



Appeal Decision

Site visit made on 6 October 2020

by **Stephen Brown MA(Cantab) DipArch RIBA**

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

Decision date: 03 December 2020

Appeal Ref: APP/J1915/X/19/3228488

Warrengate Farmhouse, Money Hole Lane, Tewin AL6 0JD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is by John Hesler against the decision of East Hertfordshire District Council.
 - The application ref. 3/18/1875/CLE, dated 15 August 2018, was refused by notice dated 11 February 2019
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is use of the appeal site as residential garden.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary matters

3. For the avoidance of doubt, I should explain that the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case, and on relevant planning law and judicial authority.
4. For the purposes of my decision I have adopted the definition of the claimed existing use adopted by the Inspector in a 2017 appeal on this same site¹. That is, use of the appeal site for '*residential purposes incidental to the residential use of the dwellinghouse*'. I have also adopted the shorthand he used for this - that is, the '*incidental residential use*'.

Background matters

5. Warrengate Farmhouse is a substantial detached dwelling on the southern side of Money Hole Lane. The application site – which I refer to as the appeal site – is a roughly rectangular piece of land to the east of the house, having a rather irregularly shaped boundary with the land immediately surrounding the house, and including a detached plant and utility building to its south.

¹ Appeal decision ref. APP/J1915/X/16/3153082, dated 24 April 2017.

6. I understand this is the third LDC application for use of the application site for incidental residential use². The 2017 appeal was against the second of these refusals.
7. From my reading of the previous appeal decision it is apparent that since 2017 the appellant has gone to some lengths to change the appearance of the appeal site. It was previously described as generally unmanaged with an open and empty appearance as compared with the land in the immediate surroundings of the house. It is now landscaped with features such areas of paving near the house, and decorative brick retaining walls, it is predominantly laid with newly seeded grass and has a well-maintained appearance. As before, the application land and the surroundings of the house are not defined by any barrier, and the land appears within the same field of view as the building.

Reasons

8. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether a change of use of the site has taken place from a mixed residential and agricultural use to a use for residential purposes incidental to the use of the dwellinghouse, and whether as a matter of fact and degree that change is material. In a case of this sort the burden of proof is upon the appellant to show that on the balance of probabilities this is the case.
9. As recited in the 2017 appeal decision, government guidance advises that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make an appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability³.
10. The Inspector in the 2017 appeal analysed the nature of the planning unit in the light of the court case of *Burdle*⁴. He determined that all of the land under one occupation – that is, the house with its immediate surroundings and the appeal site – constitute the planning unit, which is in a mixed residential and agricultural use. I endorse this analysis and note that the appellant is in agreement with it.
11. The appellant maintains that this mixture of uses may fluctuate in intensity, and that in line with the judgment in the High Court case of *Wipperman*⁵ the cessation of one principal use altogether is not a material change of use and does not constitute development.
12. In *Wipperman* the judgement was made that where there are two components in the use of a piece of land there can be a material change of use if one component is allowed to absorb the entire site to the exclusion of the other, but whether or not there is a material change of use is a matter of fact and degree. The Judge also came to the view that if nothing had occurred following the appellant's entry (onto the site) except the suspension of one component, with the other being maintained at its former intensity, that no question of a material change of use could be said to have arisen. He went on to say that

² Previous decision notice refs: 3/15/1072/CLE, dated 17 July 2015 & 3/15/1738/CLE, dated 13 October 2015.

³ Planning Practice Guidance – 'Lawful Development Certificates' Paragraph 006 Reference ID: 17c-006-20140306.

⁴ *Burdle & Williams v SSE New Forest Rural District Council* [1972] 24 P. & C.R. 174.

⁵ *Wipperman and Buckingham v SSE and Barking LBC* [1965] 17 P & CR 225.

- merely to cease one of the component activities in a composite use of the land would not by itself ever amount to a material change of use.
13. It is submitted that the site is unlikely to be used agriculturally, and it is claimed that use has ceased altogether. However, the appellant cannot simply elect to say that the agricultural component has ceased and been supplanted by the incidental residential use. Such a claim should be supported by objective evidence. In LDC cases relating to changes of use this is most usually on the basis that the supplanting use has subsisted continuously for at least 10 years before the date of the LDC application and become immune from enforcement action. Evidence on this matter was examined in the 2017 appeal but found to be too ambiguous and unspecific to meet the relevant test and the appeal was dismissed. Although the Inspector suggested that a further application might be made if better evidence became available, no such evidence has been submitted in this case, and I cannot come to any different view on this.
 14. The Inspector in the 2017 appeal found that the appeal site was primarily used for agriculture, and it was suggested that it was part of wider agricultural land. The appellant has put forward no substantial evidence to show that this is no longer the case, and that there has been an actual change from agriculture to incidental residential use.
 15. It is not enough to state that the activities on the appeal site may fluctuate between different use components without providing evidence that this fluctuation has caused one component to effectively cease, and the other to take over the use of the entire site. In line with the *Wipperman* judgement it must be shown that the use has fluctuated to the extent that the agricultural component has become so trifling as to be almost *de minimis*, and that there has been no change in the intensity of the incidental residential use.
 16. Even if the agricultural component of use has ceased, there is virtually nothing before me to indicate the intensity, extent or scale of the incidental residential use that is claimed to have supplanted it, apart from clues such as the presence of a few items of children's play equipment. If the incidental residential use is extended to cover the entire planning unit it appears to me that the overall intensity of this use will probably have increased, rather than being maintained at its former intensity. If cessation of agricultural use has occurred this would be in tandem with a likely increase in the intensity of incidental residential use, rather than simply a cessation of agricultural use. As a matter of fact and degree I consider this amounts to a material change of use.
 17. I accept there have been changes made to the appearance of the appeal site, but that does not make a significant difference to the character of the site as a piece of generally open land. While it may be unlikely for the site to be used agriculturally, it is not inconceivable for a piece of land of this size, and there is no substantial evidence before me to show that the situation has significantly changed since the 2017 appeal. The changes made to appearance are essentially cosmetic and do not show that on the balance of probabilities the entire planning unit has been subsumed into a single residential use.
 18. Overall I find that the appellant's evidence of use is sparse and not sufficiently precise to show on the balance of probabilities that use of the appeal site has changed from its mixed residential and agricultural use to an incidental residential use, or that this change would not be material.

Conclusions

19. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of its use of the appeal site as residential garden at Warrengate Farmhouse, Money Hole Lane, Tewin AL6 0JD was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Stephen Brown

INSPECTOR



Costs Decision

Site visit made on 6 October 2020

by **Stephen Brown MA(Cantab) DipArch RIBA**

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

Decision date: 03 December 2020

Costs application in relation to Appeal Ref: APP/J1915/X/16/3228448 Warrengate Farmhouse, Money Hole Lane, Tewin AL6 0JD

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by John Hesler for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of a certificate of lawful use or development for use of the appeal site as residential garden.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Regarding the Council's reference to residential curtilage in their reason for refusal, this was a matter fully reviewed in the 2017 appeal in relation to a comparison between the area immediately surrounding the house and the application land. It was determined the application land did not form part of the residential curtilage. If the appellant had proved his case regarding incidental residential use of the appeal site the entire unit of occupation would have become residential, and the appeal site a part of the house's curtilage. I can see no good reason why the Council should not continue to analyse the overall site in terms of residential curtilage. I do not consider this was unreasonable, or an indication that the Council had misunderstood the basis of the application. Furthermore, the appellant was not put to any unnecessary expense as a result of this reference.
4. The Delegated Officers' Report explicitly recognises the appellant's argument concerning the nature of the planning unit and reaches a different conclusion. I do not consider the Council failed to understand the difference between residential curtilage and the planning unit, or that this constituted a misapplication of the law. Again, I do not accept there was unreasonable behaviour.
5. There may well be circumstances where a component of a mixed use can cease without a resultant material change of use. However, the Council came to the view that insufficient grounds and substantive evidence had been adduced to show that use of the application land as residential garden had become lawful, and, by inference, supplanted the agricultural use component. Although

application of the 10-year time limit does not form part of the appellant's case, it remains a relevant aspect in a demonstration of the lawfulness of a material change of use. I do not consider the Council can be said to be unreasonable in referring to it, or that it caused unnecessary expense for the appellant.

