 (as amended) states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". The Framework is a material consideration of significant weight and, in accordance with paragraph 215, I do not find Policy HSG8 of the Local Plan to be consistent with the Framework in its entirety. The officer's delegated report indicates that this is also the position of the Council.
13. The appellant refers to the *Mansell* case² which considered the fall-back position of PD rights for a development proposed under Class Q of the General Permitted Development Order³. While I am in no doubt that such rights are a material fall-back position, paragraph 42 of the *Athlone House*⁴ judgement which considered paragraph 89 of the Framework and stated that the unbuilt PD rights which a developer may be keen to implement could not, on the basis of the plain words of the policy, be included in such an assessment of whether the building was materially larger than the one it replaces. Moreover, these matters are probably relevant at the stage of considering very special circumstances, taking account of the weight to be attached to it bearing in mind the likelihood of its implementation and the extent of its impact on openness if it were developed.
14. As part of the planning application the appellant submitted a structural report⁵ which concluded that, "it was not economic to refurbish and upgrade the property" and that the, "appropriate recommendation for the property is to undertake demolition and rebuilding". Therefore, notwithstanding the appellant's assertion that it is their intention to extend the dwelling by utilising unexpended PD rights should this appeal fail, it seems to me that this would not only be a very costly option, but it would also fail to provide the level of accommodation they desire. As such, I only give the unexpended PD rights limited weight.
15. However, if the PD rights were utilised, the resultant roof of the dwelling would not have the same massing as the proposed dwelling. Furthermore, the side and rear extensions would be single storey and while greater in width and

² *Mansell v Tonbridge and Malling BC* [2107] EWCA Civ 1314

³ Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended).

⁴ *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)

⁵ *Morton and Hall Consulting Limited* Ref: H4422/RAM/rg/a

footprint, would have a lesser bulk than the proposed dwelling, resulting in less impact on the openness of the Green Belt.

16. The appellant has also drawn my attention to other developments that have taken place in the district which are considered to demonstrate that the Council have approved replacement dwellings in the Green Belt, taking into account any unexpended PD rights the dwelling may have. However, it is clear that the Council has shifted its position in relation to unexpended PD rights in recent months and no longer takes them into account in the same way when considering replacement dwellings, as it has come to the view that the current adopted Policy is not consistent with the Framework. Thus, the examples provided are not a compelling reason to find in favour of this appeal and as such, I only attach limited weight to these decisions.
17. I also acknowledge that the design of the proposal would be acceptable and would not impact on the living conditions of adjoining occupiers. The development would be also acceptable in terms of highway safety, parking, impact on trees and biodiversity. However, neither this nor any other material consideration that has been advanced outweighs the harm I have identified.
18. Finally, I note that the appellant's sought advice from the Council before purchasing the appeal property. However, this is not a matter that is before me as part of this appeal, as other mechanisms exist to resolve such issues. Consequently, I have determined this appeal on its merits and in light of all representations made.

Green Belt Balance

19. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of inappropriateness and the loss of openness to the Green Belt resulting from the proposed development. Against this, I attach limited weight to the appellant's arguments put forward regarding the unexpended PD rights afforded to the appellant.
20. Overall, the weight I have given to the other considerations put forward do not clearly outweigh the substantial harm to the Green Belt the development would cause. I therefore conclude that the very special circumstances necessary to justify the development do not exist.

Conclusion

21. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR



Appeal Decision

Site visit made on 27 February 2018

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 19th March 2018

Appeal Ref: APP/J1915/Y/17/3190646
102 Orchard Road, Tewin, AL6 0LZ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs G & O Morrisroe against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2235/LBC, dated 15 September 2017, was refused by notice dated 20 November 2017.
 - The works proposed are described as *“Proposed internal alterations including: removal of existing ground floor walls to create kitchen/dining room with new island; construction of new wall and doorway to create smaller ground floor w.c.; addition of worktops/sink to existing ground floor study in order to create new utility room; addition of new doorway between proposed kitchen/diner and utility room; conversion of Bedroom 5 into family bathroom and en-suite to bedroom 4 involving the removal of existing walls, erection of new walls, creation of new opening and installation of new bathroom/shower suites; conversion of existing family bathroom into dressing room; installation of new shower suite into master en-suite; and enlarged opening and new door to master bedroom.”*
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed works would preserve the grade II listed building or any features of special architectural or historic interest that it possesses.

Reasons

3. No 102 Orchard Road is a grade II listed building which forms part of a group separately listed buildings at 102-106. These were all designed by Mary Crowley for her family, in collaboration with Cecil Kemp. Dating from 1936, the building is 2-storey in height and rectangular in form, with an unusual mono-pitched roof. The property, along with Nos 102 and 104, represents a fine example of the international modernist movement, but with local adaptations, including use of local buff brick and Staffordshire blue pantile roof covering as well as neutral colour paint to the windows and eaves, in order to blend the dwellings with their rural setting.
4. The internal layout of the building exploits the rear southern aspect of the dwelling, with habitable rooms positioned to the rear and circulation spaces and

service rooms located to the front. To the ground floor there are large open-plan spaces to the rear, with long kitchen and hallway to the front of the dwelling. Upstairs has a more traditional arrangement following an arts and craft model with four rear bedrooms of different sizes accessed via a long corridor to the front. The positioning of the Crittall windows reflect the internal arrangements.