6. Following issue of the LDC refusal the appellant suggested the appeal could be avoided if the Council had taken legal advice and reconsidered their decision. However, I understand that the Council refer all s.191 applications to their legal team at validation stage and have no reason to doubt this. The Council took the view that they had come to a correct decision, and that in terms of best use of resources and in the public interest the appellant might either make a formal application – which I take to mean either a planning application or a further LDC application with better evidence – or make an appeal. The appellant made the choice to appeal, but I do not consider the Council behaved unreasonably in reaching their position.

Conclusions

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Stephen Brown

INSPECTOR



Appeal Decision

Site visit made on 6 October 2020

by **Stephen Brown MA(Cantab) DipArch RIBA**

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

Decision date: 03 December 2020

Appeal Ref: APP/J1915/X/19/3225834

Nutwood Studio, Wormley West End, Broxbourne EN10 7QN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is by Paul Barham against the decision of East Hertfordshire District Council.
 - The application ref. 3/18/2273/CLE, dated 1 October 2018, was refused by notice dated 4 February 2019.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - A certificate of lawful use or development is sought for use of the property as a Use Class C3 dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. For the avoidance of doubt, I should explain that the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case, and on relevant planning law and judicial authority.

Background matters

3. The appeal property – which I shall refer to as ‘the Studio’ for the purposes of my decision – is a single storey timber building standing in the south-western corner of the substantial site of Nutwood House – probably some 80 metres from the house itself. The main entrance door opens into an entrance space/dining area, off which are a kitchen and WC. To one side of the entrance space a door leads to a bedroom in which there is a screened-off bath, and beyond that a large bedroom. To the other side is a room labelled on the application plan as ‘living’, which I saw is used largely for storage and gym equipment, beyond that is another room used mainly for storage. There is a garage access from the living space, in which are stored mowers and other garden equipment.
4. The Studio has a separate vehicular access from Wormley West End. Furthermore, it has its own water, and electricity meters. The Council do not dispute there is physical separation of the Studio from Nutwood House..

5. I note that a previous application for change of use of the building from a studio/workshop to a residential dwelling was refused in 1990¹, subsequently dismissed at appeal. An LDC application for use of the building as a single dwellinghouse was refused in 2005².

Reasons

6. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether the building has been in use as a Class C3 dwellinghouse for a continuous period of at least 4 years before the date of the LDC application – 1 October 2018. In a case of this sort the burden of proof is upon the appellant to show that on the balance of probabilities this is the case.
7. In applications for LDCs Government guidance advises that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make an appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability³.
8. The appellant says that the Studio was originally occupied by Alex Kaytanskyy, who was carrying out renovation works to Nutwood House for the appellant soon after he had bought it in 2005. After completion of the works Alex Kaytanskyy's brother Roman Kaytanskyy came to live there.
9. I understand Nutwood Studio has its own metered water supply, separate from Nutwood House. Thames Water accounts for water services between July 2013 and February 2018 have been provided. These are all addressed to the appellant and refer to a supply to Nutwood House rather than the Studio and are paid by the appellant by direct debit. Although two meters are itemised, this does not demonstrate occupation of the Studio, continuous or otherwise, merely that Mr Barham has paid the water bills.
10. Documents from British Gas include electricity bills for the periods from October 2011 to December 2011 and from July 2012 to January 2013. They are all addressed to the appellant at Nutwood House, as are electricity bills from EDF Energy for the period from March 2016 to January 2019. Neither of these series of bills show continuous 4-year occupation, and again they indicate little more than the fact that Mr Barham has paid the bills. It is also claimed there is a single electricity meter for the Nutwood House and the Studio but with separate readings. However, I can see no indication of this on the documents provided.
11. Also included are British Gas annual summaries of electricity use for the years from July 2013 to July 2018. The supply address is identified as Nutwood House. No explanation is provided of the apparent overlap in electricity supply by British Gas and EDF Energy after March 2016. Again, these annual summaries do not show who occupied or whether that occupation was continuous.

¹ Decision notice ref. 3/90/1485/FP, dated 1 November 1990.

² Decision notice ref. 3/04/2242/CL, dated 17 January 2005.

³ Planning Practice Guidance – 'Lawful Development Certificates' Paragraph 006 Reference ID: 17c-006-20140306.

12. Documents addressed to Roman Kaytanskyy at the Studio comprise the following:
 - Council Tax Demands;
 - Statements from HM Revenue and Customs (HMRC) concerning tax credits, and HMRC P60 End of Year Tax Certificates;
 - Credit card statements;
 - Bank statements and other bank correspondence, and
 - Various communications concerning a Parking Charge Notice (PCN), the Construction Industry Training Board (CITB), the Construction Skills Certification Scheme (CSCS), and the Disclosure and Barring Service (DBS).
13. Council Tax Demands - submitted at appeal stage rather than application stage – cover the periods from April 2012 to mid-October 2014, and then from 1 April 2015 to 31 March 2019. However, given the gap of about five-and-a-half months from October 2014 to March 2015 these do not show continuous occupation for 4 years prior to the critical date of 1 October 2018. Furthermore, there is no evidence of Roman Kaytanskyy’s payment of Council Tax apparent in his bank statements or elsewhere.
14. HMRC tax credit documents relate to the period from November 2012 to April 2015. However, these do not show continuous occupation of the premises for the requisite 4-year period. End of Year Tax Certificates, also addressed to Roman Kaytanskyy at the Studio cover the financial years from April 2013 to April 2016 – that is, starting from 6 April 2012. While this is a 4-year period overall, it does not conclusively show he was in occupation from as early as April 2012, nor after that time, and cannot be regarded as sufficiently precise.
15. Credit card statements are from various dates in 2014, but do not demonstrate 4 years of occupation. Similarly, bank statements only cover a single year from May 2012 to May 2013. Letters from the bank are annual summaries of account charges dated in each year from February 2014 to February 2017 – a 3-year period, and not continuous with other bank documentation.
16. The PCN and the CITB, CSCS and DBS documents relate to single events that occurred in September 2013, January 2014 and May 2015. They do not provide significant evidence of continuous occupation.
17. What appears to be the front page of a 12-month tenancy agreement between the appellant and Roman Kaytanskyy dated 27 November 2006 has been submitted. There are then signed and witnessed memoranda – all in identical format - dated late November for each year from 2007 to 2017 – each of which extend that original agreement up to November of the following year. The original agreement provided is a remarkably brief single page setting out the parties, the premises and the main terms – the latter being the tenancy period and the rent. No copy of any full agreement has been submitted.
18. I would expect a tenancy agreement to include clauses specifying responsibilities for such matters as utilities and Council Tax. I would also expect there to be some adjustment to be made in the amount of rent charged over this relatively long period of some 12 years. Mr Barham states that Roman Kaytanskyy only paid rent for his first year of occupation of the Studio, and thereafter has lived there rent-free. However, there is no evidence of

payment of rent at any time – which again, I would expect to see - or that utilities or Council Tax were paid by the tenant.

19. If Roman Kaytanskyy was occupying the Studio for the relevant period without making payments for rent, Council Tax and utilities as the appellant claims, then the documents relating to such payments – apparently made by the appellant - are of little value in establishing his continuous occupation.
20. I appreciate that the appellant considers the Studio is a building that is independent of Nutwood House in terms of the separating distance, separate road access and separate utility supplies. However, these are not relevant criteria in a case where the principal considerations are the length and continuity of residential occupation.
21. Overall, I find the evidence provided is not sufficiently precise or unambiguous to show that on the balance of probabilities Nutwood Studio has been occupied continuously as a Use Class C3 dwellinghouse for four or more years prior to the LDC application date of 1 October 2018. The appellant has not discharged his burden of proof, and the appeal must fail.

Conclusions

22. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of Nutwood Studio, Wormley West End, Broxbourne EN10 7QN as a Use Class C3 dwellinghouse. was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Stephen Brown

INSPECTOR



Appeal Decision

Site visit made on 18 November 2020

by **David Reed BSc DipTP DMS MRTPI**

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

Decision date: 7th December 2020

Appeal Ref: APP/J1915/W/20/3248653

Land at Rectory Farm, Langley Lane, Meesden, Buntingford, Hertfordshire SG9 0AZ

- 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 Shajeed Shaikh, Mason Bloomberg Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1760/FUL, dated 10 August 2019, was refused by notice dated 21 October 2019.
 - The development proposed is an agricultural building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on protected trees;
 - the effect of the proposal on ecological interests;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the proposal would be sustainably located.

Reasons

3. The proposal is for an agricultural building for mushroom production, a shingle surfaced forecourt for vehicle parking/servicing and a 1 metre high timber fence enclosure within an area of woodland to the south of Rectory Farm near the small dispersed hamlet of Meesden.
4. The building would be about 19.5m x 15.5m in size with eaves about 2.5m high and central ridge about 4.9m high. It would be constructed of traditional materials. The site has been the subject of a series of applications dating back to 2011. Two slightly proposals have been dismissed on appeal, in 2012 an agricultural building for egg farming purposes and in 2015 a building similar to the current scheme for a timber furniture workshop¹.

¹ APP/J1915/A/12/2177599 and APP/J1915/A/14/2225085

Protected trees

5. The woodland is the subject of a Tree Preservation Order (TPO) made in 2011 in which it is described as being mainly of mixed hard woods eg Ash, Beech, Field Maple, Hawthorn, Hazel, Horse Chestnut, Oak and Sycamore. The Forestry Commission advise that the site is secondary woodland and on the National Inventory for Woodlands. Whilst the part of the woodland where the building is proposed, towards its north end, has few if any standing trees, this would appear to be due to woodland clearance. The Forestry Commission have served a legal order requiring the restocking of the woodland at 3.0m centres – about 200 trees – across the previously cleared area where the building is proposed. Those trees, once planted, would also be subject to the TPO. The appellant maintains the restocking work has been carried out but this is not readily apparent on site and there is no evidence to confirm the Forestry Commission are satisfied that the work has been completed.
6. In any event the appeal site comprises an attractive area of woodland protected for its contribution to the visual amenity of the area. Whilst the appellant argues that 91% would be retained, the woodland as a whole would be compromised. For these reasons the proposal would seriously harm protected trees, existing or restocked, contrary to Policy NE3 of the East Herts District Plan 2018 (EHDP) which states that development which would result in the loss or significant damage to trees will not be permitted.

Ecological interests

7. The site is a registered Local Wildlife Site and a conservation survey carried out in 2000 describes it as a mixed woodland of Sycamore, Beech and Horse Chestnut with Nettles and Dog's Mercury. The woodland contains a rich diversity of ground flora and includes many indicator species which confirm its ancient origins. The application was not accompanied by an ecological report to assess the detailed impact of the scheme and there is no evidence the fence proposed around the building would protect the overall integrity of the site.
8. Whilst mentioning the idea, the original application did not include detailed proposals to offset ecological losses on site by establishing a replacement biodiversity site elsewhere. Whilst the appeal states that replacement tree planting would be provided on about 570 m² of Leyton Jubilee Park in London, a net gain of 25% in site area, the ecological benefits of this are unclear and it is in any event not possible to evolve a scheme during the appeal process. Such proposals should be assessed as part of a detailed ecological appraisal from the outset and considered by the Council in the first instance.
9. For these reasons the proposal fails to protect ecological interests and conflicts with EHDP Policy NE1. This requires an up to date ecological survey and resists proposals which are likely to have a detrimental impact on the integrity of a designated site unless material considerations outweigh the need to safeguard the site and adequate mitigation or compensatory measures are carried out.

Character and appearance

10. The proposal would have the appearance and function of an agricultural building and be finished in traditional materials. The appellant argues that there is a similar building nearby at Rectory Farm and it would therefore not be out of place in the rural area. However, that building forms part of a traditional

farm complex whilst the proposed barn would appear, with the upgraded site access, area of hardstanding and fenced enclosure, as a discordant, relatively isolated feature in its woodland setting. Although generating minimal traffic flows and being dark and therefore unobtrusive at night, the proposal would cause significant harm to the character and appearance of the area in conflict with EHDP Policies DES2, DES3 and DES4. These require proposals to conserve the character of the landscape, to retain and protect existing landscape features of amenity and/or biodiversity value and to be of a high standard of design and layout to reflect and promote local distinctiveness.

Sustainable location

11. The proposal would be located at Meesden, a small hamlet in the countryside well away from main roads and regular public transport. As such, the proposal would rely on non-sustainable travel modes. In relation to EHDP Policy GBR2, dealing with rural areas beyond the Green Belt, the appeal proposal should be considered an agricultural building rather than an employment generating use as claimed by the Council. It would thus satisfy Policy GBR2 were it not for the requirement that it must be compatible with the character and appearance of the rural area, an issue dealt with above. The other policy in the Council's reasons for refusal, EHDP Policy ED2, is supportive of agricultural uses in rural areas and there would consequently be no conflict with that policy.

Conclusion

12. The proposal would have economic benefits for the area and provide some local employment in the agricultural sector. However, this would not outweigh the harm identified under the first three main issues and the conflict with the development plan when considered as a whole.
13. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR



Appeal Decision

Site Visit made on 8 December 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2020

Appeal Ref: APP/J1915/D/20/3257797

68 Gilders, Sawbridgeworth CM21 0EH

- 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 Davison against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0838/HH, dated 30 April 2020, was refused by notice dated 29 July 2020.
 - The development proposed is additions to roof and internal alterations to create a four bedroomed dwelling. Creating a new vehicular crossover to accommodate two cars.
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Decision

1. The appeal is allowed and planning permission is granted for additions to roof and internal alterations to create a four bedroomed dwelling. Creating a new vehicular crossover to accommodate two cars at 68 Gilders, Sawbridgeworth CM21 0EH in accordance with the terms of the application, Ref 3/20/0838/HH, dated 30 April 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BRD/18/027/002-B and BRD/18/027/005-A.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials specified on the planning application form and/or submitted drawings.

Procedural Matters

2. Extensions and alterations to the appeal property were initially granted by way of a previously allowed appeal¹ and the Council subsequently granted an application for amendments to that scheme². However, the appellant unsuccessfully applied to retain development that was not constructed in accordance with the approved scheme³. The application subject of this appeal relates to an alternative scheme to alter the development in situ.
3. In light of the above, parts of the proposal have already been granted planning permission. These include alterations to the height of parts of the roof and the external finish of the dwelling, the omission of rooflights and dormer windows, and the insertion of additional window openings and a Juliet balcony. I note

¹ Appeal Ref: APP/J1915/D/18/3203275 in connection with planning application reference 3/18/0512/HH.

² Planning Reference: 3/19/0797/VAR.

³ Planning Reference: 3/20/0231/HH.

that the Council's concerns do not lie with regard to those aspects of the proposal, instead they focus on the alterations to the part of the roof between the existing approved twin gables that would face the main section of Gilders. As it is those alterations that are at issue between the main parties, and with cognisance of the extant permissions, I will focus on that aspect of the proposal in my decision.

Main Issues

4. The main issue is the effect of the proposed development on the character and appearance of the host property and the street scene.

Reasons

5. The appeal concerns a detached chalet-style bungalow situated at the junction of a cul-de-sac and main section of Gilders. The properties in the surrounding area are characterised by bungalows, chalet bungalows or two storey houses of varying designs. There is no consistency to the overall appearance and layout of the bungalows, primarily as a result of alterations and extensions, but roof have greater uniformity, with gables utilised throughout the surrounding area.
6. The alterations and extensions undertaken to the property have resulted in a significant amount of change to the dwelling. However, I am mindful that the flat roof currently in situ could be removed and the approved twin gables formed with a valley between, outside the scope of this appeal.
7. Policy HOU11 of the Council's Local Plan⁴ is the policy relevant to extensions and alterations to dwellings and requires that they are designed in a manner appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area. The policy does therefore not appear to require proposals to be considered in relation to the original dwelling, except in relation to flat roofed extensions. Given the amount of change already undertaken and that could be undertaken with the approved scheme, were development to be completed in accordance with the approved scheme that would constitute the 'existing dwelling'.
8. The proposal would not incorporate a conventional flat roof, as the roof slope between the twin gables would give rise to a form of crown roof. While this would evidently be in contrast to the simpler form of gables found on existing dwelling and nearby, it would appear as a subservient addition to its roof. Moreover, the principal gable-ended roof of the dwelling would be visible behind and the twin gables would be separated, so they would still create visual interest in the street scene.
9. I am also mindful of the much larger flat-topped roof to the rear extension of No 66. While I am not aware of the circumstances that led to that extension and it is less prominent than the appeal proposal, it adds to the particular context and suitability of the proposal.
10. In light of the above, I conclude that the proposed development would not have a harmful effect on the character and appearance of the host property and the street scene. Hence, the proposal would accord with the design aims of Policies DES4 and HOU11 of the Council's Local Plan.

⁴ East Herts District Plan (Adopted October 2018).

Conditions

11. In addition to the standard time limit for the appeal, in the interests of clarity and the appearance of the existing house, I have specified the approved plans and that the materials of construction of the proposal should be in accordance with the materials listed in the application.