5. The property has been extended and altered to the south-eastern side creating a kitchen (with the original kitchen becoming a utility room), a study in the original garage, and a fifth bedroom and two bathrooms above. It would appear that this work was undertaken relatively soon after the original dwelling was built, as evidenced by the 1937 map within the submitted Historic Building Appraisal undertaken by BEAMS.
6. Other extensions to the north and western sides were granted consent in 1973, although these are not referenced in the 1982 listed building description. Internal alterations have also occurred at ground floor level, including the insertion of a bathroom adjacent to the hallway, removal of the division of the sitting room and bed sitting room and the partitioning of the dining recess.
7. In my assessment, its striking adapted international Modernism design as well as its association with revered architect Mary Crowley contribute to the special architectural and historic interest of the listed building. While some alteration has occurred to the ground floor, its significance is also derived from the internal plan form and the hierarchy of spaces within the building and the combination of modern and traditional plan forms.
8. A number of alterations to the internal layout of the property are proposed and would provide improvements to the bathroom, kitchen and dining facilities as part of contemporary living. To the ground floor, the works include the removal of the wall and cupboards between the existing dining room and utility. In addition, the original external wall between the dining room and kitchen would also be partially removed in order to create an open plan, kitchen, dining and seating area.
9. It is asserted by the appellants that the creation of a more open-plan house is sympathetic to the ideals of the original design. However, I consider that the removal of the wall as well as the original in-built cupboards between the dining room and utility would extinguish any sense of the legibility of the historic layout and the division of the service rooms to the front of the building and the living accommodation to the rear.
10. I consider that the south-eastern extension which houses the current kitchen was successful in retaining this sense of separation between the service rooms. As such, the opening up of the original external wall to the extent proposed would diminish this further. While the appellants have sought to reduce the width of this opening, based on feedback given at pre-application stage, this would not overcome my concern.
11. Restoration of the through linkage from the hall is welcomed, however this would not offset the harm I have identified to the surviving plan form and fixtures.

12. The first floor would also be altered to create a master bedroom suite. This would necessitate the creation of a bathroom and en-suite within bedroom 5 and the loss of two in-built cupboards in bedrooms 3 and 5.
13. As evidenced by the BEAMS report, careful attention was given to practical and functional internal design including the inclusion of large built in cupboards. These were specifically referenced as per the quote reported within the BEAMS report from *Architect and Building News* and are also noted within the submitted extract from *Modern Hertfordshire*.
14. The Council consider that the loss of these is not harmful to the significance of the heritage asset and are resolved to their loss. However, in light of the statutory duties upon me as per section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in respect of the significance of the layout, again I consider that the loss of part of the traditional and original cellular plan form to the upper floors of the building to be harmful.
15. Cumulatively, the works would substantially reduce the legibility of the historic layout and the integrity of the design at both levels would be lost.
16. My attention has been drawn to approved alterations to No 104 Orchard Road whereby internal alterations were permitted in 2002 and 2013, including the removal of an original wall. These decisions were reached in light of the particular circumstances found for No 104 and I do not consider that the works here would set an obvious precedent to assist in this appeal. While Nos 102-106 were designed and built at the same time, they were planned to meet the requirements of individual families and as such each dwelling has a slightly different character. Accordingly, I have assessed this proposal on its own merits and in the light of the way the layouts of this building was designed, the evolution of the building and the special interest of the plan form.
17. The works would affect only part of the listed building and therefore in terms of the National Planning Policy Framework (the Framework) the harm caused to the significance of the asset would be 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.
18. I give great weight to the conservation of the asset and no such public benefits are advanced. Any such benefits arising from the works would largely be private, relating to the occupants of the premises. I therefore find that there would be insufficient public benefit to offset the identified harm or outweigh the special regard to be had to its preservation under the statute.
19. Overall, taking into account the particular circumstances and having carefully considered all the evidence, I conclude that the works would fail to preserve the special architectural and historic interest of the grade II listed building.

Other Matters

20. The appellant has raised concerns over the handling of the application by the Council in respect assertions made by the Conservation Officer in respect of the lack of approval for the existing extensions and the reliance of the Case Officer upon the advice of the Conservation Team. However, this is a matter between

parties and is not relevant to my determination of this appeal, which is based upon the evidence before me.

Conclusion

21. For the reasons above, taking into account all other matters raised, I dismiss both of the appeals.

C Searson

INSPECTOR