Conclusion

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

Paul Thompson

INSPECTOR



Appeal Decision

Site visit made on 9 November 2020

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Monday, 07 December 2020

Appeal Ref: APP/J1915/W/20/3248495

Glebe Land, Acorn Street, Hunsdon, Herts SG12 8PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Hunsdon Parochial Church Council against the decision of East Hertfordshire District Council.
 - The application Ref: X/19/0362/CND, dated 6 August 2019, sought approval of details pursuant to condition No 3 of a planning permission Ref: 3/12/1440/FP, granted on 4 December 2012.
 - The application was refused by notice dated 23 December 2019.
 - The development proposed is New Chapel/community facility including parking.
 - The details for which approval is sought are: external materials (Condition3).
-

Decision

1. The appeal is allowed and I approve the details of the roof materials submitted pursuant to Condition 3, attached to planning permission Ref: 3/12/1440/FP, granted on 4 December 2012; in accordance with the application Ref: X/19/0362/CND, dated 6 August 2019.

Procedural Matter

2. A previous application¹ to discharge a number of conditions on the planning permission, including Condition 3, was approved by the Council. Among other things, this included the use of natural slate tiles in the construction of the roof. This appeal seeks to vary the approved roof covering from natural slate tile to a fibre cement roof tile, namely Eternit Garsdale Fibre Cement Slate. In effect, the appeal is seeking approval for the submitted details relating to the roof material.

Main Issue

3. The main issue is the effect of the proposed material on the character and appearance of the surrounding area with particular regard to the setting of the Conservation Area.

Reasons

4. Planning Permission² was granted by the Council on the 4 December 2012, for the development of a new chapel/community facility on the appeal site. The permission was subject to a number of conditions. Condition 3 required the submission of samples of the external materials to be used in the construction

¹ Planning Reference: X/15/0282/CND

² Planning Ref: 3/12/1440/FP

of the building, prior to any building work being commenced. The reason for imposing the condition was stated to be *'in the interests of the appearance of the development and in accordance with Policy ENV1 of the East Herts Local Plan Second Review (2007)*.

5. The appeal site is a roughly rectangular parcel of land located towards the northern corner of the existing recreational grounds. To its front, mature hedgerow separates the appeal site from the highway and its northern boundary sits adjacent to existing dwellings. The southern and rear boundaries are presently open to the recreational grounds. Beyond these, the area is predominantly bounded by residential development.
6. The appeal site sits outside of the defined boundary for the Hunsdon Conservation Area (CA), albeit it is positioned immediately adjacent to it. The special character of Hunsdon is derived from its architectural and historic identity. In particular, the high quality and tightly knit groupings of listed buildings on the High Street contribute a visually rich character that appears clearly defined and visually separate from the modern developments that surround it.
7. Built form surrounding the appeal site is generally varied and modern, being 20th century development. Roof structures typically consist of plain tiles. By reason of the proposed public use of the appeal building together with the significant height of the roof structure, the appeal scheme would be highly visible from the public realm and neighbouring dwellings and their gardens.
8. I accept that a mass-produced cement tile will lack the individual subtle qualities of a naturally occurring product. However, there are similarities between the approved natural slate and the proposed Eternit Garsdale Fibre Cement slate. In particular, the proposed roof material features a detailed surface, a square edge and a similar colour. Accordingly, whilst I consider that a scheme inclusive of natural slate roof tiles would have been desirable, I find that overall, the use of Eternit Garsdale Fibre Cement Slate roof tiles would be an appropriate material in the construction of the new chapel/community facility. The proposed roof material would not appear inappropriate to the appeal building, and moreover, it would preserve the setting of the CA. Thus, the proposal would accord with LP Policy ENV1 insofar as it requires development to be of a high-quality design that reflects local distinctiveness.

Other Matters

9. Reference has been made by the Council to steps they undertook during consideration of the application, advice given by a duty officer and a site visit. However, these are not matters that I have needed to assess in the determination of this appeal.

Conclusion

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

E Brownless

INSPECTOR



Appeal Decision

Site visit made on 9 November 2020

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Monday, 07 December 2020

Appeal Ref: APP/J1915/W/20/3249662

The Old Orchard, Abbots Lane, Widford, Ware, Hertfordshire

- 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 Simon Thake against the decision of East Hertfordshire District Council.
 - The application Ref: 3/19/1902/FUL, dated 4 September 2019, was refused by notice dated 12 November 2019.
 - The development proposed is demolition of existing store and erection of 1no. detached dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-
 - i) whether the proposal would preserve or enhance the character or appearance of the Widford Conservation Area; and
 - ii) whether the appeal site is a suitable location for a new dwelling having regard to the development plan strategy.

Reasons

Character and appearance of the Widford Conservation Area

3. The appeal site lies outside of the defined settlement boundary for the village of Widford and is therefore designated as Rural Area Beyond the Green Belt. It is located within the Widford Conservation Area (CA) in a predominantly rural landscape area that is characterised with a fragmented pattern of pasture land scattered with sports facilities, public footpaths and bordered by mature trees. Abbots Lane is a quiet rural lane bounded by agricultural lands and where built form is infrequent and dispersed. The surrounding character is one of a quiet, spacious and open rural setting.
4. The appeal site comprises a large, irregular shaped and broadly flat parcel of land bordered by mature vegetation. Presently, the majority of the appeal site is open and undeveloped. However, it contains a modest sized single storey timber boarded building with pitched tiled roof located towards the rear of the appeal site together with a number of storage containers and piles of materials. Notwithstanding its untidy appearance, it nonetheless shares some of the common characteristics of the CA and makes a moderate contribution to its significance.

5. I am mindful that the proposed development has been reduced in size and its position altered in an attempt to overcome the reasons for refusal of a previous application¹ and appeal decision². Nonetheless, it would introduce a sizeable detached dwelling which, despite it being single storey, would include a width of some 7.7 metres and a height to the ridge of approximately 5.6 metres, taking the council's measurements, which have not been disputed by the appellant.
6. Albeit the existing building would be demolished, the appeal proposal would include a larger footprint and the inclusion of several windows and doors would lead to a significantly more domestic appearance than the existing barn-style building. This would not be offset to any significant degree as a result of locating the proposed dwelling towards the rear of the appeal site nor the use of materials that would be sympathetic to its rural location.
7. Taken together with the proposed extensive driveway and paths and the likely accumulation of domestic accoutrements such as garden furniture, bins and washing lines, this would contribute visual clutter. As a result, the physical manifestations of the proposal would inevitably lead to a significant urbanisation of this area of land and erode the open, spacious and rural character of the area.
8. Albeit the appeal site is reasonably well-contained to its sides and rear by mature trees, vegetation and a sports pavilion, the appeal proposal would remain partially visible in views through or over vegetation from the adjacent cricket ground, public footpath, recreation ground and other open land, particularly during the winter months when foliage is less dense. Moreover, vegetation along the front boundary is lower and less substantial. Taken together with the opening for the vehicular access, which is to be retained, the appeal proposal would also be readily visible in some views from the highway and the agricultural land that lies beyond it. Any additional planting would take time to mature and would be unlikely, for the reasons expressed above, to ameliorate the effect of the proposal. To my mind, the proposal would be seen as an unwelcome intrusion or a harmful encroachment into the countryside.
9. Policy VILL2 of the East Herts District Plan (2018)(DP) seeks, among other things, to prevent development that would result in a ribbon pattern of development. However, in my view, given the general absence of built form along this side of Abbots Lane, the building of one dwelling would not result in a continuous row of built form adjacent to the highway. Nevertheless, the proposal would detract from the openness of the countryside and by reason of its position outside of the defined settlement boundary it would fail to amount to limited infill development. These matters would conflict with the requirements of DP Policy VILL2.
10. I therefore conclude that the proposal would fail to preserve or enhance the character or appearance of the Widford Conservation Area. This would cause less than substantial harm to the significance of the heritage asset, although it would nonetheless be significant. In these circumstances, the National Planning Policy Framework (the Framework) requires consideration of the harm to be weighed against the public benefits of the proposal.

¹ Planning Ref: 3/18/1027/FUL

² Appeal decision: APP/J1915/W/18/3213222

11. The Framework promotes housing development in rural areas where it will enhance or maintain the vitality of rural communities. The proposal would provide an additional dwelling and the future occupants would be likely to use and contribute spending towards local services and facilities. This would therefore contribute to the vitality and vibrancy of Widford. However, the Government's objective is to significantly boost the supply of housing and I find that one dwelling would make only a small contribution in this respect. The social and economic benefits associated with the provision of a single dwelling would be modest. Economic benefits generated during the construction phase would be temporary. The removal of unsightly elements from the appeal site would be advantageous to the appearance of the CA. Overall, the environmental harm to the heritage asset is of such a magnitude that it would not be outweighed by the limited public benefits of the proposal.
12. Accordingly, the proposal would fail to preserve or enhance the character and appearance of the Widford Conservation Area. Thus, the proposal would conflict with DP Policies VILL2, GBR2, DES4 and HA4. Among other things, these policies require high quality development to preserve or enhance the special interest, character and appearance of the conservation area. It would also conflict with the provisions of the Framework insofar as heritage assets are identified as an irreplaceable resource that should be conserved in a manner appropriate to their significance.

Development plan strategy for new housing

13. DP Policy DPS2 sets out the hierarchy of sustainable development and is permissive of limited development within villages. Widford is identified as a Group 2 Village, however, the appeal site is not situated within the defined settlement boundary of the village. For the purposes of applying planning policy it is located within the countryside.
14. DP Policy GBR2 of the is permissive of certain types of development within the rural area, including instances of infilling and partial or complete redevelopment of previously developed sites. However, such instances are subject to a number of criteria. In particular, development must be appropriate to the character, appearance or setting of the site and/or surrounding area.
15. For the reasons given above, I have concluded that the proposed development would fail to preserve or enhance the character or appearance of the Widford Conservation Area. As such, the proposal would not be appropriate to the character, appearance and setting of the site and its surrounding area.
16. Therefore, the proposal would fail to accord with DP Policies DPS2 and GBR2 insofar as these policies seek to maintain the Rural Area Beyond the Green Belt where new development will be compatible with the character and appearance of the rural area. In addition, it would conflict with the provisions of the Framework which seeks, among other things, to achieve well-designed places where development is sympathetic to local character including the surrounding landscape setting.

Other Matters

17. The parties dispute whether the appeal site amounts to previously developed land (PDL). I have had regard to the appellant's certificate of lawfulness, for storage of horticultural materials and associated goods (Use Class B8) dated

7 March 2017 and thus I find that the appeal site would amount to PDL. Even so, the proposal would fail to satisfy the criteria of DP Policy GBR2 and thus my findings in relation to character and appearance of the Widford Conservation Area and the settlement strategy would be unaltered and the outcome of the appeal would remain the same.

18. With regard to the accessibility of the appeal site to local services and facilities, there is limited information before me concerning these. However, I note the findings of the Inspector in a previous appeal decision³ at the site, namely that the site had reasonable access to services and facilities for a rural area, despite the occupants of the proposed dwelling being likely to use a private motor vehicle for longer trips to access higher order services and employment. It has not been put to me that there has been any change regarding the availability of local services and facilities. In addition, it is not part of the Council's case that there is a policy conflict on this basis. However, any modest environmental benefit accruing from a sustainable location does not outweigh the significant harm I have identified above.
19. The Council have determined that there would be no adverse impact upon the setting of a number of listed buildings given the distances involved and the screening afforded by vegetation. However, as the appeal is failing for other reasons, I have not had to consider this matter any further.
20. It is the appellant's case that there would be no adverse impact on the living conditions of neighbouring residents, highways or parking, ecology or loss of land in a commercial use. The absence of harm is a neutral matter that weighs neither for nor against a proposal.
21. The proposed scheme would include measures to achieve energy efficiency, reduce water usage, aid recycling and reduce the carbon footprint of the dwelling. Albeit these matters weigh in favour of the proposal, they are insufficient to overcome the harm identified above.

Conclusion

22. Accordingly, for the reasons given above, the appeal is dismissed.

E Brownless

INSPECTOR

³ Appeal decision: APP/J1915/W/18/3213222



Appeal Decisions

Site visit made on 24 November 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2020

Appeal A Ref: APP/J1915/C/20/3252651

24 Hadham Road, Bishops Stortford, Hertfordshire CM23 2QS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Manjur Choudhury of Zara Indian Dining against an enforcement notice issued by East Hertfordshire District Council.
- The enforcement notice was issued on 14 April 2020.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey side extension which comprises a raised terrace area and open sided structure which is set beneath a shallow pitched roof.
- The requirements of the notice are to remove the unauthorised single storey side extension which comprises of a raised terrace area and open sided structure which is set beneath a shallow pitched roof, with the removal of any associated waste/material resulting from the above.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B Ref: APP/J1915/W/20/3248716

24 Hadham Road, Bishops Stortford, Hertfordshire CM23 2QS

- 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 Manjur Choudhury of Zara Indian Dining against the decision of East Hertfordshire District Council.
- The application Ref 3/19/2405/FUL, dated 26 November 2019, was refused by notice dated 22 January 2020.
- The development proposed is described on the application form as "*retrospective application for a staff/customer's smoking area with shallow pitched roof and open sides*".

Summary of Decision: The appeal is dismissed.

Appeal A, Ground (a) and Appeal B

Main Issue

1. The main issue in these appeals is whether the single storey side extension preserves the character or appearance of the Bishops Stortford Conservation Area (CA).

Reasons

Whether the character or appearance of the CA is preserved

2. The appeal site contains a former public house, now used as a restaurant. The building is of traditional character, probably originating in the 19th Century. The building has a two storey core with single storey wings and there is an outbuilding at the rear. The building occupies a prominent location, adjacent to the junction of a main road and a local street. There is a parking courtyard alongside, which is enclosed by varying built forms of traditional origin. The building and adjoining built forms, together with the large villas and trees along the main road referenced in the Conservation Area Appraisal (CAA), are all clear evidence of the outward expansion of the town from the 19th Century onwards. For the above reasons, although I am not aware that the building is specifically referred to in the CAA, it nevertheless makes a significant contribution to the character and appearance of the CA.
3. The single storey side extension adjoins a pre-existing single storey wing at the side of the building. It covers a customer seating area adjacent to the parking courtyard. The extension is set back slightly from the front elevation of the building. The extension has low walls formed of horizontal timber planking, above which the sides are largely left open. Timber trellises are attached to the upper sides, below the eaves level. There are trailing plants in planters in the top of the walls and on the trellises. Several timber uprights support a dual pitched roof. The roof gable on the end elevation is clad in timber. All the timber is painted a dark grey colour, whilst the roof is covered with light green colour felt with a tile effect pattern.
4. The extension is open to views from the main road, where it is seen in conjunction with the front and side elevations of the building. Notwithstanding the largely open sides, the extension is not perceived as a lightweight structure. The dimensions of the extension are not dissimilar to those of the adjacent wing of the building. The cumulative effect of the solid timber walls, uprights, trellises and the roof structure mean that the extension has an appreciable sense of robustness and permanence. The planting has had a limited effect in terms of breaking up the bulk of the extension. It follows that although the extension is of modest proportions compared to the overall size of the building and other development in the vicinity, it is nevertheless perceived as a built feature of significant scale.
5. The pitch of the extension roof is at a considerably shallower angle compared to the roof profile of the adjacent wing and that of other parts of the building. Steeper roof profiles are a part of the building's inherent character. The different roof profile of the extension is readily apparent from the main road, creating a sense of conflict with the building and also giving the extension a rather squat appearance. Furthermore, the extension has a noticeably higher eaves line than the adjacent wing. The failure to respect the eaves line of the wing accentuates the sense of visual disruption in relation to the building. As steeper roof profiles similar to the building are to be found on many of the built forms in the locality, the extension also does not relate well to surrounding development.
6. The timber on the external walls of the extension is distinctly different in terms of its finished appearance and profile to the traditional rendered finish of the walls of the building and is also likely to have different weathering qualities.

Further, on account of their flat profile the timber walls are not of sufficiently similar appearance to the overlapping timber weatherboarding walls of the rear outbuilding and an adjoining building. In addition, the use of light green felt on the extension roof does not pay sufficient regard to the darker, more neutral colour and textured profile of the slate covering on the building's roof, or the colour and profile of clay tiles covering the rear outbuilding roof. Neither are the extension wall and roof finishes similar to those of other buildings in the locality. Consequently, the external materials and finishes of the extension fail to respect those of the building and surrounding development.

7. Due to all the above factors, the extension is entirely at odds with the traditional character, form and materials of the building and those of surrounding development, it is awkwardly related to and does not integrate satisfactorily with the building and its surroundings, appearing as an alien feature in the street scene. Accordingly, the extension fails to preserve the character or appearance of the CA.
8. Therefore, the extension fails to accord with Policy DES4 of the East Herts District Plan (LP), not being of a high standard of design that respects the character of the site and the surrounding area in terms of its mass, siting and building materials. Also, the extension does not accord with LP Policy HA1, as the historic environment is not preserved. Furthermore, the extension fails to accord with LP Policy HA4, as it does not use materials and adopt design details that are traditional to the area, its scale, proportions, design and overall character do not complement the surrounding area and it is not complementary and sympathetic to the building; therefore the special interest and character and appearance of the area is not preserved. There is also conflict with Policy HDP2 of the Bishops Stortford Neighbourhood Plan for Silverleys and Meads, this document being referred to in the Council's statement. This is because the extension is not of high quality, does not empathise with its setting and does not have materials in keeping with and complementing the existing character. Additionally, the failure to conserve the historic environment is inconsistent with the National Planning Policy Framework (the Framework) at section 16.

Planning Balance

9. The harm to the significance of the CA caused by the extension is 'less than substantial' as meant by the Framework paragraph 196. Therefore, it is necessary to weigh that harm against any public benefits. Activity associated with the customer seating might well contribute to an active frontage. I am also mindful of recent legislative changes designed to encourage outdoor customer seating at restaurants, to help sustain businesses and their associated employment during the COVID-19 pandemic. However, there is no firm evidence that outdoor customer seating would not continue to be provided at the site. Therefore, any benefit offered by the extension in the above respects can only be afforded limited weight. Although the extension has not physically affected features described in the CAA, referred to above, that does not equate to a benefit. I understand that the extension is a covered facility for staff and customers to smoke. Even so, there is no obligation to make such provision and I regard this as a private benefit. Accordingly, any public benefits do not outweigh the harm to the significance of the CA.

Conclusion on Appeal A, Ground (a) and Appeal B

10. The extension does not preserve the character or appearance of the CA and it fails to accord with the Development Plan. The harm to the significance of the CA is not outweighed by any public benefits. Therefore, I conclude that the appeal on ground (a) in Appeal A together with Appeal B should not succeed.

Ground (g) appeal

11. The ground of appeal is that the period for complying with the notice requirements is unreasonably short.
12. In my view, six months affords ample time to find and appoint a contractor to carry out the required remedial works, even when regard is had to the circumstances arising from the COVID-19 pandemic. There was no firm evidence to suggest that appointing a suitable contractor and arranging for them to undertake the works would be a particularly lengthy process. As the extension is mostly made up of prefabricated materials, its removal is likely to be a relatively small-scale operation, largely undertaken by hand. It is therefore likely to be a reasonably straightforward matter for a contractor to complete such works comfortably within a few weeks at most. Although I appreciate that the extended closure of the restaurant during the pandemic is likely to have severely affected the appellant's finances, such works are unlikely to be particularly costly. Six months also provides ample time for the appellant to seek and secure any necessary finance. The compliance period therefore allows for contingencies or other uncertainty caused by the pandemic. As a result, extending the compliance period to twelve months would perpetuate the breach and the associated planning harm.
13. Therefore, the ground (g) appeal also fails.

Conclusion

14. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. For similar reasons I conclude that Appeal B should be dismissed.

Formal Decisions

15. Appeal A-the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
16. Appeal B-the appeal is dismissed.

Stephen Hawkins

INSPECTOR



Appeal Decision

Site visit made on 24 November 2020

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Thursday, 17 December 2020

Appeal Ref: APP/J1915/D/20/3248315

Bracken Hill, Queen Hoo Lane, Tewin AL6 0LT

- 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 J. James against the decision of East Hertfordshire District Council.
 - The application Ref: 3/19/2498/HH, dated 6 December 2019, was refused by notice dated 3 February 2020.
 - The development proposed is a second storey extension above an existing single-storey structure
-

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 development upon the openness of the Green Belt; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

3. The appeal site consists of a dwelling that has been the subject of previous extensions and is located within the Metropolitan Green Belt.
4. I have been directed towards Policy GBR1 of the East Hertfordshire District Plan (2018) (the District Plan). This policy requires that developments be considered in line with the requirements of the Framework.
5. Paragraph 145 of the Framework identifies the erection of new buildings within the Green Belt as being inappropriate. There are some exceptions to this, which include the erection of a proportionate extension of an existing building.

6. In this case, the original dwelling, as illustrated on the submitted plans, consisted of a broadly rectangular shape, with a projection to the rear. The dwelling has subsequently been extended through the provision of various extensions at the sides of the building and to its rear. The dwelling also features a canopy on one side and a front porch.
7. The proposed extension, whilst not projecting beyond the footprint of the existing dwelling, in its current rather than original form, would increase the size and massing of the building due to the creation of an additional storey at first-floor level.
8. The proposed development would project beyond the rear elevation of the original dwelling. This extension would be viewed alongside an existing rear extension. In consequence, the multiple projections into the rear garden arising from these extensions, through their size, would erode the original proportions of the dwelling.
9. Furthermore, the front elevation of the proposed extension would be constructed so as to finish flush with the front elevation of the original dwelling. As the proposed extension would be constructed above an existing addition to the house, the proposed development would result in a larger building.
10. Given that the proposed extension would result in the formation of a bulkier dwelling, it would be disproportionate as the existing side extension would be significantly increased in height from a single storey to being of two storeys. In conjunction with the additional existing extensions on the opposite side of the building, this would result in a notably longer dwelling than the original.
11. I have been directed towards a range of figures regarding the percentage increase in the size of the building. However, even if I were to agree with the lower figure, the proposed extension would still represent a significant increase in the size, mass and volume of the building in conjunction with other existing extensions. This means that the proposed development would be a disproportionate addition to the building.
12. In addition, the Framework references that, in assessing such proposals, the judgement that should be made as to whether an extension is disproportionate is an objective one. For the preceding reasons, I have found that the cumulative effects of the proposed and existing extensions would be a disproportionate addition to the dwelling.
13. There is some landscaping present within the appeal site and the surrounding area. However, the Framework is clear that extensions to dwellings within the Green Belt should be constructed from proportions that are consistent with the original dwelling. In result, given that I have found that the proposed development would be a disproportionate addition, the presence of landscaping would not alleviate this matter.
14. My attention has been drawn to several other dwellings in the surrounding area that have been extended. However, houses within the vicinity of the appeal site are constructed to different designs and proportions. In consequence, whether a specific extension is disproportionate would depend on its individual design and siting. In result, the presence of developments elsewhere does not allow me to forego my previous concerns.

15. I therefore conclude that the proposed development would fail to comply with the requirements of District Plan Policy GBR1 and the Framework owing to the inappropriate form of development.

Effect on openness

16. The appeal site is within the Green Belt and in result the appeal site, and the surrounding area benefits from an intrinsic level of openness.
17. By reason of the pattern of development in the vicinity, the extension would be visible, in parts, from the adjacent road. This would be exacerbated by the relatively flat nature of the front garden of the site meaning that the increase in built form would be readily apparent. Whilst some landscaping is present at the appeal site, this would not screen the extension from all vantage points, such as the site's driveway. In result the proposed development would lead to an erosion of the physical character of openness that is a feature of the locality.
18. The proposed development would increase the size and massing of the dwelling. In addition, the original dwelling would have featured larger amounts of space between the side elevations and side boundaries. This would have allowed for the retention of a more open, less developed character that is commensurate with the site's surroundings.
19. In result, the proposed development would create an adverse effect upon the spatial sense of openness that is an intrinsic feature of the Green Belt. This is particularly notable as the proposed extension would be of a height consistent with the original dwelling and, in conjunction with other extensions, would result in a dwelling with a more bulky character
20. I therefore conclude that the proposed development would have an adverse effect upon the openness of the Green Belt. Within this regard, the development would conflict with District Plan Policy GBR1 and the Framework. Amongst other matters, these seek to ensure the retention of an open character within the Green Belt.

Other considerations

21. The development would deliver a dwelling that might accommodate a larger household in a modernised building. However, the benefits of this are limited due to the nature of the development. Furthermore, any benefits to the local economy would also be relatively small owing to the quantum of development and would also be relatively localised in impact. Accordingly, I can only give each of these matters a limited amount of weight.
22. My attention has been drawn to potential alternative extensions that could be constructed at the property. Whilst I understand that these might result in a greater level of floor space being added to the building, a number of these extensions would be at ground floor level only. In consequence, the side elevations of the original dwelling would remain readily perceptible, particularly at first floor level. Accordingly, these would not be the equivalent of the disproportionate extension before me.
23. Whilst an alternative extension might result in an increase in the height of the dwelling, a development of the type illustrated would be the subject of a prior approval process. The evidence before me is not indicative of such prior

approval being sought, or indeed granted. In consequence, I do not have certainty that in the event of this appeal being dismissed, there is a realistic prospect of the alternative proposal being implemented.

24. For these reasons, I am therefore unable to give the presence of potential alternative developments a significant amount of weight in my considerations.

Other Matter

25. I acknowledge concerns raised by the appellant regarding the provision of pre-application advice by the Council. However, in considering this appeal, I have limited my considerations to the planning matters before me.

Planning Balance and Conclusion

26. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to this harm. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
27. As explained above, I give only limited weight to each of the considerations cited in support of the proposal and accordingly I do not find that these amount to the special circumstances necessary to justify the development.
28. In consequence, and for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR



Appeal Decision

Site visit made on 10 November 2020

by **Benjamin Clarke BA (Hons.) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Thursday, 17 December 2020

Appeal Ref: APP/J1915/W/20/3252551

Unit 1 and 2, Monks Green Farm, Mangrove Lane, Hertford, Hertfordshire SG13 8QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr William Ashley (William Ashley and Partners) against East Hertfordshire District Council.
 - The application Ref: 3/20/0422/FUL, is dated 25 February 2020.
 - The development proposed is a barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights.
-

Decision

1. The appeal is allowed, and planning permission is granted for a barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights at Unit 1 and 2, Monks Green Farm, Mangrove Lane, Hertford, Hertfordshire SG13 8QL in accordance with the terms of the application, Ref: 3/20/0422/FUL, dated 25 February 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr William Ashley (William Ashley and Partners) against East Hertfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposed development is described on the planning application form as 'improvements/alterations', however, on the appeal form it is described as a 'barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights'. I have proceeded based on the description on the appeal form in the interests of precision.
4. The Council's Statement of Case was received after the initial deadline. However, given the importance of this document, I have considered it as part of my assessment. Furthermore, as the appellant has had the opportunity to comment, I am satisfied that no party has been prejudiced by this decision. I have therefore proceeded on this basis.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt and the effect on openness; and
- the suitability of the site as a location for a residential development.

Reasons

Whether inappropriate development and effect on openness

6. The site is located within the Green Belt. The National Planning Policy Framework (the Framework) regards the erection of new buildings within the Green Belt as being inappropriate. However, the proposed development is for the conversion of an existing building, rather than a new one. Instead the physical changes amount to amendments to the elevations of the building and internal alterations involving the insertion of a mezzanine floor.
7. These new works amount to changes to the existing structure, rather than the erection of a completely new building. In consequence, the provisions of Paragraph 145 of the Framework do not apply in this specific instance.
8. Paragraph 146 of the Framework states that certain other forms of development are also not inappropriate in the Green Belt. These include the re-use of buildings that are permanent and of substantial construction. It would appear that the building that is the subject of this appeal has been in-situ for a significant period of time. Furthermore, on my site visit, I observed that the building had been constructed from blockwork, in addition to metal cladding. In consequence, the building meets the provisions of being of permanent and substantial construction.
9. For a development to be regarded as not inappropriate for the purposes of Paragraph 146 of the Framework, the development should preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
10. In this instance, the proposed development, as a building conversion, would not add to the growth of large built up areas. In addition, as the appeal site is not within, or adjacent, to a settlement. Therefore, the proposed development would not result in neighbouring towns merging together or further encroachment into the countryside. The evidence before me is not indicative of the development effecting the setting or character of historic towns or would conflict with urban regeneration. In consequence, the development would not conflict with the purposes of including land within the Green Belt.
11. In respect of openness, the development before me would not result in a larger building than is currently present on the site. In addition, the proposed building would be located alongside a mixture of other buildings, including others of a similar construction. These include some buildings that have been converted to dwellings and others that are in use for commercial purposes. In result, the proposed development would be viewed as part of a cluster of buildings. These buildings would also provide some screening of the proposed building. The appeal site is also near to a some bunding, which would also lessen the prominence of the development upon the surrounding area.

12. There is likely to be some vehicle movements associated with the development. However, given the existing use of the building and its proximity to various other buildings, the presence of cars and other vehicles would not appear to be particularly unusual. In consequence, these would not lead to a detrimental effect upon the level of openness within the surrounding area.
13. I note that as a domestic dwelling, there is a likelihood that residents of the proposed dwellings might require some domestic paraphernalia (such as garden structures) outside of the buildings. However, any such paraphernalia is likely to be relatively small in scale by reason of the plot sizes of the development. It would be further screened by the surrounding buildings. In consequence, I do not believe that the proposed development would erode the spatial and physical sense of openness that is a feature of the Green Belt.
14. In considering this appeal, I have been directed towards Policy GBR1 of the East Hertfordshire District Plan (2018) (the District Plan). Amongst other matters, this policy seeks to ensure that planning proposals within the Green Belt are assessed against the requirements of the Framework. For the preceding reasons, I have concluded that Paragraph 145 of the Framework is not applicable to the specific development before me and the proposal complies with the requirements of Paragraph 146. Accordingly, the objectives of this policy have been complied with, although I note that this policy has not been suggested in the Council's putative reason for the refusal of planning permission.
15. I therefore conclude that the proposed development does not represent an inappropriate development within the Green Belt and would not have an adverse effect on openness. It would therefore be in conformity with the requirements of Policy GBR1 of the District Plan and the Framework.

Suitability of the site

16. The appeal site consists of a barn that is surrounded by other buildings. Many of these have been converted to residential accommodation or business uses. Other dwellings are nearby.
17. My attention has been drawn to Policy DPS2 of the District Plan. Amongst other matters, this states that new development should be delivered in a hierarchy of settlements, in order to ensure sustainability. Whilst the proposed development would be located amongst other buildings, their form and function would mean that the immediate surroundings could not be appropriately described as a village.
18. Furthermore, whilst the proposed development would be near to other dwellings, the nature of their use is such that residents would need to travel to other settlements in order to access the services and facilities that they are likely to require on a day-to-day basis. Residents would not have immediate access to public transport and the nature of the surrounding road and footpath network may deter some residents of the proposal from undertaking journeys by means of methods such as walking and cycling.
19. In consequence, the development would lead to a conflict with Policy DPS2. It is therefore incumbent upon me to assess whether any harm would arise from this breach.

20. In this instance, a prior approval has previously been granted to convert the building into two dwellings. Although some details are still to be agreed due to the imposition of conditions, I note that there is still some time before this permission would expire. In addition, owing to the time period before the permitted works are required to be completed, there does not appear to be a reason as to why this permission is incapable of taking effect. Accordingly, this permission should be given weight in my assessment.
21. Whilst the appeal scheme would result in bigger dwellings than the extant scheme as they would have a mezzanine floor and an additional bedroom, the extant scheme as a two-bedroom dwelling has the potential to accommodate a family. In consequence, the proposed development is unlikely to result in a greater number of trips on the surrounding road and path network than the extant scheme.
22. In result, the potential increase in the number of journeys being made by private cars is unlikely to be significantly greater and as such, the proposed development, is unlikely to result in a reduction in the overall level of sustainability.
23. Proposals should be assessed against the requirements of the Development Plan unless material considerations indicate otherwise. In this instance, whilst the proposal would not be compliant with Policy DPS2, the harm arising from the scheme before me would not be significant owing to the presence of an extant scheme at the site.
24. The evidence before me is also not indicative of the proposed development having any other adverse effects; including on the highway system, highway safety, flood risk and the living conditions of the occupiers of the surrounding properties. In addition, the evidence is indicative that occupiers of the development would experience appropriate living conditions.
25. Accordingly, with reference to the Framework, which states that planning decisions are to be considered in accordance with the Development Plan unless material considerations indicate otherwise, I conclude that the proposed development would be within a suitable location.

Conditions

26. I have had regard to the conditions as suggested by the Council. In addition to the standard implementation condition, a condition specifying the approved plans is necessary in the interests of precision.
27. Given the location of the site, I conclude that details of boundary treatments to be agreed by the Council is necessary in order to maintain the character of the surrounding area. For similar reasons, a condition requiring the agreement of external facing materials is appropriate. However, given the nature of the proposed development, I have amended this condition to require these details to be agreed prior to the commencement of development.
28. Given the proximity of the appeal site to other dwellings, a condition limiting the hours in which building works can take place is necessary. Furthermore, owing to the proximity of the appeal site to commercial properties, a condition requiring the agreement and installation of noise mitigation measures is necessary and reasonable in order to ensure appropriate living conditions for the future occupiers. In order to provide appropriate living conditions, it is

appropriate that a condition secures the provision and retention of refuse storage.

29. I have noted the Council's suggested condition that existing trees and hedges are retained. However, the evidence before me indicates that these are not the subject to any form of statutory protection, as such I do not believe such a condition to be reasonable. However, in order to ensure that the development respects its surroundings, conditions requiring the agreement, and implementation, of a landscaping scheme are appropriate.
30. In order to ensure that the development does not have an adverse effect on the highway system, conditions requiring that the parking areas are appropriately surfaced and retained for that purpose, in addition to the provision of cycle storage are appropriate.
31. The Council have requested a condition requiring that the details of any external lighting are agreed. Such a condition would be necessary given the rural setting of the development, however, in the interests of precision I have amended this condition.

Conclusion

32. For the preceding reasons, I conclude that the appeal should be allowed, and planning permission granted subject to conditions.

Benjamin Clarke

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Block Plan; MGF001; MGF002; and MGF003.
- 3) Prior to the first occupation of any dwellings hereby approved, means of enclosure shall be erected in accordance with the details of all boundary walls, fences or other means of enclosure having been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be retained thereafter.
- 4) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 5) Prior to first occupation of the development hereby approved, facilities the storage and removal of refuse from the site shall be provided, in accordance with details having been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the development and thereafter retained.

- 6) Prior to first occupation of the development hereby approved, full details of a scheme for external lighting shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be provided prior to the first occupation of the development and thereafter retained.
- 7) Prior to first occupation of the development cycle parking facilities shall be provided in accordance with details having been submitted to and approved in writing by the Local Planning Authority. These details shall be provided prior to the first occupation of the development and thereafter retained.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, the areas shown for parking on the approved plans shall be retained for such use.
- 9) Prior to first occupation of the development hereby approved the areas the hard surfaced areas of the development, including roads, pavements, driveways and car parking areas shall be surfaced in accordance with details that have been submitted to, and approved in writing by, the Local Planning Authority.
- 10) Prior to first occupation of the development hereby approved the site shall be landscaped in accordance with landscaping details having been submitted to and approved in writing by the Local Planning Authority. Where relevant the details shall include full details of both hard and soft landscaping proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes and density of planting
- 11) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.
- 12) Prior to first occupation of the development hereby approved the dwellings shall be insulated against the transmission of noise and vibration in accordance with a scheme of mitigation that has been submitted to, and approved in writing by, the Local Planning Authority. This scheme shall be provided prior to the first occupation of the development and thereafter retained.
- 13) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 18:30hrs on weekdays and 13:00hrs on Saturdays; nor at any time on Sundays, Bank Holidays or Public Holidays.



Costs Decision

Site visit made on 10 November 2020

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 17 December 2020

Costs application in relation to Appeal Ref: APP/J1915/W/20/3252551 Unit 1 and 2, Monks Green Farm, Mangrove Lane, Hertford, Hertfordshire SG13 8QL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr William Ashley (William Ashley and Partners) for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. The Council identified a single putative reason for refusal. This contained two separate strands: the first pertaining to the effects of the development upon the Green Belt; and the second relating to whether the appeal site was an appropriate location for a residential development.
4. In respect of whether the proposed development was inappropriate, the Council has referenced Paragraph 145 of the National Planning Policy Framework (the Framework). However, as will be noted from my appeal decision, this paragraph relates to the provision of new buildings within the Green Belt and is therefore not relevant to the consideration of the appeal scheme. This is because the appeal scheme pertains to the conversion of an existing building, rather than the erection of a new one.
5. In consequence, this amounts to unreasonable behaviour as had the Council fully considered Paragraph 146 and the precise wording of Paragraph 145 of the Framework, a different view might have been reached. Therefore, the applicant was put to unnecessary expense in pursuing an appeal, as it was

necessary to include an assessment regarding the merits of the proposal in respect of these points.

6. The Council has highlighted a breach of a development plan policy arising from the location of the development. Whilst I have disagreed with the Council's view regarding the harm arising from the breach, the fact that an assessment was made against a relevant and adopted development plan policy means that this cannot be considered to represent unreasonable behaviour.
7. Accordingly, in this regard, the Council's case was sufficiently explained and therefore, I can find no evidence of unreasonable behaviour within this particular matter. I therefore do not believe that this has resulted in unnecessary expense on the part of the applicant.
8. I note concerns raised by the appellant regarding the fact that the planning application was not formally determined by the Council. However, the Council has identified a putative reason for the refusal of planning permission. Therefore, it is reasonable to assume that the Council determined the planning application, it would have been a reason consistent with the putative reasoning. In consequence, the applicant would still have been required to make an appeal against the refusal of planning permission.
9. In result of this, I do not believe that this amounts to unreasonable behaviour that has caused unnecessary expense on the part of the applicant.

Conclusion

10. The Council's putative reason for refusal identified two distinct strands. One pertained to whether the proposal was inappropriate in the Green Belt and the second regarding the suitability of the site as a location for residential development. I have found that the Council acted unreasonably in assessing the proposal against the provisions of Paragraph 145 of the Framework, however, the second strand (the suitability of the site) was reasonable. Accordingly, I conclude that a partial award of costs to contest the first strand is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr William Ashley (William Ashley and Partners) the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in the appeal process contesting matters pertaining to the effect of the development upon the Green Belt.
12. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Benjamin Clarke

INSPECTOR



Appeal Decision

Site visit made on 20 October 2020

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 29th December 2020

Appeal Ref: APP/J1915/D/20/3252589

31 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 K Gymer and Ms J Florence against the decision of East Herts Council.
 - The application Ref 3/20/0599/HH, dated 18 March 2020, was refused by notice dated 11 May 2020.
 - The development proposed is 2no. side dormers.
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Decision

1. The appeal is dismissed.

Main Issues

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

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. The appeal site lies within the Green Belt. Policy GBR1 of the East Herts District Plan (2018) (the EHDP) sets out that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
4. The Framework states, at paragraph 143, that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One of the exceptions is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

5. The Council submits that previous additions to the building have increased its volume by approximately 107%, and that the appeal proposal would result in a cumulative increase in volume of approximately 109%. The appellants contend that the proposal would result in less than a 2% increase in cumulative volume.
6. The proposal would consequently result in a cumulative substantial increase in the overall size of the dwelling even if the appeal proposal alone amounted to an increase of less than 2%. This cumulative increase would amount to disproportionate additions over and above the size of the original building.
7. As a result of the above factors, the proposal would be inappropriate development in the Green Belt and, in this regard, it conflicts with Policy GBR1 of the EHDP and with the Framework.

Effect on the openness of the Green Belt

8. Paragraph 133 of the Framework states that 'the essential characteristics of Green Belts are their openness and their permanence'. Openness has both spatial and visual dimensions.
9. Whilst the appeal property lies within a row of dwellings, the spacing between these contributes to the openness of the Green Belt. The scheme would increase the volume of the property, and would extend built form across such spaces. Both of the proposed dormers would be visible within the street scene. As a result, the proposal would erode the openness of the Green Belt in both spatial and visual terms. Although the loss of openness that would be directly attributable to the scheme would not be great in itself, it would add to the overall bulk of the property.
10. Thus, the proposal would have a greater impact on the openness of the Green Belt in spatial and visual terms than the existing development at the site and would therefore not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. The harm to openness would be limited due to the relatively modest scale of the proposal.

Other Matter

11. The appellants question the site's inclusion in the Green Belt. However, paragraph 136 of the Framework sets out that, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. The evidence before me does not suggest that any such alterations are under consideration or have been made. Thus, there is no evidential basis for me to consider the matter further.

Other considerations and the Green Belt balance

12. I have found that the proposal would be inappropriate development which is, by definition, harmful to the Green Belt. As a result, permission should not be granted except in very special circumstances. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
13. The acceptability of the proposal according to other local policy on design and living conditions matters is a neutral issue which does not attract weight. The

site's location within the village's settlement boundary does not affect the provisions of Green Belt policy. I have not identified any other considerations which would weigh in favour of the proposal in the Green Belt balance. Thus, I find that the other considerations in this case do not clearly outweigh the harm that I have identified.

14. As a result, the very special circumstances necessary to justify the development do not exist. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR